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**ADDRESSING INHERENT INEQUALITIES FOR
THOSE WITH ASD AND ADHD IN POLICE
SUSPECT INTERVIEWING**

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Abstract

Those with Autism Spectrum Disorder (ASD) and Attention-Deficit/Hyperactivity Disorder (ADHD) are misunderstood and vulnerable members of society. It is because of these vulnerabilities that we must take great care in police suspect interviews that involve those with ASD and ADHD. This paper specifically explores police suspect interviewing in Aotearoa New Zealand with reference to the Evidence Act 2006, the Police Manual, and the current lack of training provided to Police on neurodiversity. The potential challenges faced by those with ASD and ADHD when interacting with the criminal justice process are illustrated through relevant case law and lived experiences. Recommendations for improvement are also provided. One recommendation is for the Police to draw on international resources in updating the Police Manual to better facilitate interactions between Police and neurodiverse individuals. Another recommendation is for the implementation of evidence-based training on neurodiversity for Police through online training sessions, awareness campaigns and interactive workshops.

Key Words

Autism Spectrum Disorder; ASD; Attention-Deficit/Hyperactivity Disorder; ADHD; Police Interviewing; Suspect.

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I Introduction

“Girl with autism is handcuffed after meltdown at Sydney school”¹ and “‘I don’t want to hurt nobody’, woman with autism confronted by police”² are just some of the headlines that illustrate the difficulties experienced by neurodiverse individuals when confronted with the criminal justice system. These headlines suggest that those with neurodiversity are not being treated fairly or with due care. As such, they support the need to be vigilant and attentive when interacting with those with neurodiversity in the criminal justice process. While interactions with the criminal justice system are a concern for all neurodiversities,³ this paper will focus on Autism Spectrum Disorder (ASD) and Attention-Deficit/Hyperactivity Disorder (ADHD). This paper argues that reform is required to improve the outcomes of those with ASD and ADHD in police suspect interviewing. I will first provide a brief introduction about neurodiversity before defining ASD and ADHD and the challenges that individuals with these disabilities face when interacting with Police. I will then discuss our current police interviewing practice and instructions, before presenting my proposal for amendments to the Investigative Interviewing Suspect Guide and increased training for Police on neurodiversity. In doing this, I will draw on the lived experiences of those with ASD and ADHD in the criminal justice process to illustrate the real problems with the current practice. To assist in my research, on April 26, 2022, I obtained the following Police Manual chapters through an Official Information Act 1982 request: Investigative Interviewing Suspect Guide, Investigative Interviewing Witness Guide, Investigative Interviewing Doctrine, Suspects Requiring Special Consideration, Witnesses Requiring Special Consideration and Specialist Child Witness Interview Guide.

¹ Hannah Moore “Girl with autism is handcuffed after meltdown at Sydney school” *The New Zealand Herald* (online ed, New Zealand, 29 October 2020).

² Rebecca Lindstrom “‘I don’t want to hurt nobody’: Woman with autism confronted by police” *11 Alive* (online ed, Georgia, 25 January 2022).

³ Andrea Lollini “Brain Equality: Legal Implications of Neurodiversity in a Comparative Perspective” (2018) 51 *NYU J Intl L & Pol* 69 at 87.

II The Challenges in Gaining Reliable Evidence from Police Interviews with Suspects Who Have ASD and ADHD

A Neurodiversity

The term neurodiversity refers to a natural neurological variation which is marked by cognitive, affective, and perceptual differences and came about with the rise of the disability rights movement.⁴ Both ASD and ADHD fall into the broad definition of neurodiversity.⁵

B ASD

The DSM-5 categorises ASD as a neurodevelopmental disorder resulting in social communication and interaction deficits.⁶ Specifically, those with ASD tend to show deficits in social-emotional reciprocity resulting in difficulty holding ‘normal’ back-and-forth conversations, deficits in nonverbal communicative behaviours such as eye contact, and deficits in developing, maintaining and understanding relationships.⁷ Those with ASD also display restrictive and repetitive behaviours such as repetitive motor movements, insistence on things remaining the same, abnormally fixated interests, and hyper- or hypoactivity to sensory input.⁸ Importantly, the severity and exact symptoms of ASD vary between individuals. However, the DSM-5 requires at least two of the restrictive/repetitive behaviours to be shown for diagnosis.⁹

Those with ASD generally have varied perceptions of Police but these perceptions tend to be more negative for those who are older, female and gender non-conforming.¹⁰ While part of the reason behind these perceptions may lie with embedded societal issues and intersectionality, the research suggests that, at least in part, those with ASD are not being treated as they should within the criminal justice system. This is supported by the finding that those who had prior interactions with Police reported significantly more negative

⁴ Micki McGee “Neurodiversity” (2012) 11 Contexts 12 at 12.

⁵ McGee, above n 4, at 12.

⁶ American Psychiatric Association *Diagnostic and Statistical Manual of Mental Disorders* (5th ed, American Psychiatric Association Publishing, Washington, 2013) at 50.

⁷ At 50.

⁸ At 50.

⁹ At 50.

¹⁰ Megan M Parry and Jessica Huff “Divergent perspectives: autistic adults’ perceptions of the police” (2022) 45 Policing: An International Journal 509 at 514.

perceptions of procedural justice.¹¹ Procedural justice refers to both social decision-making and factors such as respect and politeness, defined as a “general concern with process entitlements”.¹² This indicates that those with ASD may feel decisions made by Police are unfair or that there was a lack of respect during their interactions. Such feelings support the need for change in the criminal justice process, specifically in police interaction.

C ADHD

ADHD is another neurodevelopmental disorder which has three presentation types.¹³ The first is an inattentive presentation, which includes the following symptoms; often failing to give close attention to details, difficulty sustaining attention in tasks or activities, does not appear to listen when spoken to, does not follow through on instructions, has poor organisation skills, dislikes tasks that require sustained mental effort, loses things, is easily distracted and often forgetful in daily activities.¹⁴ The next presentation of ADHD is hyperactivity and impulsivity with the following symptoms; fidgeting or squirming in seat, leaving seat when remaining seated is expected, restlessness, inability to engage in leisure activities quietly, often “on the go” or acting as if “driven by a motor”, excessive talking, blurting out answers before questions have been completed, difficulty waiting turn, and interruption or intrusion on others.¹⁵ The final presentation is a combined presentation of both inattentive and hyperactive/impulsive types. To note, the degree of some symptoms differ between males and females, specifically for attentional dysfunction, with males performing worse when tested using the Stroop interference test.¹⁶

A recent study looked at the perceptions that police officers had of youth with ADHD and their ability to recognise how it may impact investigative interviewing. They found that contact with the criminal justice system is prevalent for ADHD youth and is a consequential problem for police detectives, largely because they struggle to identify ADHD in suspects

¹¹ Parry and Huff, above n 10, at 514.

