

# AUTISM IN CHILDREN AND PARENTS: Unique Considerations for Family Court Professionals

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Family court professionals are increasingly involved with divorces between parents of autistic children where the parents themselves may also have either diagnosed or undiagnosed autistic spectrum disorder (ASD). Yet, there have been no published guidelines for the court professionals who are managing these cases (National Autistic Society, 1991; Singer, 2003). The goal of this article is to familiarize divorce professionals with the growing phenomenon of autism and to delineate specific recommendations for the management of these cases in the family law context.

**Keywords:** *autism; Asperger's Syndrome; autistic spectrum disorders; parents with autism; parenting plans for autistic family members*

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## FEATURES OF AUTISM

Figures from the U.S. Department of Education indicate that the number of autistic children who receive special education services has grown in the last 10 years from 20,000 to 140,000 (Gross, 2004). Clinical definitions of autism provided by the American Psychiatric Association (*DSM-IV*), the World Health Organization (*International Classification of Diseases*), and the Autism Society of America (Wing, 1991) include features of self-isolation, obsessive-compulsive behaviors, communication abnormalities, and disturbances in social and language skills. Autism is a lifelong developmental disability, affecting both verbal and nonverbal communication as well as social comprehension and social interaction. It is not a mental illness, per se, nor is it simply mental retardation. Other characteristics of autism may include repetitive activities; stereotyped movements; lack of empathy and reciprocity; and difficulty with interpersonal relationships, understanding group dynamics, and with participation in give-and-take negotiation. Autistic individuals may also be unable to recognize the facial expressions of others. Baron-Cohen (1995) has described autism as "mind blindness" (the inability to make inferences about what others know, think or feel). This, in part, accounts for impaired empathy being a core feature of autistic spectrum disorders (ASDs) (Morton, 2001).

Autism can affect almost all aspects of functioning. To varying degrees, individuals with ASDs have difficulty discerning the intentions or meaning of another person's communication; have difficulty developing trusting relationships; show resistance to change in their social and physical environment; and manifest "sensory defensiveness" (atypical responses, i.e., oversensitivity/insensitivity) to stimuli such as sound, light, smells, tastes, and touch.

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Perhaps in part due to sensory defensiveness, they are easily and highly stressed (Heller, 2002). Among a myriad of other clinical features, they may have tics, odd vocalizations, and engage in tantrums or head banging; they may appear obtuse and deliberately combative or noncompliant. Some have poor toileting skills, poor hygiene, little sleep, and bad dietary habits (Volkmar & Weisner, 2004).

### LEVELS OF AUTISM RELEVANT TO COURT PROFESSIONALS

The ASD covers a broad band and is highly variable in its presentation. Whereas many still think of autistic individuals as resembling stereotypical characters seen in films such as *Rainman*, the degree of impairment varies widely. Lower functioning autistic individuals may be mute and do little but rock back and forth all day long. They often have toileting difficulties, mutism, and/or self-injurious behavior, such as biting or head banging. A common feature of ASDs is an intense focus in one narrow area of interest. In low-functioning ASD, that may be a bathroom plug on a chain that can be twirled for hours, while in higher functioning youngsters, it may be obsessive interest in train schedules, eccentric collections, taking apart old appliances, or memorizing bus routes.

An extraordinary level of support is required for lower functioning autistic persons. Sometimes, the individual requires a personal therapeutic companion 24 hours a day. However, home placement may quickly exhaust the caregivers, which may necessitate institutional care. Given the extraordinary effort, sacrifice, and tolerance required, and considering the varying degrees to which parents may be attached to their child, conflict may arise if family members do not agree on home versus institutional placement. Custody plans for such children require consideration of fairness when assigning tasks to caregivers.

Individuals with an intermediate level of functioning have more self-help skills, but still require labor-intensive care. Parents may be forced to abandon successful careers to manage the necessary daily training regimens, such as coordinating a group of trained college students to work intensively in teams to pattern the child through a highly structured behavioral curriculum. Costs of such programs may fuel conflict in a divorce, especially if only one parent is supportive of the investment. The programs may or may not be subsidized by government funds, because there is widespread, ongoing litigation over funding the education of such children.

