Preventing and improving interactions between autistic individuals and the criminal justice system: A roadmap for research

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Abstract

Researchers have identified that autistic individuals are encountering the criminal justice system as victims, offenders, and witnesses at high rates. The prevalence of autism spectrum disorder (ASD) is increasing and generating a comprehensive approach to addressing criminal justice system involvement among autistic individuals is a timely and urgent need. Revisions to an established framework generated for use among individuals with mental health diagnoses, the sequential Intercept Model (SIM), were produced by an international consortium of interdisciplinary stakeholders presenting a new opportunity to identify gaps in ASD research and generate preventive solutions across the criminal justice system. The revised SIM maps each criminal justice system component, or Intercept, and includes paths for the experiences of autistic individuals as victims or witnesses to crimes as well as offenders to catalyze new and interdisciplinary research, policy, and practice efforts. As the field of ASD research continues to grow, the revised SIM is a promising pathway to avoiding siloed research approaches, including diverse autistic voices, and contributing to international dialogue about criminal justice reform at a critical juncture.

Lay Summary: Autistic individuals are encountering the criminal justice system as victims, offenders, and witnesses at high rates. A revised version of the SIM generated by an international consortium provides a cohesive framework to ensure research focused on this topic extends across the criminal justice system. Preventing and improving interactions between autistic individuals and the criminal justice system is an urgent research, policy, and practice need.

KEYWORDS
autistic disorder, criminal law, policy, research

HIGH RATES OF CRIMINAL JUSTICE SYSTEM CONTACT

The increasing prevalence of autism spectrum disorder (ASD) over the previous three decades (Baio et al., 2018; Yeargin-Allsopp et al., 2003) has resulted in a corresponding increase in ASD research and public health initiatives. However, shifts in policy and practice have not kept pace with the emerging understanding of the experiences and needs of autistic individuals, particularly as they relate to interactions with the criminal justice system. Researchers have initially demonstrated that autistic individuals come into contact with the criminal justice system at high rates (Rava et al., 2017; Tint, Palucka, et al., 2017), as both perpetrators and victims of crime. Understanding the full continuum of experiences of autistic individuals, their caregivers, and criminal justice system professionals is critical to informing service delivery, supporting autistic individuals, their families, and communities, and for opportunities to help shape criminal justice system reform.

The underdeveloped understanding of ASD as individuals age is a rate-limiting step to identifying solutions to minimize and improve criminal justice system interactions. Research about transition age youth and adults is critical to informing the design and implementation of needed services and supports to prevent crises. Efforts to inform the public about the importance of identifying ASD early in childhood present a potential starting point for lifespan outreach efforts, such as increasing awareness

about ASD in adulthood. In the United States, the Centers for Disease Control and Prevention funds the Autism and Developmental Disabilities Monitoring Network, which recently added 16-year-old in surveillance effort of ASD among children. However, the fields' understanding of the prevalence and presentation of ASD among older adults does not have a parallel mechanism, and correspondingly, crucial information on ASD in adulthood is lacking.

A significant challenge to reducing and improving criminal justice system contact for autistic individuals is the dearth of ASD research focusing on the experiences of individuals who are Black, Indigenous, and People of Color (BIPOC). ASD research has too often been centered on White voices (Cascio et al., 2021; Stavropoulos, 2020; West et al., 2016), leaving much to be learned about the experiences of BIPOC autistic individuals. This is an especially important issue to consider in research related to the criminal justice system, a system defined by the systemic and structural racism it perpetuates (Bell, 2017; Hetey & Eberhardt, 2018). BIPOC people are overrepresented in the criminal justice system, face disparate sentencing for criminal behavior, and live with daily risk for police violence (Bishop et al., 2020; Owusu-Bempah, 2016; Petrillo, 2017). All of this means that BIPOC autistic individuals likely face elevated risk for involvement in the criminal justice system and worse outcomes than their White peers due to systemic racism. For instance, BIPOC autistic individuals are likely at increased risk of police violence, particularly when law enforcement is unaware of ASD and implicit biases lead officers to view autistic behaviors as troubling or even dangerous. Yet, little is known about these experiences or the degree to which the risk is magnified due to the lack of research in this area.