¹² E Allan Lind and Tom R Tyler *The Social Psychology of Procedural Justice* (Springer Science + Business Media, New York, 1988) at 5.

¹³ American Psychiatric Association, above n 6, at 59.

¹⁴ American Psychiatric Association, above n 6, at 59.

¹⁵ American Psychiatric Association, above n 6, at 60.

¹⁶ S Bálint, P Czobor, S Komlósi, Á Mészáros, V Simon and I Bitter “Attention deficit hyperactivity disorder (ADHD): gender- and age-related differences in neurocognition” (2009) 39 *Psychological Medicine* 1337 at 1342.

and witnesses.¹⁷ When presented with vignettes of possible interviewees with ADHD, detectives in the study did not identify ADHD as a more likely explanation than other possibilities.¹⁸ For vignettes of ADHD suspects specifically, there was no significant differences found between choosing ‘ADHD’ as an explanation and any of the other options.¹⁹ These findings are notable as they indicate that interviewing officers may be poorly equipped at identifying ADHD in their suspects or may even misidentify the issue that the suspect is facing. For example, the research found that officers would rate ‘problems at home’ as significantly more likely than ADHD even though the vignettes presented were of suspects with ADHD.²⁰

D Comorbidities

The DSM-5 states that about 70% of individuals with ASD may have one comorbid mental disorder.²¹ It is also noted that a high percentage of those with ADHD have comorbid oppositional defiant disorder in childhood, and conduct disorder in adolescence; this is even stronger for those with a combined presentation of ADHD.²² The DSM-5 also highlights ASD as a disorder that may co-occur with ADHD, which further strengthens the need for Police to be adequately trained.²³ These findings on comorbidities also suggest that general training on neurodiversity might be more appropriate than focusing on specific disorders, an issue that is addressed in section IV.

E Vulnerability to Manipulation

The symptoms of ASD and ADHD could impact police interviewing in several ways. One challenge that is faced is a potential vulnerability to manipulation. *R v F* provides a good example of this.²⁴ There, the suspect suffered from Foetal Alcohol Syndrome and was interviewed in a small, windowless, claustrophobic room.²⁵ Foetal Alcohol Syndrome

¹⁷ Kimberley J Cunial and Mark R Kebbell “Police perceptions of ADHD in youth interviewees” (2017) 23 *Psychology, Crime & Law* 509 at 517.

¹⁸ At 518.

¹⁹ At 518.

²⁰ At 518.

²¹ American Psychiatric Association, above n 6, at 58.

²² American Psychiatric Association, above n 6, at 65.

²³ American Psychiatric Association, above n 6, at 65.

²⁴ *R v F* [2021] NZHC 2406.

²⁵ At [175].

shares some characteristics with ASD such as impairments in social interaction.²⁶ As a result, both may require environmental adaptations in interview settings. In this case the defence argued that sensory sensitivities left Mr F vulnerable to manipulation by the interviewer, and thus under s 29 of the Evidence Act 2006 the evidence was oppressive and should be deemed unreliable.²⁷ It was further argued that in determining the applicability of s 29,²⁸ the characteristics and perspective of the defendant must be taken into account.²⁹ This case shows that the interview environment can impact sensory sensitivities, and as such this should be considered when interviewing suspects with ASD.

The symptoms of ADHD similarly create a vulnerability to manipulation in police suspect interviewing. Research has shown that those with ADHD are significantly more likely to answer “don’t know” to police questions and this lack of confidence may lead to a vulnerability to making false confessions.³⁰ A particularly worrying symptom in this context is that of talking excessively or blurting out answers. This is because this raises the chance that the suspect will say something incriminating, which could be exploited by Police.

F Miscarriage of Justice

R v Hall provides a clear example of where a lack of understanding and knowledge from the police during interviewing can lead to unjust charges and later convictions.³¹ This case involved a five-foot seven-inch Caucasian male with ASD, Alan Hall, who was charged with murder despite eyewitnesses alleging to have seen a Māori man of about six feet tall.³² Mr Hall was initially convicted at the High Court and in 1987 unsuccessfully appealed this decision to the Court of Appeal.³³ When questioned by Police, Mr Hall provided conflicting accounts of what had happened to the murder weapon, he was unable to answer whether it

²⁶ Somer Bishop, Sheila Gahagan and Catherine Lord “Re-examining the core features of autism: a comparison of autism spectrum disorder and fetal alcohol spectrum disorder” (2007) 48 *Journal of Child Psychology and Psychiatry* 1111 at 1118.

²⁷ *R v F*, above n 24, at [175].

²⁸ Evidence Act 2006, s 29.

²⁹ *R v F*, above n 24, at [175].

³⁰ Gisli H Gudjonsson, Susan Young, Jessica Bramham “Interrogative suggestibility in adults diagnosed with attention-deficit hyperactivity disorder (ADHD). A potential vulnerability during police questioning” (2007) 43 *Personality and Individual Differences* 737 at 743.

³¹ *R v Hall* [1987] 1 NZLR 616 (CA).

³² At 619-620.

³³ At 628.

had been lost, thrown out, or stolen.³⁴ To the Police, this was a clear sign of guilt, but it is possible that his ASD was the cause of this seemingly odd behaviour. More recently, new evidence came to light to suggest that Mr Hall may have been wrongly convicted and an application to the Supreme Court was made.³⁵ Regardless, Mr Hall was set to be released from prison on March 2, 2022, with the Parole Board recognising the relevance of his ASD. Mr Hall was still subject to release conditions including electronic monitoring, overnight curfews, and restrictions on his movements (relating to a later 1985 charge of permitting an indecent act with a boy under 16).³⁶ In a recent decision, Mr Hall's murder conviction was quashed by the Supreme Court,³⁷ with the Crown admitting to a serious miscarriage of justice.³⁸ It was indicated by the Supreme Court that this was going to occur in May 2022 where a pre-trial report from the Court stated that the Crown did not intend to oppose the appeal.³⁹

G Punitive Treatment

Another challenge faced is the punitive treatment of those with ASD and ADHD within the criminal justice process. In 2011, Autism New Zealand argued that Police needed training on ASD. They made particular reference to the way that Police handled the case of Cornelius Arie Smith-Voorkamp, a 25-year-old man with ASD, who was arrested and held in custody for 11 days for removing light fittings from a damaged property after the Christchurch earthquakes.⁴⁰ Although the charges were dropped, it took six months to do so, and this was blamed on the time it took to get a medical assessment.⁴¹ The case came close to trial, reaching the pre-trial session in the Christchurch District Court.⁴² It seemed that Mr Smith-Voorkamp had been treated in the same punitive manner as other looters in the court system at the time.⁴³ Suggesting that his Asperger's syndrome, which now falls under ASD,⁴⁴ had

³⁴ Mike White "Convicted murderer in controversial case appeals again after 35 years" *Stuff* (online ed, New Zealand, 21 January 2022).