With high functioning individuals, social-emotional functions are more or less subtly impaired, but intellectual functioning is often advanced, allowing the use of intellect to mask the disorder in public and when interacting with professionals (Holliday-Willey, 1999). Though there are academic distinctions, many theorists use the term "high functioning autism" (HFA) synonymously with "Asperger's Syndrome" (AS), as it is used in this article. Among children, AS has been described as the "Little Professor Syndrome," (Osborne, 2000) and, in adults, it is associated with the lay terms "geek" (Silberman, 2001; Attwood, 2002) "nerd," "eccentric," and "quirky." The clinical category, Pervasive Development Disorder, Not Otherwise Specified (PDD-NOS) or "atypical autism," also overlap with AS. Individuals with AS can be particularly challenging to caregivers (parents, spouses, professionals), in part because the disability is less evident, and the individual may easily pass as nonautistic in certain contexts and may even become quite successful professionally (Grandin, 1996). About 15% of autistic individuals have savant characteristics, being highly gifted in at least one area. For example, one very young girl, Nadia, had drawing skills rivaling Leonardo da Vinci, while another, Hikari Oe, composed chamber music as a child (Cameron, 1998).

Autism, then, is a complex condition with paradoxes that challenge common assumptions about human psychology. Although research is advancing, scientific understanding of the neurophysiology of autism remains limited, leaving controversy over the classification, assessment, and poorly defined boundaries between categories.

### THE GENETICS OF AUTISM

Autism and AS are widely recognized as having a genetic basis, most likely from multiple genes, although other factors such as environmental agents may contribute (Silberman, 2001; Volkmar & Weisner, 2004). Thus, families with an autistic child may have multiple members with ASDs, including other children and adults over several generations. Moreover, it has been noted that siblings of autistic children suffer much more frequently than the norm from other types of developmental disorders that have well established neurological and genetic bases (Silberman, 2001). Volkmar and Weisner (2004, p. 6) report that:

Although the research on the genetic contributions in Asperger's Syndrome is not as well advanced as it is in autism, there is already some evidence for a strong genetic component since there are high rates of social difficulty in members of the immediate family. Male relatives of individuals with Asperger's Syndrome seem especially likely to have social difficulties. Female relatives are less likely to have social difficulties, but may be more likely to have problems with anxiety or depression.

Because autistic children significantly strain family functioning (Sanders & Morgan, 1997; Hamilton, 2000), and because of the genetics involved with this spectrum of interpersonal communication disorders, one or more of the parents may also be affected (Gillberg, 1998; Volkmar & Weisner, 2004); the rate of divorce in these families is reported to be significantly higher than that of the general population (National Autistic Society, 1998; Lamb, 1999; Bennie, 2002).

### ASD IN ADULTS

Given the amount of knowledge we now have concerning autism from autistic individuals themselves (Williams, 1992, 1994; Grandin, 1996; Holliday-Willy, 1999; Kearns-Miller, 2003; Shore, 2003; Hadcroft, 2004; Schneider, 1999, 2003; Newport & Newport, 2004; Prince-Hughes, 2004), as well as from those working with them (Stoddart, 2004; Wing, 1991; Aston, 2001), it is perplexing that professionals continue to think of autism as merely a childhood disorder (Cullen, 2001; Barnhill, 2002).

Most adults with ASDs are not formally diagnosed, primarily because the syndrome was virtually unknown until it was added to the *Diagnostic and Statistical Manual (DSM-IV)*; the gold-standard reference that defines mental disorders in North America) in 1994. Such individuals often learn to compensate if provided accommodations at home and work, a factor contributing to its being an invisible disability.

Autism self-advocacy groups, generally made up of those with HFA or AS, have noted that autism per se may not be a disorder at all, but rather a unique condition, difference, or gift. The advocacy groups point to the contributions of historical figures believed to have ASDs, such as Einstein, Jefferson, Andy Warhol, Michelangelo, Jane Austen, and even Socrates (Lane, 2004), and therefore consider ASDs as "abling" rather than "disabling" (Harmon, 2004). Yet, at the same time, AS has been used as a defense in criminal trials

(Murr, 2004) where ability to form intent (*mens rea*) is questioned and argued to be lacking in a defendant with AS.