News stories from around the world also signal the need for research focused on ASD and the criminal justice system. These stories have profiled interactions among autistic individuals and criminal justice system professionals, many of which have resulted in negative, traumatizing, and sometimes fatal outcomes (Alexiou, 2020; Copenhaver & Tewksbury, 2019; Waller, 2021). Autistic individuals who come into contact with the justice system face the aftermath of these interactions which further magnify the existing challenges autistic individuals face related to employment (Chan et al., 2018; Nicholas et al., 2017; Nicholas et al., 2018; Pillay & Brownlow, 2017; van Schalkwyk & Volkmar, 2017) because they may result in a criminal record further limiting employment opportunities. Interactions with the criminal justice system likely exacerbate existing difficulties participating in the community (Farley et al., 2018; Shea et al., 2019; Tint, Maughan, & Weiss, 2017) since they may compound stigma, especially among individuals with a disability and or racial and ethnic minority status (Gausel & Thørrisen, 2014; Tyler & Brockmann, 2017) or result in trauma or anxiety focused

on being in communities (Liem & Kunst, 2013; Semenza & Link, 2019).

A small body of research studies has begun to piece together a fragmented picture of the interactions of autistic individuals and the criminal justice system. Recent studies have included preliminary estimates of the prevalence of ASD among criminal justice system-involved individuals (Rava et al., 2017; Tint, Palucka, et al., 2017) and specific types of offending behavior (Allen et al., 2008; King & Murphy, 2014; Payne et al., 2020). Others have looked at the availability and impact of criminal justice system professional knowledge and training to identify and respond to potential markers of ASD (Gardner et al., 2019; Railey et al., 2020; Teagardin et al., 2012). Further, a subset of research has examined court-specific interventions (Berryessa, 2014, 2016; Crane et al., 2020). But there is limited research to date about autistic individuals as victims of crimes, despite the fact that initial research focused on bullying among school-age youth (Hwang et al., 2018; Park et al., 2020) and adults have documented high rates of victimization (Weiss & Fardella, 2018).

To create policy and practices that prevent and improve interactions between autistic individuals and criminal justice system professionals, a comprehensive framework for cross-criminal justice system interactions that accounts for both perpetrator and victim experiences are needed to link these emerging research findings and prioritize areas for further investigation.

A NEW CROSS-SYSTEM FRAMEWORK

The Sequential Intercept Model (SIM) is a conceptual framework that is designed to spur the development of interventions that limit and, when possible, prevent the involvement of people with serious mental illness (SMI) in the criminal justice system (Bonfine et al., 2020). The SIM was developed in response to the overrepresentation of people with SMIs in the criminal justice system in the United States and works on the premise that people with SMIs should not be arrested or incarcerated for actions, behaviors, or circumstances that lack criminal intent and are caused by their mental illness (Munetz & Griffin, 2006). The SIM model works to reduce unnecessary involvement of people with SMI in the US criminal justice system by identifying points of contact that model how people typically progress through it and by so doing identifies potential points of interception. In the SIM model, the points of interception are places where community-based services can intervene to divert people with SMI away from further involvement with the criminal justice system and back into community-based services (Munetz & Griffin, 2006). The SIM provides communities with both a framework for organizing community responses to criminal justice system involvement of people with SMI and a strategic planning tool that

communities can use to develop coordinated, cross-system responses to this involvement by assessing available resources, determining gaps in services, and developing plans to address them (Policy Research Associates, n.d.).