³⁵ White, above n 34.

³⁶ Mike White "Man controversially convicted of murder to be released from prison" *Stuff* (online ed, New Zealand, 24 February 2022).

³⁷ *Hall v R* [2022] NZSC 71 at [40].

³⁸ At [43].

³⁹ *Hall v R* [2022] NZSC 51 at [2].

⁴⁰ Michelle Cooke "Police 'need training' for autistic people" *Stuff* (online ed, New Zealand, 5 August 2011).

⁴¹ "Charges dropped against autistic looter" *Stuff* (online ed, New Zealand, 22 August 2011).

⁴² "Charges dropped against autistic looter", above n 41.

⁴³ "Charges dropped against autistic looter", above n 41.

⁴⁴ "What is Asperger Syndrome?" Autism Speaks <www.autismspeaks.org>.

not been adequately addressed by the two police officers involved in the arrest.⁴⁵ In a media interview, Autism New Zealand explained how numerous people were calling the organisation following this case discussing the negative experiences they also had with the New Zealand Police.⁴⁶ Grant Ogilvie, the Police Spokesperson at the time, said that the Police had “extensive experience” in dealing with those with mental health issues and intellectual impairment.⁴⁷ Mr Ogilvie stated that from recruit stage and throughout their career Police staff had significant training in this area, including on recognising the signs of mental illness and intellectual impairment and of the relevant legislation.⁴⁸ However, we have seen with cases such as *R v F*, heard in 2021, that the way Police handle those with neurodiversity still does not appear to have improved.⁴⁹ It seems that the training currently in place for the New Zealand Police is not translating into practice.

A good example of punitive treatment of those with ADHD is provided by an Independent Police Conduct Authority report. This report refers to an incident in which a police officer used force against two men, one of which had ADHD, by spraying them in the face with capsicum spray.⁵⁰ The report stated that the brother of the man with ADHD (Mr X) was initially apprehended in order to supply an evidential breath test, when the man with ADHD (Mr Y) tried to convince the attending officer to breath test the remaining passengers to see who could drive home.⁵¹ Mr X recounts that he tried to explain to the officer that Mr Y suffered from ADHD and can become loud and talk over people, the officer stated that he did not recall this discussion.⁵² The situation escalated between the parties resulting in the officer spraying Mr Y in the face with capsicum spray.⁵³ The officer justified the use of the capsicum spray by stating that Mr Y appeared “very angry” and was worried he was about to fight him.⁵⁴ Later, more officers arrived and Mr Y was arrested.⁵⁵ The authority found

⁴⁵ “Charges dropped against autistic looter”, above n 41.

⁴⁶ Cooke, above n 40.

⁴⁷ Cooke, above n 40.

⁴⁸ Cooke, above n 40.

⁴⁹ *R v F*, above n 24.

⁵⁰ Judge Sir David Carruthers *Summary Report: Police use of force against two men in Putaruru* (Independent Police Conduct Authority, June 2015) at 3.

⁵¹ At 2.

⁵² At 2.

⁵³ At 4.

⁵⁴ At 4.

⁵⁵ At 5.

that the officer was justified in using the spray against Mr Y.⁵⁶ It is clear from the report that some of the escalation was a result of Mr X being concerned about his younger brother because of his condition, Mr X even stating that he yelled out to the other passengers to take care of Mr Y.⁵⁷ If the officer had recognised the concerns of Mr X about his brother and of the reasons for Mr Y's erratic behaviour, it may be argued that this situation could have been handled without the use of force. While this example is not of police suspect interviewing, it illustrates how a lack of knowledge can lead to unnecessary and unjust outcomes for those with ADHD.

H Lack of Support

The apparent lack of support from the police for those with ASD and ADHD is also of concern. A case that illustrates this is *R v Tu* where the defendant, Jiaxin Tu (Mr Tu), who had ASD, was convicted of murdering one of his flatmates, Shane.⁵⁸ On the day of the offence Mr Tu left their shared address to seek a police officer to discuss his concerns about the flatmate and found two police officers who were investigating a nearby traffic incident.⁵⁹ These officers told Mr Tu to raise his concerns regarding the victim at the police station in the morning. However, after this conversation Mr Tu returned to the flat and struck Shane over the head with a hammer and, as a result, killed him.⁶⁰ Perhaps if the officers who spoke to Mr Tu had been better equipped to notice concerning warning signs linked to Mr Tu's ASD and mental health in general, not only could they have improved the outcome for Mr Tu who will now spend a minimum of 12 years in prison,⁶¹ but also could have saved the life of his victim. Importantly, we do not want all officers thinking that someone is a risk simply because they have ASD. This is why it is imperative that officers are adequately trained at recognising signs of risk and how to respond sensitively.

I Lack of Consistency

There also appears to be a lack of consistency in how disorders such as ASD and ADHD are considered within the criminal justice process. For example, Gilbert J in *Gill v R* took the view that there is diminished value of evidence on ADHD due to expert opinion that ADHD

⁵⁶ At 10.

⁵⁷ At 3.

⁵⁸ *R v Tu* [2016] NZHC 1780 at [3].

⁵⁹ At [4].

⁶⁰ At [4].

⁶¹ At [33].

can vary in intensity and symptoms.⁶² Some of Gilbert J’s reasoning might be because the expert providing the evidence had never met the appellant (Mr Gill).⁶³ Regardless, it is concerning that this evidence was dismissed on the basis that symptoms and intensity can vary, without acknowledging that even minor symptoms can result in great vulnerabilities in the criminal justice setting. It seems that the impact of ADHD on interviewing is rarely discussed, but ADHD is frequently referred to regarding offending. *Brendan John Skelton v New Zealand Police* provides a good example of this.⁶⁴ In that case there was no mention of the interviews but rather extensive discussion on the role that the defendant’s undiagnosed ADHD played in the offending itself. Priestley J made the comment that the offending was “almost totally rooted” in the undiagnosed medical condition.⁶⁵ This not only shows that judges can have completely different interpretations of how ADHD impacts offending, but also shows that the role that ADHD plays in police interviewing is being neglected. This is important due to the impact that interviewing has on the case’s likelihood of being brought to court.

III Are Current Interviewing Practices Adequate in Addressing the Potential Challenges?