However, parents with ASDs present challenges to family courts. For example, certain features of HFA/AS, specifically the egocentrism and deficiency in compassion, empathy, and reciprocity apparent in this disorder, raise the question of inherent deficiencies in the parenting skills of such individuals. These characteristics are also known to introduce difficulties into spousal relationships (Holliday-Willey, 1999; Aston & Forrester, 2002; Stanford, 2002; Slater-Walker, 2002; Jacobs, 2003), and may be factors that contribute to divorce.

A parent with AS may have difficulties recognizing a child's needs and putting them before his or her own. Wall (2003, p. 37) reports that:

People with AS can have impaired parenting skills, not understanding childhood developmental stages, and may not notice their child with AS has problems with AS and needs help. They may not be able to give help suggested because they do not understand what the matter is. They can show a lack of awareness of potentially dangerous situations . . . or knowing how to act in them, for example, not getting a child to hospital after an accident. One father put a three-year-old out in the front garden to play: the garden was open plan with no fence to the road. Another father put a two year old in a bath with water which was too hot. A mother made sandwiches with bread that was moldy and put damp sheets on a bed . . .

Moreover, autistic parents self-report their difficulties in navigating parenthood, something that may result in a high degree of parentification of their children (the tendency for children to act like parents to their parents). Holliday-Willey (1999, p. 105) reports of her own parenting:

Things are often skewed in our family, turned so that Mom ends up relying on the children for their judgment and guidance. I look to them as confidants and best friends . . . to hold my hand when my anxiety mounts, to tell me if I am saying things no one wants to hear.

Autism expert Gillberg (1998, p. 202) reported:

The fact that some parents of children with HFA and AS themselves have autism-associated features begs the question of parenting skills in such individuals. It would not be unreasonable to assume that poor empathy in the parent might contribute to some behavioral/psychological problem in the child quite apart from any genetic influence.

Professionals may find it difficult to accept the fact that a successful professional adult who is married with children can also have ASD. While some with autism have coexistent learning disabilities that make their autism obvious, many with AS are highly intellectual, analytical, and articulate in certain areas and do not "appear" autistic to the untrained. It is an outdated assumption that high intelligence cannot coexist with severe impairment in judgment and common sense (Goleman, 1995; Rodman, 2003). Our schools openly acknowledge the existence of students who are both gifted and learning disabled—although seemingly contradictory states.

## **MASKING THE DIAGNOSIS**

Many adults with AS and their families are motivated to conceal the disorder by fear of stigma and potential legal and professional ramifications. It is unfortunate that while mental

illness is becoming slowly destigmatized, neurological disorder remains very much in the closet, even among physicians with AS (Anonymous, 2004). The ability of individuals with AS to compensate superficially often masks the deficiencies and diagnosis (Rodman, 2003; Tantam, 2003), and women and girls may present themselves differently than men and boys, as a result of their superficial imaginative or social skills and lower executive function (Attwood, 1999; Nydén, 2000; Faherty, 2002). Thus, attempts to identify AS in a parent involved in custody litigation are likely to have a high false negative rate. While partial compensation may enhance a parent's functioning superficially, it precludes that parent from getting needed professional support and may put the children at risk. It should be noted that even intelligent, articulate, well-educated, and professionally successful individuals may lack some, many, or most core parenting skills.

### THE NEED FOR CONTROL

A common feature of individuals with autism is an obsessive need to control their environment, especially caregivers or providers on whom they depend, and, because of lack of people skills, they may achieve this by manipulation. Thus, a parent with AS may feel an obsessive need to maintain control over their children and former spouse after separation. There have been cases of stalking in which separated spouses with ASDs remained obsessed with ex-spouses and manifested continued need to control them (some states offer information packets to police officers to help them manage this issue). The obsessed parent may also seek frequent access and shared custody through the courts, using transitions and negotiation to re-engage control over the other parent. If the other parent resists such manipulation, high conflict often results.

Effective guidelines for managing joint custody in cases involving ASDs should combine general information about ASDs with the specifics of the individuals. Typical custody arrangements may not be suitable. Ideally, cooperative parents with highly impaired children may prefer to forgo a time-based custody schedule altogether and make flexible arrangements. They may elect to negotiate a new plan each week or month, depending on the child's activities, state of distress, and rate of development. Of course, this requires a high degree of parental cooperation and flexibility which may not be possible, especially if one of the parent's rigidity from ASDs prevents it.