In 2019, the International Society for Autism Research (INSAR) selected interactions between autistic individuals and the criminal justice system as the theme for its third funded policy brief. INSAR policy briefs, including the forthcoming policy brief with specific policy recommendations for ASD and the criminal justice system, are found at https://www.autism-insar.org/page/PolicyBriefs. The proposed framework for generating the policy brief was the SIM and a robust partnership with 10 nations quickly grew from existing interest in the topic as shown in Figure 1. Stakeholder groups have included autistic individuals, family members, and caregivers of autistic individuals, researchers focusing on ASD, mental health, criminology, or social work, criminal justice system professionals, policymakers, and self-advocates. Individual members and advocacy organizations were selected based on four targeted audiences. Policymakers were included to gain information about implementing policy strategies. Autistic individuals and their families, including individuals from racial and ethnic minorities, provided insight to their lived experiences. Criminal justice system professionals supported the identification and implementation of priorities for training. Researchers focusing on a diverse array of topic areas helped to prioritize research activities and opportunities to boost community-engaged priorities. Individual self-advocates, researchers, policymakers, and advocacy groups were recruited to participate based on existing relationships and partnerships, and subject matter experts were identified in the peer-reviewed literature. Given the lack of diversity in ASD research, participation from BIPOC individuals and across participating nations was targeted and prioritized. The resulting Global Autism and Criminal Justice System Consortium formed a workgroup to guide revisions to the SIM to ensure the framework was organized to represent autistic individual's experiences with the criminal justice system, from the perspectives of both victims and offenders. Feedback from this Consortium to refine the SIM was actively solicited during monthly calls and a summit over 2 days held in October 2020 with multiple sessions to allow for participation across time zones.

A workgroup focused on the SIM leveraged diverse, interdisciplinary, and international membership to produce a framework that organized the progression of
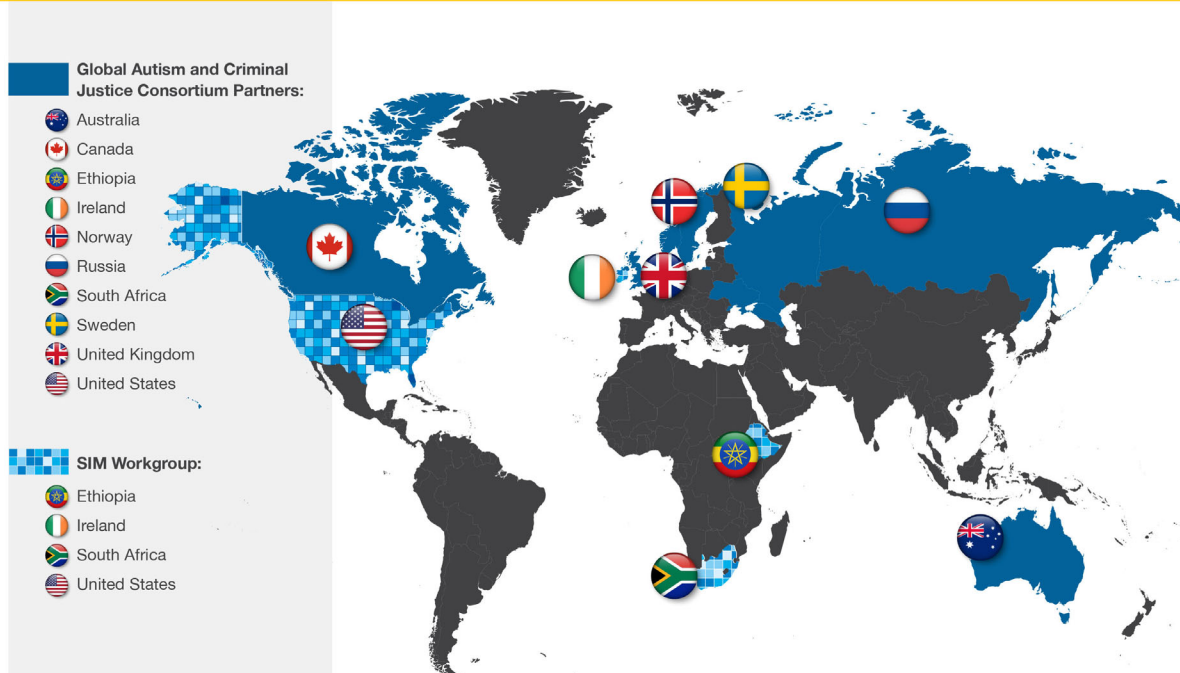

FIGURE 1 Global autism and criminal justice consortium partners

involvement with the criminal justice system around the unique experiences and needs of autistic individuals during encounters with the criminal justice system. The purpose for this revised model is to ensure that services within both the community and criminal justice system address the specific treatment needs related to social and communication needs of autistic individuals, while also prioritizing community-centered solutions that reduce and prevent criminal justice contact. To put this target into action the workgroup identified several areas for substantive change for the SIM model beginning with reimagining the model as a cyclical and interconnected process that starts and ends in the community and connects each Intercept to the preceding and following one. Community is located at the center of the SIM model because, similar to the original SIM model, community is conceptualized as the ultimate intercept as the central point of contact for the array of services needed for victims and perpetrators in the criminal justice system (Bonfine et al., 2020).