Given the issues that those with ASD and ADHD face in police suspect interviewing, it is important that we look at the current interviewing practice of the New Zealand Police. International research has revealed that, in a UK sample, police officers were largely satisfied in the way they worked with people with ASD, while the participants with ASD revealed that they were mostly dissatisfied.⁶⁶ It is possible that a similar issue may arise in New Zealand regarding both ASD and ADHD due to our current practices. The following section will address the guidance for Police provided in the Police Manual and the current interviewing practices and training to assess the severity of this issue in New Zealand.

⁶² *Gill v R* [2020] NZCA 214 at [16] per Gilbert J.

⁶³ At [16].

⁶⁴ *Brendan John Skelton v New Zealand Police* [2013] NZHC 100.

⁶⁵ At [22] per Priestley J.

⁶⁶ Laura Crane, Katie L Maras, Tamsyn Hawken, Sue Mulcahy and Amina Memon “Experiences of Autism Spectrum Disorder and Policing in England and Wales: Surveying Police and the Autism Community” (2016) 46 *Journal of Autism and Developmental Disorders* 2028 at 2037.

A Relevance of the Evidence Act 2006

The Evidence Act 2006 provides rules for the admissibility of evidence and is a likely basis for the Police Manual guidance provided to officers. Sections 28, 29 and 30 are the most relevant sections.⁶⁷ Section 28 provides the rule for exclusion of unreliable statements.⁶⁸ It looks to the circumstances in which the statement was made and states that the Judge may consider any physical, mental, psychological or intellectual condition of the defendant as well as the nature of the questions and the manner in which they are put to the defendant.⁶⁹ Section 29 provides the exclusion of statements influenced by oppression.⁷⁰ This section outlines the same considerations as s 28 but further defines oppression as oppressive, violent, inhuman, or degrading conduct, or threats of any such conduct.⁷¹ Section 30 outlines the rule for improperly obtained evidence, in which the judge can determine whether the evidence should be excluded.⁷² One particularly relevant sub-section is s 30(3)(1) which addresses investigatory techniques that could have been used that would not have breached any rights.⁷³ This is entirely relevant to recognising the need for special consideration. As we go through the Police Manual below, it will become increasingly clear that many guidelines have been included to ensure adherence to these three rules.

B Current Police Interviewing Manuals

The current guidance for police interviewing can be found in the Police Manual, which includes an Investigative Interviewing Suspect Guide, Investigative Interviewing Witness Guide, Investigative Interviewing Doctrine, and a Child Witness Interview Guide.⁷⁴ On March 26, 2022, through an Official Information Act (OIA) request, the latest versions of these documents, as well as the Police Manual chapters on suspects and witnesses requiring special consideration, were obtained. The Police were unable to specify the date of the latest revisions, stating that changes are made constantly and that “the tracked changes of alterations or improvements are not kept”. This paper will mainly focus on the Suspect Guide but will also draw on the Witness Guide, Interviewing Doctrine, Child Witness

⁶⁷ Sections 28-30.

⁶⁸ Section 28.

⁶⁹ Section 28.

⁷⁰ Section 29.

⁷¹ Section 29.

⁷² Section 30.

⁷³ Section 30(3)(1).

⁷⁴ Police Manual (undated) (obtained under Official Information Act 1982 request to the New Zealand Police).

Interview Guide, and special consideration chapters where appropriate. To note, witnesses are those who have information about an alleged offence and provide evidence on it, as opposed to suspects who are thought to have committed an offence.⁷⁵

Early on in the Suspect Guide the ten guiding principles of investigative interviewing and the PEACE interviewing framework are outlined.⁷⁶ The PEACE framework provides that police officers must conduct an interview with a suspect in the following steps: planning and preparation, engagement and explanation, account, probe and challenging, and closure and evaluation.⁷⁷ Much of the Suspect Guide describes how to conduct each of these phases. While an explicit critique of the PEACE framework will not be covered, there are points of contention within the framework and how it has been described that will be addressed as it poses potential problems for those with ASD and ADHD. For example, the Suspect Guide during the preparation phase encourages the interviewing officer to speak to other officers that have had contact with the suspect, including those on that same day.⁷⁸ This is problematic because an attending officer may have no knowledge of a suspect's neurodevelopmental disorder and could explain to an interviewing officer that a suspect is behaving strangely. The interviewing officer may then conduct the interview in a manner not suited to someone with a neurodevelopmental condition. Conversely, a well-trained interviewer may interpret what is reported by the attending officer as potential neurodiversity and conduct the interview accordingly. This is a response we would hope for. However, the issue is that most interviewers are not receiving high-level training that aids them in this detection.

C Issue: Special Consideration

Relevant to the current Police Manual are concerns surrounding the guidance provided regarding suspects requiring special consideration. Guidance for this can be found in the Witness Guide, Suspect Guide, Interviewing Doctrine, and the Police Manual chapters on Suspects Requiring Special Consideration and Witnesses Requiring Special Consideration.

⁷⁵ Police Manual “Investigative Interviewing Doctrine” (undated) at 3-4 (obtained under Official Information Act 1982 request to the New Zealand Police).

⁷⁶ Police Manual “Investigative Interviewing Suspect Guide” (undated) at 6 (obtained under Official Information Act 1982 request to the New Zealand Police).

⁷⁷ Police Manual, above n 76, at 6.

⁷⁸ Police Manual, above n 76, at 8.

The Suspect Guide first mentions special consideration when setting out the ten principles of investigative interviewing, with principle seven being “some witnesses require special consideration” and principle nine being “care must be taken to identify suspects who require special consideration”.⁷⁹ This is repeated in the Witness Guide.⁸⁰ Later in the Suspect Guide, advice on suspect profile identity factors states to consider mental or psychological conditions that may require special consideration and refers the officer to the chapter on Suspects Requiring Special Consideration.⁸¹ While it is positive that this is brought to the attention of the officer, this guidance is somewhat problematic given the minimal information provided on mental or psychological conditions.

The Investigative Interviewing Doctrine defines an interviewee requiring special consideration as an interviewee whose age, disability, disorder, or other characteristic might mean they have special communication needs, can only provide a small amount of information and/or are vulnerable in some way.⁸² This is quite a broad definition that provides little guidance on what to look for. The Interviewing Doctrine also defines what a specialist interviewer is, it states that this a person trained at level three or who has the necessary experience and skills to communicate with those who require special consideration.⁸³

In reading further, the National Framework is made up of four levels, beginning with foundation and moving through to advanced, specialist and advisory.⁸⁴ The specialist interviewers are trained in enhanced cognitive interviewing as well as training for special consideration.⁸⁵ In a follow up OIA response from the New Zealand Police, it was mentioned that high-level interviewers do not receive any specific training on neurodiversity. It is positive that we do have some specialist interviewers, however, this lack of training on neurodiversity diminishes their effectiveness. It is also problematic that most officers will exclusively receive foundation-level training followed by advanced training,

⁷⁹ Police Manual, above n 76, at 6.