## ISSUES IN DEVELOPING PARENTING PLANS

### POST-SEPARATION CONFLICT

When parents cannot agree on a collaborative parenting plan, the divorce professional should resist assuming that the problem is entirely emotional or psychodynamic in nature. Systems theory similarly fails to explain and therefore ameliorate the underlying dysfunction in families with neurological disorders. When a child has an ASD and one of the conflicting parents exhibits extreme rigidity, egocentricity, and inability to participate in give-and-take, that parent may have an undiagnosed ASD (Gillburg, 1998; Jennings-Linehan & Schloss, 2003). If the high conflict results from a parent's ASD, the conflict may persist indefinitely if the parent's disability is not recognized and suitably addressed by mental health professionals. When one parent has AS, negotiation does not always work. The neurotypical (NT) parent cannot be expected to reach fair resolutions merely by receiving instructions to "confer

in good faith,” to participate in mediation, or to resolve the differences by “mutual agreement,” because good faith negotiation requires the AS parent to recognize and appreciate another’s needs, a core deficiency in autism. Counseling a parent to consider the best interests of the child is unlikely to be effective when the parent has neurologically based mind-blindness that impairs the ability to assess or give weight to the child’s best interest.

### AUTISM AND SAFETY ISSUES

Conflict over safety issues may arise in separations involving one parent with AS and another who is NT. For example, if one parent perceives that the child is endangered while in the custody of the other parent, the one parent may refuse to return custody, thus initiating conflict due to safety concerns resulting from a parent’s disability (Jennings Linehan, 2003). Safety may be an issue when either of the parents: (1) is in denial of a child’s autism or other special condition; (2) cannot perceive the degree or severity of the child’s disability; or (3) cannot recognize signs of pain or illness, especially when the child with autism cannot report pain or illness. When both the child and a parent have ASDs, pain and illness may be neither reported nor recognized because the neurosensory disturbances of autism often block the recognition of pain or illness in the self or in others. For example, one high functioning child failed to report nausea, pain, and fever, despite a fully ruptured appendix.

When a parent fails to recognize risk, pain, or injury in his or her child as a result of their significant mindblindness, a pervasive feature of autism, supervised access may be one solution in the best interests of the child. Another may be the use of a professional parent coach (who may be either court ordered or employed with consent of the parties). Additionally, it can be useful to order a parent coach, because it is not clear whether AS behavior responds to conventional counseling (Aston, 2004). Moreover, professionals should consider asking all family members about how accidents and injuries have been managed in the past in order to uncover any reporting problems among the family. Parents of autistic children are frequently overwhelmed as a group.

When one or both parents have AS, they may need emergency plans that identify extended family members, emergency respite providers, the preferred hospital emergency department, physician, or psychiatrist. If these issues are not addressed in advance, one of the parents may need to be on continuous “vigilance duty” for emergencies even when the children are with the other parent. It is well-accepted that children of overwhelmed and distressed parents are at higher risk for neglect or abuse.

### ASSESSMENTS OF PARENT CAPACITY

Unfortunately, parent capacity assessments used by child protection agencies or custody evaluators may not adequately address problems of parents with ASDs. This gap needs to be addressed by experts and requires (1) an awareness that individuals with HFA and AS are capable of masking their diagnosis and (2) awareness that normal spouses and parents of individuals with autism often acquire adaptive behavior that can be seriously misinterpreted by evaluators. For example, an NT spouse may be unwilling to attempt to negotiate with the AS spouse due to past negative experiences.

Also, an NT parent may learn to avoid showing physical affection to a child with ASDs whose sensory reactions do not tolerate it. A naïve professional might interpret such behavior as uncaring and/or neglectful and conclude that there is a poor attachment between parent and child. Thus, loving parents may appear “cold” when assessed only by traditional objective criteria.

Children with ASDs often suffer from co-morbid conditions such as Tourette's Syndrome, obsessive-compulsive disorder, elective mutism, epilepsy, anxiety disorder, or depression (Lainhart, 1994; Ghaziuddin, 2005; Tantam & Prestwood, 1999) and, thus, they require even greater parental functioning and vigilance in daily management. Court professionals need to take this into account when assessing parental competence.