Given the high rates of victimization of autistic individuals (Christoffersen, 2019; Richardson et al., 2016; Weiss & Fardella, 2018), the revised SIM model also added pathways for autistic individuals as victims to intentionally include the voices of autistic victims. Exit ramps with links to the community were added to identify and focus opportunities for autistic individuals to be directed away from the criminal justice system and into community services or community corrections. Exit ramps represent the goal of eliminating or limiting progression through the criminal justice system in alignment with the workgroup emphasis to center and embrace community in the model. Exit ramps are aspirational and detail potential pathways for individuals to exit the criminal justice system without having to traverse through each intercept. In this manner, they are a key site for future policy and program development to actualize their existence. An exit ramp may be a trained mental health professional responding in lieu of police during a mental health crisis or a diversionary program that routes an individual to services and supports instead of incarceration. Intercepts were further reorganized to align with the policy and programmatic responses that are required to address the unique needs of autistic individuals. For example, in the original SIM model Intercept 3 is identified as courts/jails (Munetz & Griffin, 2006). However, in our revised model (Figure 2) this Intercept was split into two separate Intercepts to account for the distinct policy and programmatic responses required to address the needs of autistic individuals in court versus those needed

REVISED

Sequential Intercept Model

This revised version of the Sequential Intercept Model is a tool for victims, offenders, families, and providers as it follows both the offender and victim perspective as they navigate the criminal justice system. The Revised Sequential Intercept Model was generated with funding from the International Society for Autism Research (INSAR).
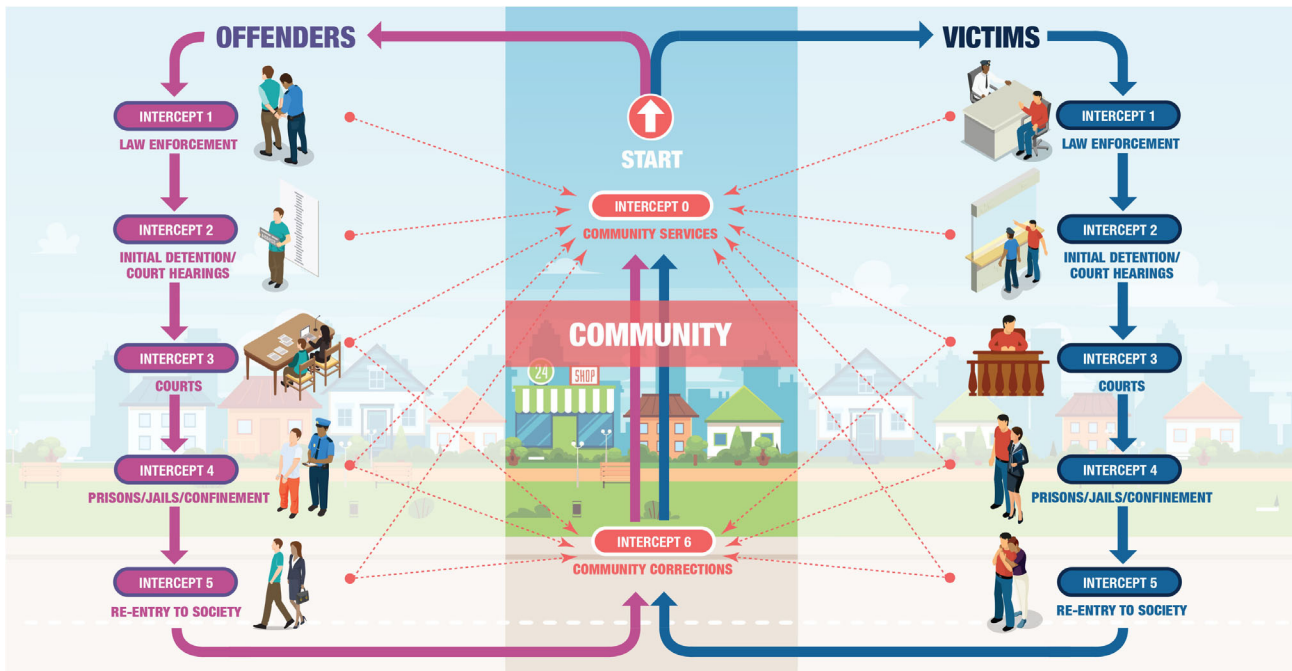
FIGURE 2 Revised Sequential Intercept Model

for secure confinement settings such as jails, prisons, and secure forensic settings.