⁸⁰ Police Manual “Investigative Interviewing Witness Guide” (undated) at 9 (obtained under Official Information Act 1982 request to the New Zealand Police).

⁸¹ Police Manual, above n 76, at 6.

⁸² At 3.

⁸³ At 3.

⁸⁴ Police Manual, above n 75, at 7.

⁸⁵ Police Manual, above n 75, at 7.

which only consolidates the foundation-level skills. In the same follow-up OIA request, the number of specialist interviewers in New Zealand were obtained. These totalled at 84 across New Zealand, 30 of which were Oranga Tamariki interviewers, making clear the lack of specialist interviewers we have. For example, there are only five of these specialist interviewers in the Wellington region and it is unclear whether these five specialists include Oranga Tamariki or other specialist interviewers. To note, the numbers provided to me did not include any interviewers in the Counties Manukau or Waitemata Districts and a reason for this was not provided.

While it is good to have specialists on board, all recruits should be trained in specialist interview techniques as they will likely encounter those with neurodiversity, or that require special consideration in an interview setting at some point in their careers. Furthermore, it is problematic that it likely those with only foundation or advanced level training that are making the decision on who requires special consideration. If the first responding officer is not equipped to recognise subtle but highly relevant cognitive deficits, then the interviewing officer, who may also be ill-equipped, may not put the suspect forward for special consideration. This reduces the benefit of having the specialist interviewers. Global statistics support this concern as they have shown that, in one study, 80% of the officers were unable to identify symptoms of ASD accurately.⁸⁶

Similar concerns have been raised in England and Wales regarding officers determining whether a detainee requires an Appropriate Adult, something implemented following a report into the inadequacy of health services in the criminal justice system.⁸⁷ This report recommended that improvements in screening and risk assessment were needed.⁸⁸ However, research has shown that the identification of potential vulnerabilities has not greatly improved, despite this being required in order to safeguard the interviewing process and determine whether an Appropriate Adult is needed.⁸⁹ Not only are these concerns mimicked

⁸⁶ Nick Chown, Dennis Debbaudt, Luke Beardon, Kleio Cossburn, and Jack Scott “Autism and Operational Policing” in Fred R. Volkmar, Rachel Loftin, Alexander Westphal and Marc Woodbury-Smith (eds) *Handbook of Autism Spectrum Disorder and the Law* (Springer, Cham, 2021) 471 at 474.

⁸⁷ Susan Young, Emily J Goodwin, Otilie Sedgwick and Gisli H Gudjonsson “The effectiveness of police custody assessments in identifying suspects with intellectual disabilities and attention deficit hyperactivity disorder” (2013) 11 *BMC Medicine* 1 at 3.

⁸⁸ At 3.

⁸⁹ Young, Goodwin, Sedgwick and Gudjonsson, above n 87, at 9.

in New Zealand, but this study also tells us that a great deal of research is required into the efficacy of any risk assessment tools implemented to address this issue.

The Interviewing Doctrine clearly states that it is “your job to identify who may be vulnerable”, it is arguable, due to the above research, that this is a problematic piece of guidance.⁹⁰ Once a vulnerable suspect has been identified, the officer must look to the chapter of the Police Manual that outlines what to do. In the key notes of the chapter on Suspects Requiring Special Consideration, it suggests that standard interviewing procedures may need to be adapted.⁹¹ Reference is also made to ss 28 and 29 of the Evidence Act 2006, which sets out the law on exclusion of a defendant’s statement on the basis of unreliability and oppression.⁹² It is suggested that it is relevant to the officer to ensure they make the right decision on whether special consideration is necessary in order to obtain reliable statements.⁹³ Positively, it mentions that the room setup may need to be adapted to accommodate the suspect’s needs,⁹⁴ as seen in *R v F*.⁹⁵ However, there is no guidance on how or why this may impact the interview or suggestions on what to do, such as adjust the lighting or noise levels in the room. If the interviewer does not know what is appropriate for the suspect, then it is unclear how they are supposed to implement this guidance. Another critique is that the manual emphasises attempting to obtain the most reliable statement as opposed to having a focus on just outcomes for the suspect. Obtaining a reliable statement is a crucial aspect of police interviewing but when emphasis on doing so neglects to address issues of justness, it suggests the Police do not have concern for the suspect or their rights.

While it is good that the Police do have a system to address those who need special consideration, not all suspects with ASD/ADHD will require it. Regardless, Police should still be well equipped in working with them to ensure equity. This is evidenced in the Police Manual chapter on Suspects Requiring Special Consideration where it states that simply having a condition, disability or disorder does not by itself mean that special consideration

⁹⁰ Police Manual, above n 75, at 13.

⁹¹ Police Manual “Investigative Interviewing - Suspects Requiring Special Consideration” (undated) at 5 (obtained under Official Information Act 1982 request to the New Zealand Police).

⁹² Police Manual, above n 91, at 6.

⁹³ Police Manual, above n 91, at 6.

⁹⁴ Police Manual, above n 91, at 10.

⁹⁵ *R v F*, above n 24.

is required.⁹⁶ Moreover, if those who make the call on whether special consideration is required are not adequately trained, vulnerable people, such as those with ASD and ADHD, could be exposed to unjust outcomes in the criminal justice system. An example of such outcomes is the increased risk of false confession resulting in potential imprisonment of the suspect. ADHD has been found to be one of the most powerful predictors of false confession.⁹⁷ While admitting that peer delinquency plays a role, research has stated that factors such as peer involvement, coupled with the symptoms of ADHD, increase risk of false confession during police involvement and interrogation.⁹⁸ Evidence has also suggested that those with ASD are significantly more compliant and thus more susceptible to false confession.⁹⁹ Without the extra protections special consideration provides, the risk of false confession is significantly increased.

The chapter in the Police Manual on Witnesses Requiring Special Consideration outlines certain conditions including ASD.¹⁰⁰ This brief section outlines just three characteristics suggested to be shared by those with ASD, including verbal and non-verbal communication impairments, social impairments and, restricted and repetitive movements.¹⁰¹ While it is positive to see some guidance here, it is somewhat misleading when we compare it to the definition provided by the American Psychiatric Association, where a number of further symptoms are listed and differing presentations are emphasised.¹⁰² Further, it is concerning that this information is only included in the chapter on Witnesses Requiring Special Consideration and is not found in the chapter on Suspects Requiring Special Consideration.

D Issue: Lack of Guidance on Neurodiversities

In the Suspect and Witness Guides, there is no guidance provided to officers on impairment. However, an older version of the Witness Guide had a section on learning impairments which included information pertaining to learning disabilities, ASD, Down syndrome, and

⁹⁶ At 6.