As with family members of schizophrenic patients (Torrey, 1983), the parents or spouses of individuals with ASDs may appear neurotic, depressed, or exhausted, simply due to the effort they expend to cope with the emotional, physical, and financial strain of the daily management of an autistic individual (Stoddart, 2003). Moreover, they rarely receive validation or support from professionals or the public. They also may have learned to use behavioral techniques to avoid unintended reinforcement of adverse autistic behavior. Such techniques, by virtue of their objective structure and intentional absence of nurturance, may lead others to form the impression that the parent is emotionally detached from the child. However, the chronic stress of living with a spouse with AS can cause the Cassandra Phenomenon or Cassandra Affective Disorder (Attwood, 2004; Rodman, 2003; Singer, 2003; Aston, 2004), which is characterized by a loss of self, the development of panic disorder, anxiety, depression, and even emotional breakdown. It has also been documented to lead to poor immunological status (Aston, 2003) in nonautistic family members.

#### DOCUMENTING THE AUTISTIC CHILD'S LEVEL OF FUNCTIONING

Because autistic children are generally at a lower developmental than chronological age, custody arrangements should be based on the child's developmental age and allow for revision as the child's development progresses (Baris & Garrity, 1988; Fidler, 2004). For example, whereas a nonautistic child of 12 or 13 years old may have the maturity to be working as a babysitter, an autistic child of the same age may still require a babysitter. Children with autism tend to be vulnerable and naïve because they are, by definition, poor at reading social cues, reading other people's states of mind, exercising judgment, and interpreting body language. They may not learn readily from experience (Frith, 1991). They may be easily distracted or victimized. Their sensory defensiveness and extreme negative reactions to stimuli add yet another layer of problems (Heller, 2002). As a result, it may be negligent to make assumptions about an autistic child's capabilities or competence based on age alone.

Psychological or medical reports identifying the levels of impairment and strengths of each autistic child should be considered. These include psychoeducational assessments, report cards, individualized educational plans from the school, and a student profile from the teacher. Reports from the parents and NT siblings should be considered. A custody schedule that works well for one child may not work well for another. Ideally, caregivers should be involved in developing the plan, and a child psychologist should be involved to assist the parties with what may be complex issues related to autism. Autistic children can also benefit from a nonparental advocate such as a guardian ad litem, a therapist, parenting coordinator, special master, mentor, relative, or other adult friend.

#### FINANCIAL MATTERS

It is expensive to raise an autistic child. The support workers include occupational therapists, social skills therapists, behavioral specialists, speech therapists, medical assessors, tutors, psychotherapists, autism support group facilitators, parent-training teachers, respite care workers, and special education attorneys. Professionals who are drafting parenting

plans and calculating child support need to be aware of the costs of implementation including the impact of caregiver fatigue upon wage earning capability.

### HIGH-CONFLICT CASES WITH AUTISM

When one parent is committed to defend the child's best interest and the other parent is committed to his/her own best interest, high conflict is likely to occur. It may be difficult for the professional to recognize which parent is accurately advocating for the best interest of the child, if the parent with AS has the intellectual and verbal skills to portray his/her own preferences as if they were the child's. Unfortunately, the best interests of children are subjective, and, thus, it is important for professionals to look closely for ulterior motives. In such a case, the court may need to order use of a professional intermediary, such as a parent coach and/or parenting coordinator (also called "special master"). Because this may provide only a change of venue for the conflict, the parties may need to develop a unique type of conflict resolution process, in which a parenting coordinator has the power to make decisions and penalize inappropriate behavior, such as having the capacity to assign penalties to parents who engage in false accusations or uncooperative, aggressive, or litigious behavior.

High conflict that is due to an obsessive need for control may be approached by an agreement with specific rules to reduce ambiguity. Given the known effectiveness with autism of using strategies of positive and negative consequences, it may be effective to assign one or a panel of parenting coordinators or special-needs dispute resolution officers to guide and enforce standards of conduct (with rewards and penalties). A panel may be superior to a single professional, given that the single professional, like caregivers, may succumb to fatigue.

### MEDICATIONS

Children with ASDs may also have resulting medical problems from destructive behavioral habits such as picking at or biting their skin. Both parents need to have the same medications at their respective residences, because perishable medications may deteriorate if sent back and forth between homes. Moreover, the pharmacist or doctor needs to know the reason for requesting duplicate prescriptions.