DRIVING RESEARCH ADVANCEMENT

A unique component of the SIM revision process that contributes substantially to its utility is the international engagement that was present in each step of SIM development, as well as the INSAR policy brief. Globally, ASD detection, community-based treatments, and advocacy efforts vary, with competing priorities presenting challenges for low- and middle-income countries to generate ASD-specific health, social, and public policy (Hahler & Elsabbagh, 2015). Criminal justice system structure, practices, and priorities also differ internationally, complicating comparisons across systems (Harrendorf, 2018). For instance, the US police force features thousands of separately operating police forces, differing from nations that have a nationalized police force (Cheatham & Maizland, 2020). Police in the United States are also permitted to carry firearms and are often supplied with military-grade weapons, which stands in contrast to nations with representatives in the Global Autism and Criminal Justice Consortium such as the United Kingdom, Ireland, and Norway whose police do not carry firearms (Fox, 2017). Furthermore, the United States incarcerates individuals at nearly unrivaled rates across the world (Walmsley, 2018). Together this illustrates fundamentally different perspectives in how offenders are treated.

Therefore, robust international engagement was crucial to transcend these differences in the structure and practices of specific criminal justice systems to create a SIM with utility across service systems and among diverse nations. Partners from around the world provided guidance to produce a model that accounted for varying aspects of and approaches to ASD awareness and service development, which helped to bridge cross-cultural divisions. Key to these efforts was the focus on commonalities across nations and systems and identifying universal goals. For instance, the workgroup quickly agreed that strengthening community services is the pillar for sustainable and meaningful change. Regardless of the stated differences, community was the uniting factor and the backbone of the revised SIM.

The SIM has a long and productive history in producing community change in criminal justice system outcomes with a focus on individuals with mental health diagnoses (Munetz & Griffin, 2006). Policy Research Associates have completed over 200 SIM workshops nationwide where trained facilitators work with local communities to identify resources and gaps in services for people with SMI and to develop action plans to prevent justice involvement of people with SMI (Willison et al., 2018). These trainings have been so successful that they have led to statewide initiatives in more than seven states (Bonfine et al., 2018), and the promotion of the SIM mapping process by the Substance Abuse and Mental Health Services Administration (Substance Abuse and Mental Health Services Administration, 2020). In its original form, the main goal of the SIM is to reduce the involvement of people with SMI in the criminal justice system (Bonfine et al., 2018; Munetz & Griffin, 2006). This goal creates tremendous emphasis on the development of programs that divert people with SMI who become involved in the criminal justice system as a defendant away from further involvement. Given that the goals of this initiative are broader, both in terms of the scope of service needs being addressed by this model and the types of justice involvement that are being addressed (i.e., both victim and perpetrator), the model required adaptation. The SIM model itself is versatile because it focuses on the structure and operations of the criminal justice system and has been adapted successfully for use with other populations and goals (Bonfine et al., 2018). Beginning with systems-level research on the needs of autistic individuals involved in the justice system is an efficient starting point for addressing the needs of individuals with social and communication preferences and needs that likely require adaptation, services, and supports at every point of contact. By leveraging interdisciplinary teamwork to revise the SIM to address the unique treatment needs of autistic individuals, ASD research benefits from many of the lessons learned in the field of mental health and yields new opportunities to expedite cohesive research progress.

The timing of the Global Autism and Criminal Justice System Consortium was a further catalyst for attention on the central issue—criminal justice system reform. In 2020, new waves of advocacy, protests, and calls to action led by the Black Lives Matter movement for criminal justice system change were felt around the world, and activists' calls for community-based and noncriminal solutions to public safety matters anchored revisions. This backdrop further amplified incentives for participation among criminal justice system professionals and policymakers who were key to mapping potential uses of the SIM and design considerations. Although their investment in this issue preexisted, the events of 2020 garnered media attention to ASD and criminal justice system reform broadly, supporting the underlying and unifying mission for the process and needed results of revising the SIM. In particular, the involvement of criminal justice system professionals who stayed engaged in the process to find new solutions and engage in difficult conversations about perspectives on the criminal justice system and critiques was paramount to shaping the path forward.