⁹⁷ Gisli Hannes Gudjonsson, Rafael A Gonzalez and Susan Young “The Risk of Making False Confessions: The Role of Developmental Disorders, Conduct Disorder, Psychiatric Symptoms, and Compliance” (2021) 25 *Journal of Attention Disorders* 715 at 720.

⁹⁸ Gudjonsson, Gonzalez and Young, above n 97, at 720.

⁹⁹ Gudjonsson, Gonzalez and Young, above n 97, at 716.

¹⁰⁰ Police Manual “Investigative Interviewing - Witnesses Requiring Special Consideration” (undated) at 18 (obtained under Official Information Act 1982 request to the New Zealand Police).

¹⁰¹ At 18.

¹⁰² American Psychiatric Association, above n 6, at 59-60.

elderly.¹⁰³ This provided some information on what to be aware of with these witnesses. For example, under ASD (called ‘Autism’ in the Guide) it was listed that these witnesses might be fearful of unfamiliar stimuli and noise, and that they may avoid direct eye contact.¹⁰⁴ This is relevant to earlier discussions of the location of the interview which can be distressing to those with ASD. Pertaining to this, the Witness Guide has information on preparing the interview location and suggests that the room should be quiet and free from distractions and interruptions.¹⁰⁵

The Specialist Child Witness Interview Guide includes sections on both ADHD and ASD.¹⁰⁶ The section on ASD reiterates the three shared characteristics as mentioned above, but explains in further detail the communication challenges that may be experienced by those with ASD.¹⁰⁷ It also emphasises that ASD is on a continuum and that not all with ASD display the exact same cluster of symptoms.¹⁰⁸ This section also states that “the three shared characteristics can present as”,¹⁰⁹ in contrast to the Police Manual chapter on Witnesses Requiring Special Consideration which stated “the three shared characteristics are”.¹¹⁰ The way that the Child Witness Interview Guide describes ASD is far more accurate. It appears the Child Witness Interview Guide also provides more information that is presented in the DSM-5, for example by explaining that social impairments may include difficulty in participating in back-and-forth communication and difficulty maintaining eye contact.¹¹¹ It mentions specifically that the communication style of the individual should be explored before the interview is conducted and directs the officer to the New Zealand Autism Spectrum Guideline (2016) and the Autism New Zealand website.¹¹²

¹⁰³ Police Manual OLD “Investigative Interviewing Witness Guide” (uploaded to FYI.org 14 June 2012) at 35 (obtained under Official Information Act 1982 request to the New Zealand Police).

¹⁰⁴ Police Manual OLD, above n 103, at 35.

¹⁰⁵ Police Manual, above n 80, at 12.

¹⁰⁶ Police Manual “Specialist Child Witness Interview Guide” (undated) at 38-39 (obtained under Official Information Act 1982 request to the New Zealand Police).

¹⁰⁷ At 38.

¹⁰⁸ At 38.

¹⁰⁹ At 38.

¹¹⁰ At 18.

¹¹¹ At 38.

¹¹² Police Manual, above n 106, at 38-39.

The section in the Child Witness Interview Guide on ADHD is much smaller and describes ADHD as a “persistent pattern of inattentiveness, hyperactivity and impulsivity”.¹¹³ Clearly this definition neglects to explain the different typologies of ADHD and makes it seem like all those with ADHD have a combined type, which is inaccurate. However, the section does well to acknowledge the shared characteristics of ASD and ADHD and the issue of inattentiveness for interview performance.¹¹⁴ This section on ADHD does not point the reader to where they can find further information to deepen their understanding.

Another problem is that the Police Manual is large, and although there is some guidance, particularly in the Interviewing Doctrine and the Child Witness Interview Guide, it is unlikely to be applicable in a practical situation. The chapters that I have obtained reach 243 pages alone. Not only this, but many of the guides will tell you to look at another guide or website for information. For example, the Child Witness Interview Guide pointing to the Autism New Zealand website, another time-consuming procedure that is unlikely to be done. One more important observation is that the places we tend to find the information on ASD and ADHD is the witness guides and no information, to my knowledge, is found in the suspect guides. This reflects poorly on the Police as it makes it appear as though they are only concerned about getting adequate information for witnesses, rather than protecting the rights of suspects and upholding justice for vulnerable citizens.

E Issue: Lack of Training

In my OIA request I asked for “any and all information that pertains to the current training of New Zealand Police on neurodiversity”. Initially I received no information on this in their response. I then went back to them to ask whether this was because there was no training on neurodiversity, they confirmed to me that “there is no information or training delivered on ‘neurodiversity’” and that my request should have been refused under s 18(e) of the Official Information Act because it did not exist. This confirms that there is no current training on any areas of neurodiversity provided to New Zealand Police. This is problematic for many of the reasons outlined above. If police officers are not trained on neurodiversity, then how can they adequately assess who may require special consideration. Furthermore, it means

¹¹³ At 39.

¹¹⁴ Police Manual, above n 106, at 39.

that it will be harder for them to recognise certain behaviours that are a result of ASD/ADHD and not indications of “guilt”.

What the Police did provide in a later follow-up OIA request, was information on their training for people experiencing mental distress. It was stated that recruits listen to the experiences of those who use mental health services with the Police. Police recruits are also required to take part in a session named “Conversations that Create Hope”. This session focuses on wellness and mindset when attending incidents, effective engagement, resolutions for those experiencing distress, and application of these tools for engaging with suicide risks. While it is positive that we have these sessions, they are still quite minimal and have no mention of neurodiversity. The follow-up OIA response also stated that there is no training specifically on neurodiverse individuals or those with communication difficulties even in the senior-level courses, including the high-level interviewing courses. It also stated that the principle that is taught is one of fairness with an emphasis on equity rather than equality. The response highlighted that Police teach investigators to treat everyone as individuals regardless of their presentation.

IV What Changes Might Be Made to Improve Interviewing of Suspects with ASD and ADHD?

The following section will look at what we can do to improve the outcomes and experiences of those with ASD and ADHD in the police suspect interviewing context. This will include looking to increased levels of training for Police and amendments to the Police Manual. The recommendations provided here are based off an amalgamation of current research in the area.

A Training for Police on ASD and ADHD

Given the challenges discussed above, what we should first do is implement training for Police on neurodiversity in a practical interviewing context. In the United Kingdom, individuals with ASD are seven times more likely to encounter the criminal justice system, despite the National Autistic Society finding that over 90% of police and solicitors have no

training in understanding ASD.¹¹⁵ While this is not a New Zealand statistic, it illustrates just how vulnerable this population can be.

