

Abstract

Purpose

Some autistic adults have an increased risk of acting illegally and standing trial as a defendant due to their behavioural and cognitive characteristics. In court, they may display behaviours stereotypically perceived by jurors as indicators of guilt (e.g., averted gaze), potentially resulting in negative judgements. However, if autistic defendants disclose their condition, this may positively influence jurors' judgements by offering an alternative explanation for their behaviour. This effect may be stronger in jurors who are highly knowledgeable about psychological conditions and empathic.

Methodology

Non-autistic participants ($N= 328$; M age = 28.21) read a scenario about a defendant's crime and court-room behaviour before judging their character and reporting how empathic they felt towards the defendant. Participants were then informed that the defendant was autistic and provided with information about autism before re-evaluating the defendant. Participants' empathy and knowledge of psychological conditions, including autism, were measured.

Findings

Participants judged the defendant to be more honest and less blameworthy post-label. Trait empathy was positively associated with honesty ratings and higher levels of self-reported empathy. Overall knowledge was negatively associated with ratings for defendant blameworthiness and likeability. Overall, our findings suggest that autistic defendants may benefit from disclosing their diagnosis as this may result in more favourable juror judgements.

Originality

This study is the first to consider how jurors' overall knowledge of psychological conditions and trait-empathy may influence judgements of an autistic defendant.

Introduction

Approximately 1% of the global population are diagnosed with Autism Spectrum Disorder (ASD; Elsabbagh *et al.*, 2012) - a neurodevelopmental condition characterised by impairments in social interaction and communication, alongside restricted interests and behaviours (American Psychiatric Association, 2013). However, the pervasiveness of ASD in forensic populations is far greater, with an estimated prevalence between 2-18% (Rutten *et al.*, 2017). This increased prevalence may be attributed to certain characteristics associated with ASD, including special interests, heightened anxiety surrounding change, and hypersensitivities to external stimuli (APA, 2013). For example, in some cases, disruption of an autistic individual's opportunity to engage with their special interest may trigger distress and aggression, resulting in their unintentional engagement in illegal actions, contact with the police, and standing trial as a defendant (Brewer and Young, 2015). *Whether it is advantageous for autistic people to disclose their diagnosis in these situations is still unclear. It has been proposed that disclosing ASD status to the police and other first responders through the use of identification cards is mostly beneficial. This may be because ASD identification cards can quickly inform others of their condition and highlight any adjustments that could be made to (hopefully) facilitate understanding and reduce any potential distress experienced during the interaction (Davis, 2021).* However, less is known about how an autism diagnostic label is perceived by those making decisions within the court-room, such as members of a jury.

When judging defendants, jurors' often base credibility judgements upon non-verbal behaviours including eye-contact and emotional displays (Hartwig and Bond, 2011). However, due to the behavioural characteristics of their condition, autistic adults may inadvertently display behaviours that are stereotypically viewed as indicators of deception, such as atypical eye-contact and unusual emotional expressions (APA, 2013; Sporer *et al.*, 2007). Consequently, autistic defendants' unintentional behaviour on the stand may negatively influence jurors' perceptions, resulting in harsher judgements. Informing juries of an autistic defendant's diagnosis may prevent unjustly negative judgements by offering an alternative explanation for atypical behaviours. Kelley's discounting principle (Kelley, 1971) proposes that initial explanations for one's behaviour may be replaced if

jurors are made aware of an alternative explanation, triggering an attribution shift from personal to situational factors. For example, jurors may view a defendant who acted aggressively in a crowd and displayed little emotion when standing trial as callous and violent, until they are informed that the defendant is autistic, easily overwhelmed by hypersensitivities to noise, and experiences difficulties in displaying emotions (Brewer and Young, 2015). Once aware of their condition, jurors may view the defendant more favourably as their diagnosis may be perceived as a mitigating factor, offering a reasonable explanation for their illegal and court-room behaviours.