### PARENT EDUCATION

Any parent who has not been already heavily involved in daily caretaking at the time of separation may need courses in parenting autistic children. Public and private social service agencies such as the Doug Flutie Jr. Foundation for Autism, the California State Regional Centers, and the Geneva Centre for Autism in Canada offer such parent training seminars for parents, as well as step-parents new to ASDs. Even if a family appears to have been coping well, each parent after the separation will need to cope on his or her own. Suddenly having solo primary responsibility for one or more autistic children who may require continuous supervision presents new challenges and stresses for the primarily residential parent.

### AFTER THE AGE OF MAJORITY

After reaching legal adulthood, many with lower functioning autism require continued support or the establishment of a conservatorship. If the parents were in conflict over joint custody, joint conservatorship may lead care-worn parties into continued litigation over living



arrangements, expenses, dental and medical care, and continued education when the child with ASD is an adult. Conflict can be minimized by including in the parenting plan an assignment of sole conservatorship to the caregiving parent and an assignment of specific conservatorship domains or parts of domains to each parent; for example, one parent may address medical and the other dental care, with an arbitrator resolving cases of overlap, such as oral surgery. In structuring this, however, one has to be mindful of the fact that a parent who has a controlling disposition may use the authority within one domain to gain control over the others, if this parent wishes for ongoing involvement in care.

## PLAN BREAKDOWN

In the event that a crisis occurs in the co-parenting relationship, a provision should be included in the plan that enforces renegotiation of the plan (a pre-agreement to return to dispute resolution). In acrimonious cases, when the best interests of the child are clearly not being met, lawyers can expect to have to return to court to get such provisions added to the court order.

## SAMPLE CLAUSES TO INCLUDE IN PARENTING PLANS

### DETERMINATION OF PRIMARY CUSTODY AND TIME-SHARING PLAN

The determination of primary custody may not be as simple as ascertaining who undertook most of the caregiving in the past. Other factors include the quality of time involved in caregiving, parental mental health status, nature of the physical residence, and determination of parental financial means (Ball, 2002). It is also important to determine whether a home is “child-proofed” for the special needs child, and whether it is reasonably close to the child’s school, activities, and special services.

For many children with HFA or AS, the need for sameness of environment supersedes the need for sameness of routine. They may desire to maintain a primary home and have few or no overnights at the other parent’s home. Thus, parenting plans must accommodate this basic need that arises out of the disorder, in order to keep the child’s stress to a minimum (and prevent exacerbation of symptoms). It would be essential to determine whether the child is emotionally capable of changing residences. After the marital separation, the parents may need to allow the child to remain in the family home temporarily and have the parents scheduled to alternate in and out of the family home (the “bird-nesting” arrangement). An example of such a clause follows:

Mother and Father shall reside in the home on alternate weeks, with transitions on Sunday evenings at 6 p.m., allowing enough time for the child to adjust to the transition between homes before the night-time routine begins. This residential schedule shall be maintained until such time as the child becomes able to handle a different kind of arrangement.

### SAFETY VALVES

Clauses may be included to address potential autistic behavior that could prevent the responsible parent from being on time or otherwise fulfilling the agreement. Time is a key factor with these children. If they feel rushed, some autistic children may actually slow

down. In autism, the sense of time may be distorted. They are often hyperfocused on an obsessive interest and cannot be redirected without rage and a tantrum. Flexible accommodations for such events may be included in the parenting agreement:

Parent A will return Sammy to Parent B's house between 7:00 p.m. and 8:00 p.m. on Sundays.  
Parent A shall call Parent B during the midst of any difficult transitions to advise on status so that Parent B can anticipate and prepare for his arrival.

Children with ASDs need more time to adjust after transitions. Change may trigger a crisis, and the receiving parent (and siblings) must be psychologically prepared for having a disordered child back in the home. Where parents are able to cooperate with one another, they may choose to cancel the transition, change the time of transition, or, if it is extreme, arrange for more infrequent overnights with the noncustodial parent (e.g., perhaps only monthly). Because these children have difficulty generalizing from past experiences, canceling does not necessarily serve as an example of accommodation for the child.

### NON-AUTISTIC SIBLINGS

The parenting plan may include arrangements for the nonautistic siblings to have regular periods of respite from their autistic sibling. This can allow them quality parental attention, because substantial parental energy is necessarily directed toward the special needs child (Harris, 1994). The siblings often view such separations from the dynamics of autism as a positive concomitant of divorce.