NEXT STEPS TOWARD EQUITABLE JUSTICE

The utility of the revised SIM is threefold. First, it provides a comprehensive model of involvement with the

criminal justice system from the perspective of both victims and perpetrators to ensure that researchers are focusing and linking stages of criminal justice system involvement. As we deploy public health approaches that impact outcomes across communities and populations, linking research across the siloed elements of the criminal justice system allows for a fuller view of the connections between policy and practice implications and recommendations. Research focused on practices in court settings may provide new windows into opportunities to improve discharge planning from prisons, jails, and confined settings to prevent recidivism that would not have been in full view without a conceptual model that illustrates how these experiences are connected to what worked or did not work in court settings. Research from across Intercepts may help to illustrate new viewpoints on prevention models by seeking to shift focus to effective practice earlier in the SIM and producing greater efficacy downstream as well.

Second, the revised SIM illustrates how exit ramps from the criminal justice system are present throughout the system. These opportunities to prevent or limit further criminal justice system involvement should be a focus for research on ASD and the criminal justice system for two reasons. Exit ramps support autistic individuals in finding productive and constructive paths forward that can limit the impact of criminal system interactions in their future prospects for employment and participation in their communities. This is especially crucial for BIPOC autistic individuals—particularly those young, Black, and autistic—who are at heightened risk of criminal justice involvement, due to the interaction of autistic behaviors and implicit biases of the criminal justice system. Exit ramps also represent points at which new and different models for service delivery are likely needed. For example, it remains unclear if or how restorative justice could be adapted for autistic individuals or how to fully support autistic individuals in coping with the trauma of criminal justice system interactions, as a perpetrator or a victim. However, research focused on exiting the criminal justice system is and will continue to be urgently needed given the high rates of interactions observed to date.

Lastly, the revised SIM points to distinct areas for new and modified policy solutions. As nations undergo formative dialogue about how criminal justice systems will change, the time is now to incorporate ASD firmly into this dialogue through representation across all phases of the criminal justice system, including the need for community-based service models that effectively prevent criminal justice system interactions before they happen. This approach will require advocacy from autistic individuals, caregivers, families, providers, and communities, as well as the policymakers elected or put in place to represent them. It will also necessitate international collaboration to build on existing practices across the globe. For instance, the United Kingdom's Witness Intermediary Scheme employs trained intermediaries to ensure autistic witnesses are able to participate meaningfully in court proceedings and police interviews (Ministry of Justice, 2020). Leveraging these innovative models across the world to promote equitable justice for autistic individuals is crucial, and the revised SIM offers a common language to engage in these discussions across each stage of the criminal justice system.

Still, there will be specific challenges. The criminal justice system in the United States is fundamentally partitioned between juvenile and adult operations that do not interface. This could have specific consequences for autistic individuals since ASD is a developmental diagnosis, whereby aspects of ASD presentation change over the life course. It could also put autistic individuals at escalated risk as they face the service cliff (Roux et al., 2015) and access to needed supports terminates at a critical window where they will face an adult system with a philosophically harder line on punishment and consequences for perpetrators and a lack of supports for victims of crime. It will be essential for ASD researchers to form and maintain active and productive relationships with policymakers, such as the use of embedded research approaches (Shea & Nonnemacher, 2021), and with autistic individuals to communicate these needs and support policymakers as they form and seek to pass or implement needed policies.

SUMMARY

The revised SIM provides a new way forward for the field of ASD research to approach research priorities and design that can focus on the prevention and improvement of interactions between autistic individuals and the criminal justice system. Most importantly, the revised SIM focuses on partnerships to change how research processes can unfold to maximize impact, which will require researchers to structure interactions and invest in stakeholders in new ways. We believe this approach has utility in paving the way for ASD research to be a model of success in moving forward a focused area in need of investment and attention on an international scale.

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