The training that is proposed has been discussed in similar contexts globally. One example of this is a study that looked at the need for training on ASD in the Scottish prison system, focusing on prison officers.¹¹⁶ Their research was based off the findings of many initiatives in Scotland that have shown that awareness of vulnerability in a prison setting is required.¹¹⁷ Some initiatives even emphasised the requirement for understanding the needs of offenders with ASD specifically.¹¹⁸ If it has been shown that training is required in a prison context, the argument is even stronger for the training of interviewing officers, given their conduct can seriously impact whether the suspect gets charged or convicted.

A first step in addressing training for Police on ASD and ADHD is to fill the gaps in the application of knowledge of these disorders. While most have a good basic understanding of ASD and neurodiversity, there are obvious gaps in the applied knowledge of these disorders.¹¹⁹ This suggests that an officer may be able to answer questions about the disorders but could not easily identify when they are working with someone who may have a disorder. Given what we have seen in the Police Manual, it is likely that, in New Zealand, we are struggling with both poor knowledge and application. This lack of applied knowledge indicates that highly specific training is required for staff to enable them to apply awareness in practice.¹²⁰ However, focusing on individual conditions fails to support the development of the officers' skills in working with other vulnerable people.¹²¹ This means that training on ASD would not translate to a better application of knowledge in working with those with ADHD.

¹¹⁵ Ann Browning and Laura Caulfield “The prevalence and treatment of people with Asperger’s syndrome in the criminal justice system” (2011) 11 *Criminology & Criminal Justice* 165 at 173.

¹¹⁶ Frank Slokan and Maria Ioannou “‘I’m Not Even Bothered if they Think, is that Autism?’: An Exploratory Study Assessing Autism Training Needs for Prison Officers in the Scottish Prison Service” (2021) 60 *The Howard Journal of Crime and Justice* 546 at 546.

¹¹⁷ At 548.

¹¹⁸ At 548.

¹¹⁹ Slokan and Ioannou, above n 116, at 552.

¹²⁰ Slokan and Ioannou, above n 116, at 560.

¹²¹ Slokan and Ioannou, above n 116, at 559.

Cost of training is a relevant issue here and suggestions have been made to move away from traditional classroom training to things like awareness campaigns, supplemented with e-learning modules as required.¹²² However, research has found varied support from those with ASD for awareness campaigns.¹²³ Some have said that these campaigns made them feel safer, while others believed that it put them at an increased risk of negative experiences with the police because they indicate a level of awareness that is not there in reality.¹²⁴ This is something to consider when devising such awareness campaigns.

An important next step in addressing training for Police is that we must track the effectiveness of it and make amendments where required.¹²⁵ It has also been suggested that we should involve people with ASD and their families in the training of police officers.¹²⁶ A common theme in the research is that among those with developmental difficulties, such as ASD and ADHD, there is a desire to feel respected by police.¹²⁷ Such respect has been suggested to involve a calm tone of voice, slow speech, and asking questions of the informant rather than their caregiver.¹²⁸ A desire has also been shown for inquiry into whether a disability is present early on in an interaction with the police.¹²⁹ Strategies such as training schemes for police tend to be most impactful when created using a bottom-up approach, which is not possible without hearing the perspectives of those that the training refers to.¹³⁰ While it is clear to see the benefits of such action, it is important to remember the issue of cost. It is unlikely that this is something that could be afforded by the New Zealand Police, however, there may be other ways to incorporate this. For example, having video recorded material of people with ASD and their families. This is something that future research could assess the efficacy of.

¹²² Slokan and Ioannou, above n 116, at 560.

¹²³ Parry and Huff, above n 10, at 518.

¹²⁴ Parry and Huff, above n 10, at 518.

¹²⁵ Elissa Ball and Jaclyn Jeffrey-Wilensky “Why autism training for police isn’t enough” *Spectrum News* (online ed, United States of America, 26 November 2020).

¹²⁶ Ball and Jeffrey-Wilensky, above n 125.

¹²⁷ Jennifer C Sarrett and Alexa Ucar “Beliefs about and perspectives of the criminal justice system of people with intellectual and developmental disabilities: A qualitative study” (2021) 3 *Social Sciences & Humanities Open* 1 at 7.

¹²⁸ Sarrett and Ucar, above n 127, at 7.

¹²⁹ Sarrett and Ucar, above n 127, at 7.

¹³⁰ Sarrett and Ucar, above n 127, at 7.

A potential solution to the issues discussed above is to start with wider training on neurodiversity and instead of having an in-person facilitator, do this online so that it can be accessed by all the relevant officers at the same time. We may then move to include awareness campaigns of relevant disorders one at a time so that the officers can learn more about those disorders. Research in this area for ADHD has shown that awareness campaigns should ensure that they cover elements such as presentation and diagnostic features, vulnerabilities, potential impacts on interviewing process, recommendations for how to accommodate, and early identification procedures.¹³¹ This research was specifically referring to cognitive interviewing, which is what the specialist interviewers in New Zealand are trained in, but can also be applied for officers not trained in cognitive interviewing. It also seems clear that we need not only teach the officers what ASD and ADHD are, but we need to ensure that they know how to apply their knowledge in the police interviewing context. Workshops where the officers apply their skills from an online module could be one way of doing this. Recent research has found that the most desired mode of training on ADHD was an online learning platform, followed by workshops that involve role plays, much like I have suggested.¹³² Therefore, this seems to be a fruitful avenue to explore further in the development of a training scheme. By implementing a new training programme, we can address concerns regarding not only the police interviewing environment but also the ability for recruit-level police officers to recognise when they are working with someone who requires special consideration. In sum, I recommend that the New Zealand Police introduce online training modules that address neurodiversity in general, awareness campaigns on specific neurodiversities, and workshops that apply what has been learned in the modules and campaigns.

B Updates Required to the Police Manual

While I have provided critiques to the length of the Police Manual and doubts regarding its usefulness, it is still important that the information provided there is accurate and helpful to those who do use it for guidance. That is why making meaningful updates to the Police Manual could help to achieve equity for those with ASD and ADHD in the police interviewing context. The following discussion will provide recommendations for updates

¹³¹ Kimberley J Cunial, Leanne M Casey, Clare Bell and Mark R Keibell “Investigative interviewing of youth with ADHD – recommendations for detective training” (2020) 27 *Psychiatry, Psychology and Law* 797 at 802.

¹³² Kimberley J Cunial, Leanne M Casey, Clare Bell and Mark R Keibell “Police perceptions of training in interviewing youth with ADHD” (2021) 22 *Police Practice and Research* 491 at 498.

to the Police Manual based off the research that has been conducted in the area, focusing on what updates can be made specifically to the Investigative Interviewing Suspect Guide of the Police Manual.