Unfortunately, there remains a lack of understanding into how an ASD diagnosis impacts jurors' judgements, with only two studies to date assessing jurors' perceptions of autistic defendants (Berryessa *et al.*, 2015; Maras *et al.*, 2019). Berryessa *et al.* (2015) were the first to consider how jurors perceive an autistic defendant with high intellectual ability. This research employed a within-subjects design in which mock-jurors were asked to read a case summary about a defendant's criminal actions and trial behaviours before judging their moral responsibility, legal responsibility, criminal intention, and character. Then, mock-jurors were informed of the defendant's ASD diagnosis and asked to repeat their judgements. Whilst the mock-jurors did not alter their view of the defendant's legal responsibility once aware of their diagnosis, they did perceive the defendant to have less criminal intent due to their condition and supposed inability to control their behaviour. Similarly, Maras *et al.* (2019) also showed that awareness of an ASD diagnostic label influences jurors' judgements. They presented mock-jurors with a vignette describing a defendant exhibiting ASD characteristics (e.g., avoiding eye-contact, APA, 2013). Mock-jurors who were informed that the defendant had ASD judged the defendant to be more likeable, honest, and less culpable for their actions compared to mock-jurors who were unaware of the defendant's diagnosis. It may be that awareness of the defendant's ASD elicited more favourable evaluations due to discounting (Kelley, 1971). However, as Maras and colleagues' conditions were between-subjects, and there is currently only one study investigating juror's perceptions of autistic defendants using a within-subjects design (Berryessa *et al.*, 2016), it remains undetermined how being informed about a defendant's ASD may lead jurors to alter their first impressions. During UK court-cases, the prosecution presents before the

defence (The Prosecution Process., 2022). As jurors may not be informed about a defendant's diagnosis until later in the trial, their initial judgments are likely to be based on the defendant's criminal actions and court-room behaviour.

As jurors are summoned from the general population, there is significant variability in their empathy (Zhao *et al.*, 2021) and knowledge of psychological conditions (Angermeyer and Dietrich, 2006). These factors may influence juror evaluations of autistic defendants as highly empathic jurors may act more compassionately towards defendants and judge them less harshly (Haegerich & Bottoms, 2000). Moreover, jurors with greater knowledge of psychological conditions may have a better understanding of how such conditions may influence a defendant's behaviour and judge the defendant with this at the forefront of their mind. Research to date has not yet examined the influence of juror empathy and prior knowledge of psychological conditions on perceptions of an autistic defendant, which is central to our understanding of how individual characteristics of the jury may mediate changes in jurors' judgements after being made aware of a defendant's ASD.

The aims of the present study were to investigate whether awareness of an ASD diagnostic label changes mock-jurors' judgements of an autistic defendant, and to examine whether such judgements are influenced by individual differences in trait-empathy and knowledge of psychological conditions. Participants read a vignette describing a defendant's offence and behaviour in court before judging the defendant's character and reporting how empathic they felt towards them. Participants were then informed that the defendant had ASD and provided with information about their condition, before judging the defendant again. We predicted that: 1) judgements of the defendant's character would be more positive after becoming aware of their ASD diagnosis (Kelley, 1971; Maras *et al.*, 2019), 2) greater knowledge of psychological conditions and higher trait-empathy would be associated with increasingly favourable judgements of the defendant. Although autistic individuals may fear disclosure of their diagnosis due to discrimination or victimisation (Crane *et al.*, 2016), such findings would suggest that autistic defendants may benefit from disclosing their diagnosis during a trial due to its consideration as a mitigating factor.

Methods

Participants

Participants were 328 non-autistic adults (M age = 28.21, SD = 12.87, range = 16-62), including 276 females, 49 males, and 3 participants who did not identify as male or female. Two-hundred-and-ninety-one participants were white, 8 were from mixed ethnic groups, 21 were Asian or Asian British, 4 were Black African, Caribbean or Black British, and 4 belonged to other ethnic groups. Participants were self-selecting, recruited via social media advertisements and a university research recruitment system.

All procedures were in accordance with ethical standards of institutional and national research committees. Ethical approval was obtained from the University of Manchester Ethics Committee (Ref: 2021-10636-17733), with all participants providing written informed consent prior to participation.

Materials and Covariates

The following metrics were measured using questionnaires (see Supplementary Materials for further details):

- **Knowledge of Disorders:** Participants rated their knowledge and understanding of 6 different psychological conditions, including ASD, on 4-point Likert scales. Each item referring to knowledge of disorders was totalled to provide an overall knowledge score for each participant with a higher value indicating more knowledge.
- **Trait Empathy:** Measured via the Basic Empathy Scale for Adults (BES-A; Joliffe and Farrington, 2001). Items of the BES-A scale were totalled to provide an overall empathy score for each participant with a higher value indicating greater empathy.
- **State Empathy:** Measured via one state-level cognitive empathy question (understanding the defendant's thought-processes) and one state-level affective empathy question (understanding the defendant's emotions).
- **Judgements of the Defendant:** Participants judged the defendant's likeability, honesty, cognitive dysfunction, and blameworthiness on 7-point Likert scales. Blameworthiness was

reverse coded meaning that a lower score indicated higher levels of perceived blameworthiness. These 1-item measures were utilised in line with previous research in the area (Berryessa *et al.*, 2016; Maras *et al.*, 2019).