On Thursday evenings, in the first week, Jason will spend time alone with Mother, while Sammy spends time alone with Father. In the second week, this pattern will reverse between the parents, and will rotate thereafter, giving each child individual time with each parent.

### SPECIAL INTERESTS

Many autistic children have unique and intense special interests that relieve anxiety. Potential loss of these activities may generate substantial distress. In order to address this issue, one may add a clause that reads:

Each household will have available a copy of Eric's favorite book (video/toy), and Eric's coin collection will be transferred between households with each custody transition.

### ROUTINES

The need for routines in ASDs varies in intensity, but if intense, may require a level of extensive cooperation between the parents. Certain forms of co-parenting, such as parallel parenting, may be problematic for such children because it gives each parent full and independent decision-making rights during their custody. This may result in strikingly different routines at the two homes and may confuse an autistic child with severe needs for sameness. Specific arrangements to deal with this required level of co-parental consistency could be incorporated as a paragraph entitled "Routines":

- 1) Jane will be served breakfast in her room on school days to help keep her focused on getting up and ready for school.

- 2) The parents recognize that Suzy is a picky eater and at the current time eats only white spaghetti, white bread, processed cheese, and bananas. The parents accept this as part of Suzy's condition and will consult with Suzy and with each other once a week on issues related to Suzy's eating habits. Where there is concern about food restrictions, Suzy's pediatrician shall be consulted.

## HYGIENE ISSUES

Sensory defensiveness, which often accompanies ASDs (Heller, 2002), can make children uncomfortable with and resistant to any number of daily activities related to hygiene. For example, they may experience brushing their teeth, shampooing, or showering as excessively intense and irritating activities. Girls with autism who are entering puberty may find puberty and menstruation overwhelming. Although they might be 12 years old chronologically, they might be only 8 years old psychologically.

Such sensory defensiveness can often be overcome by having the parents desensitize them with repeated gentle exposure to the experience. However, this effort will be futile if only one parent participates, because the child would get resensitized during visitation periods with the other parent. Language can be developed that specifies these desensitizing actions across both households, as follows:

Each parent agrees to assist Ariella in brushing her teeth each evening before bedtime. During periods of her menstruation, every 3–4 hours she will be reminded by the parent on duty that she is to change her pads. If Ariella has a problem managing her feminine hygiene at school, the parent caring for her at the time shall notify the teacher so that the teacher can remind Ariella to change her pad at lunchtime.

## CHILD SAFETY

Autistic individuals may pose a danger to themselves and others, due to a tendency to become self-absorbed. They may forget to look out for cars when crossing the street, and they may become easy victims for strangers. Stranger-danger and home-alone courses are particularly valuable for autistic children after a divorce because there are no longer two supervising adults. It is not sufficient to plan for such a child to make his or her own way home from school unless all safety factors are addressed. It can be helpful to include clauses such as:

Dylan will not be permitted to wear his walkman on the way home from school because it tends to distract him from potential danger around him.

## CONCLUSION

All divorce professionals, including family court judges, lawyers, child advocates, mediators, custody and access assessors, parent coaches, and parenting coordinators need information about ASDs and how they affect family functioning both pre- and postseparation. Autism is widespread in the child population, and parents are more likely than the general population to have undiagnosed higher level autistic spectrum conditions such as AS.

Many parents with autistic children are highly motivated, bright, and resourceful. Ideally, they should be able to develop their own plans, if they have adequate understanding of and compassion for their children. When it appears that one or both parents

are also on the autism spectrum, this may not be possible because of their own limitations, and divorce professionals need to address this. Plans that fail to take into account familial autism may be highly counterproductive. Divorce professionals, as stewards in conflict and child advocates, must flag these matters for parties as necessary for the best interest of any autistic children. In so doing, the parenting plan itself becomes an important accommodation.

Author's Note: *This article is not suggesting in any way that parents on the autistic spectrum should not be awarded custody of children*

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## RESOURCES

National Autistic Society, at: [www.nas.org.uk](http://www.nas.org.uk)

Families of Adults Afflicted with Asperger's Syndrome, Inc. at: [www.faaas.org](http://www.faaas.org)

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