Vignette. The vignette included the same case-summary and court-transcript used by Maras *et al.* (2019). The case-summary informed participants that the defendant became distressed while train-spotting and their train of interest was cancelled. Police were called, and – on their arrival – the defendant assaulted a police officer. The court transcript detailed the defendant’s testimony and the defendant’s behaviour was portrayed in a manner consistent with ASD; they avoided eye-contact on the stand, displayed little emotion, and proclaimed that they did not mean to commit the offence (but did not deny it).

Diagnostic Label and Information. Participants were informed that the defendant had an ASD diagnosis, was level 2 out of 3 on the Autism Spectrum, trains were their special interest, and change could trigger aggression.

Supplementary materials and datasets generated and analysed during the study are available in the Open Science Framework repository;

https://osf.io/u64je/?view_only=9ea0534cdf7f45579330eb62a2095f22

Procedure

All participants completed the study online via Qualtrics. They accessed the questionnaire via advertisements. First, participants provided their age, gender, and ethnicity, then completed the BES-A and Knowledge of Disorders Questionnaire. Next, participants read the vignette and reported their judgements of the defendant’s characteristics and self-reported empathy towards the defendant (higher scores indicated more favourable defendant ratings for all scales except for the reverse-coded blameworthiness variable). Then, participants were made aware of the defendant’s diagnosis and provided with information about ASD. Finally, participants re-evaluated the defendant and their levels of empathy towards the defendant.

Data Analysis

Participants' responses were analysed via linear mixed-effects models using the lmer function from the lme4 package in R (Bates *et al.*, 2014a, 2014b). All models contained by-subject random intercepts to account for variation across participants. Overall knowledge (range: 6-24) and trait empathy (range: 20-100) were coded as participants' raw scores on these measures. For each analysis, we started with a baseline model containing only the random effects. Fixed effects were added individually and we tested whether their inclusion significantly improved predictive fit. Please refer to Supplementary Materials for full details of our model building sequences for all analyses (only final models are reported).

Results

Three-hundred and fifty-five participants completed the questionnaire; 27 participants were removed as their responses were uniformly perseverative. Table I displays mean scores for participants' overall trait-level empathy, their responses on the cognitive and affective subscales, and overall knowledge.

{Insert Table I}

Figure 1 displays mean scores for participants' judgements of the defendant and self-reported level of empathy pre-and-post label.

{Insert Figure 1}

Honesty

A model containing label, overall knowledge, and trait empathy as fixed effects provided the best fit to the observed data (see Table II). Participants with higher knowledge and empathy gave higher honesty ratings for the defendant. Participants also judged the defendant to be significantly more honest after becoming aware of their autism diagnosis.

{Insert Table II}

Likeability

A model containing the Label x Knowledge and Label x Trait Empathy interactions provided the best fit to the observed data (see Table III). Participants with less knowledge gave lower likeability ratings. The Label x Knowledge interaction indicates that knowledge did not influence participants' likeability judgements pre-label, however, participants with greater knowledge reported lower likeability ratings compared to participants with less knowledge post-label. The Label x Trait Empathy interaction indicates that trait-empathy did not appear to influence likeability ratings pre-label, however, participants with higher levels of empathy reported greater likeability ratings compared to participants with lower levels of empathy post-label (see Figure 2).

{Insert Table III}

{Insert Figure 2}

Blameworthiness.

A model containing the Label x Knowledge interaction provided the best fit to the observed data (see Table IV). Participants with less knowledge rated the defendant's blameworthiness significantly lower (i.e. more blameworthy). Participants also judged the defendant to be significantly less blameworthy after becoming aware of their autism diagnosis. The Label x Knowledge Interaction indicates that whilst knowledge did not have a significant impact on blameworthiness ratings pre-label, participants with greater knowledge judged the defendant to be significantly more blameworthy compared to participants with less knowledge post-label (see Figure 3).

{Insert Table IV}

{Insert Figure 3}

Cognitive Empathy.

A model containing overall knowledge and trait empathy as fixed effects provided the best fit for the observed data (see Table V). Participants with greater knowledge and trait-empathy self-reported higher levels of cognitive empathy for the defendant.

{Insert Table V}

Affective Empathy.

A model containing label and trait-empathy as fixed effects provided the best fit for the observed data (see Table VI). Participants with higher trait-empathy self-reported higher levels of affective empathy for the defendant. Participants also reported experiencing higher levels of affective empathy towards the defendant after becoming aware of their autism diagnosis.

{Insert Table VI}

Cognitive Functioning.

Including fixed effects did not significantly improve model fit. Thus, participants' evaluations of the defendant's cognitive functioning were not influenced by awareness of their autism diagnosis or individual differences in knowledge or trait empathy.

Discussion

The purpose of this research was to investigate whether awareness of an ASD diagnosis significantly influences mock jurors' judgements of a defendant, whilst exploring the impact of overall knowledge and empathy on such judgements. Once aware of the defendant's autism diagnosis, we discovered that participants judged them to be significantly more honest and significantly less blameworthy. Participants also experienced higher levels of affective empathy post-label. Participants with greater knowledge judged the defendant to be more honest and experienced greater levels of cognitive empathy for the defendant, however, they judged the defendant to be significantly more blameworthy post-label compared to participants with less knowledge. We also discovered that highly empathic participants judged the defendant to be more honest and experienced higher levels of cognitive and affective empathy for the defendant. Participants with higher trait-empathy also

perceived the defendant to be more likable after becoming aware of their diagnosis than participants with low empathy.

Awareness of an Autism Diagnostic Label

Our findings that participants judged the defendant to be more honest and less blameworthy post-label partially support Kelley's discounting principle (1971) and aligns with previous research investigating the influence of ASD awareness in every day and forensic contexts (Berryessa, 2016; Maras *et al.*, 2019; Matthews *et al.*, 2015, Porter, 2021). *Indeed, our findings corroborate previous evidence supporting autistic adults' use of diagnostic identification cards in first contacts with the CJS (Davis, 2021).* According to the discounting principle, the provision of the label offers participants a more acceptable explanation for the defendant's criminal actions and atypical courtroom behaviour. Jurors often make judgments about the apparent controllability of a defendant's behaviour (Weiner, 2006). Once informed that a defendant has autism (a neurodevelopmental condition perceived to result in uncontrollable behaviour (Aspinwall *et al.*, 2012), jurors may view ASD as a mitigating factor, leading to more positive judgements regarding the defendant's blameworthiness and honesty.

It is possible that participants did not experience an increase in cognitive empathy post-label as this requires mentalistic understanding of another's intentions and participants may have struggled to understand the defendant's cognitive processes due to their ASD (Blair, 2005). By contrast, affective empathy is driven by understanding another's emotions (Blair, 2005). Our participants' post-label increase in affective empathy may be attributed to their awareness of the defendant's stress and anxiety - universal emotions that participants can relate to (Izard, 1992). These findings also corroborate previous research recognising the importance of amplifying affective empathy in jurors and how this can influence preference for prosecution or defence (Stevenson *et al.*, 2009; Pyszczynski and Wrightsman, 1981).

Knowledge of Psychological Conditions

We predicted that participants with greater knowledge of psychological conditions would judge the defendant more favourably post-label compared to participants with lower levels of knowledge, due to their increased understanding of how ASD may have influenced the defendant's thoughts and behaviours. However, we discovered the opposite effect; participants with less knowledge of psychological conditions judged the defendant to be more likable and less blameworthy post-label compared to participants with greater knowledge. These results may be underpinned by less informed jurors' use of stereotypes to inform their judgements, rather than accurate knowledge. When participants with less knowledge were informed that the defendant was autistic, they may have reflected on common media portrayals of ASD to assist their decision-making. However, mainstream media often focuses on stereotypical aspects of ASD, including the belief that autistic people cannot control their behaviour (Ressa and Goldstein, 2021). Subsequently, participants with less knowledge may have believed that the defendant could not control their actions, mitigating their perception of the defendant's criminal responsibility (blame) and unpleasant character (likeability). Contrastingly, participants with greater understanding of psychological conditions may have recognised that ASD is a spectrum condition and not all autistic adults are unable to control their behaviour. Subsequently, participants with greater knowledge may have been more conservative in their approach to amending their blameworthiness and likeability judgements as they may have considered the possibility that the defendant's behaviour could have been intentional.

However, participants with higher levels of knowledge offered more favourable appraisals of the defendant's honesty and experienced heightened levels of cognitive empathy. One explanation for these findings is that participants with greater knowledge of psychological conditions may have identified that the defendant was portrayed in a manner consistent with ASD pre-label. Moreover, when informed that the defendant was autistic, participants with greater knowledge may have thought that the autistic defendant may struggle to lie due to their impaired false belief understanding (Senju, 2012) and increased their honesty ratings accordingly. Furthermore, participants with more knowledge experienced higher levels of cognitive empathy for the defendant. Given that cognitive empathy is related to understanding another's thought processes (Blair, 2005), participants with

greater knowledge may have been better placed to understand the defendant's cognitive processes compared to participants with less knowledge who potentially failed to comprehend how the defendant's condition influenced their thoughts. However, as we did not directly assess whether participants identified the defendant's ASD pre-label, this explanation is speculative and future research employing similar methodology should insert a question to examine this.

Trait-Empathy

We discovered that participants with higher levels of trait- empathy judged the defendant to be more honest and reported greater levels of cognitive and affective empathy. One explanation is that highly empathic mock-jurors were more likely to experience compassion for the defendant (Blair, 2005), elevating their character judgements (including perceived honesty). Additionally, our data suggests that highly empathic mock-jurors may have been more likely to discount and consider the defendant's diagnosis as an acceptable explanation for their crime, believing the defendant when they said that they did not mean to commit the offence. We propose, therefore, that highly empathic individuals are more likely to engage in discounting due to their propensity for consideration and enhanced perspective-taking ability (Blair, 2005). Additionally, our discovery that highly-empathic participants experienced greater cognitive and affective empathy pre-label suggests that such individuals may find it easier to emotionally connect with others- regardless of whether or not they have an ASD diagnosis. Moreover, their elevated empathy post-label may be a sign that they engaged in more discounting (Kelley, 1971).

Limitations.

Firstly, the within-subjects design may have elicited demand characteristics or corrective thinking. Consequently, favourable post-label judgements may have been overcompensations driven by participants' guilt if they appraised the defendant harshly pre-label. However, the within-participants design resembles UK court proceedings in which criminal information is presented by the prosecution (informing jurors' initial judgements), before the defence have an opportunity to present the defendant's diagnosis (which may alter jurors' initial judgements). Hence, our use of a within-

subjects design reflects real-world practises and increases the likelihood that our results represent how jurors make decisions within court-room contexts. Secondly, knowledge of psychological conditions was measured via a self-report questionnaire meaning that scores may not accurately reflect participants' true knowledge. The source of participants' knowledge was also unclear; those who know about ASD personally (e.g., have an autistic relative) may respond differently to those who know about ASD professionally (e.g., health-care workers). Subsequently, if this research was replicated, level of knowledge should be empirically tested and the source of knowledge appraised.

A final limitation relates to the use of written vignettes as they do not allow participants to engage with the idiosyncratic aspects of speech which would be available if they were to watch a video of a live testimony, reducing the ecological validity of the study. However, using vignettes is the most widely-utilised approach for studying attitudes towards vulnerable groups (Swami, 2012). Additionally, the use of a vignette is consistent with the very limited research that exists within this field (Berryessa *et al.*, 2016; Maras *et al.*, 2019) and is appropriate for our preliminary exploration of the role of empathy and knowledge. Following this research, we recommend future studies investigate perceptions of autistic defendants and juror empathy and knowledge utilising more naturalistic stimuli (e.g. videos of defendants' testimonies).

Conclusions.

Overall, the present study demonstrates that awareness of an ASD diagnosis positively impacts juror judgements of honesty, blameworthiness, and their self-reported levels of affective empathy. Moreover, this research is the first to highlight how juror empathy and overall knowledge influence judgements of an autistic defendant. Our results imply that disclosure of an autism diagnosis could be advantageous in courtrooms as ASD may be perceived as a mitigating factor, positively influencing jurors' perceptions of defendants' behaviour and reassuring the ASD community that disclosure of their diagnosis may not lead to discrimination. Additionally, our results may offer practical information to the hired defence. If the disclosure of their client's diagnosis may result in their client being viewed more positively by the jury, they may wish to encourage their client to disclose their ASD in order to try and help their case. Finally, our findings concerning the influence of

jurors' trait-empathy and knowledge are promising as they suggest that the possibility of negative bias stemming from juror empathy or knowledge is negligible, which has positive implications for neurotypical and neurodiverse defendants alike.

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