The first recommendation is to update the Police Manual to include comprehensive guidance on ASD and ADHD within the suspect interviewing sections, as opposed to only the witness interviewing sections. This would improve equity for those suspects and create a more just Police Manual. A further recommendation is for the section on ASD in the Police Manual chapter on Witnesses Requiring Special Consideration to be updated to better reflect the practical implications of ASD. For example, by reflecting the section on ASD in the Child Witness Interview Guide.¹³³ This is an easy and low resource update that could improve outcomes for those with ASD, even if the improvements are minimal. Turning to including adequate sections in the Suspect Guide for ADHD, I would recommend that the section in the Child Witness Interview Guide be amended to better reflect the realities of ADHD as found in the DSM-5. For example, make clear the different typologies of ADHD being inattentive, hyperactive, and combined types.¹³⁴ I would then recommend that these are implemented in the Investigative Interviewing Suspect Guide and the Police Manual chapters regarding special consideration. In general, my proposed solution is to update any existing Police Manual sections on ASD and ADHD to accurately describe and provide guidance for these disorders, while also ensuring that this is consistently found throughout the Manual.

The National Autistic Society (NAS) in the United Kingdom provides a comprehensive guide on how to handle suspects with ASD and this is something that we could draw on in New Zealand in updating our own guidance.¹³⁵ Particularly strong aspects of the NAS guide include that it explains why someone with ASD may become involved in the criminal justice system, citing reasons such as social naivety and difficulty with change or unexpected events.¹³⁶ Another strong aspect is the acknowledgement of how ASD differs in each person, meaning it can be difficult to immediately recognise. The following suggestion that

¹³³ At 38.

¹³⁴ American Psychiatric Association, above n 6, at 59-60.

¹³⁵ National Autistic Society “Criminal Justice – a guide for police officers and professionals” *Autism.org.uk* (online ed, United Kingdom, 14 August 2020).

¹³⁶ National Autistic Society, above n 135.

where unusual behaviour is witnessed, ASD should be considered and care should be taken is also strong.¹³⁷ It also provides a good layout for assessing whether someone that the officer is working with may have ASD. It does this by asking “does the person you are dealing with...” followed by a series of questions that the officer can ask themselves, such as “seem to struggle to understand you?” and “repeat what you or another person says?”¹³⁸ This format makes it far easier to apply in a practical situation. It is important to recognise that some of the NAS guidelines will not be entirely accurate for the New Zealand criminal justice system. We must be careful to avoid including this information without ensuring that it is adequately adapted to suit a New Zealand context, with specific attention to Māori and Pasifika cultural differences. This is especially important given the high rates of overrepresentation for these populations in our criminal justice system. That said, I would highly recommend drawing on this piece of guidance in amending the Police Manual.

V Conclusion

The potential vulnerabilities faced by those with ASD and ADHD in the police interviewing context are apparent. The symptoms of their neurodiversity mean that, to the untrained eye, the behaviour of those with ASD and ADHD could appear erratic and unusual, which may come across to interviewers as guilt. This paper has pointed out some areas where our current police system could be improved. One recommendation being to amend the current Police Manual, particularly the Investigative Interviewing Suspect Guide, to include comprehensive description of, and guidance for, working with those with ASD and ADHD. Another recommendation is for the implementation of evidence-based training programmes for Police. From the information obtained via the OIA requests, it was revealed that the training currently provided to Police has little or no emphasis on neurodiversity, which has been illustrated through the likes of *R v Hall* and Cornelius Arie Smith-Voorkamp’s arrest. This training is desperately needed to avoid further injustices. Suggestions for training include online modules, carefully curated awareness campaigns, and interactive workshops that assist in the application of newly acquired knowledge on ASD and ADHD. There is also a strong recommendation that if training is implemented, we must have a method of tracking the effectiveness of it to ensure that it is making a difference. This paper also recommends that we draw on successful solutions from other jurisdictions, such as the United Kingdom,

¹³⁷ National Autistic Society, above n 135.

¹³⁸ National Autistic Society, above n 135.

in creating this training and instruction. These recommendations could result in better assistance to Police in their jobs and stronger protections for those with ASD and ADHD.

Word Count

The text of this paper (excluding table of contents, footnotes, bibliography, abstract and appendix) comprises approximately 7523 words.

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Appendix 1: OIA Request 1

26 April 2022

IR-01-22-8696

Rebecca Jacobs
[REDACTED]

Dear Rebecca

I refer to your Official Information Act 1982 (OIA) request of 26 March 2022, in which you asked for:

- The most up to date version of the Investigative Interviewing Suspect Guide*
- The most up to date version of the Investigative Interviewing Witness Guide*
- Any and all material in the best practice manual or Police instructions relating to the interviewing of suspects and witnesses*
- Any and all information that pertains to the current training of New Zealand Police on neurodiversity*

I am requesting this information for the purpose of research into police dealings (specifically interviewing) with those with ADHD and Autism Spectrum Disorder."

Please find attached:

1. Police Manual Chapter – Investigative interviewing suspect guide
2. Police Manual Chapter – Investigative interviewing witness guide
3. Police Manual Chapter – Investigative interview doctrine
4. Police Manual Chapter – Suspects requiring special consideration
5. Police Manual Chapter – Witnesses requiring special consideration
6. Police Manual Chapter – Specialist child witness interview guide

Yours sincerely

Craig Scott

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**Ministerial Services**

Tue, May 31, 7:00 PM



to me ▾

Good evening Becca

The response from the workgroup who drafted your letter is that there is no information or training delivered on 'neurodiversity'. I apologise as it should have mentioned that in your response and refused under section 18(e) of the OIA because it doesn't exist.

I appreciate your patience while I waited for a response . Have a great rest of your week.



Appendix 2: OIA Request 2

IR-01-22-13988

10 June 2022

Rebecca Jacobs
[REDACTED]

Dear Rebecca

Request for information

Thank you for your Official Information Act 1982 (OIA) request dated 17 May 2022, which follows on from your previous request, reference IR-01-22-8696. My response to each of your questions can be found below.

- When was the last revision to the interviewing sections of the police manual and what was revised.

Changes are constantly being made to the various chapters of the Police Manuals, including those relating to interviewing. The changes can relate to administrative matters, changes in process, new or amended legislation and changes due to court rulings (case law).

The tracked changes of alterations or improvements are not kept therefore therefore this part of your request is refused under section 18(e) of the OIA as the information does not exist or cannot be found.

- Any and all information pertaining to the training received at recruit level and once the officer is sworn in. Most relevantly regarding interviewing and vulnerable suspects.

-Any and all information pertaining to any training received by recruits on handling with those with neurodiversity.

In order to answer your questions on recruit training, I consulted The Royal New Zealand Police College, who provided the following information.

The recruit programme introduces Police recruits to working with people experiencing mental distress. Whilst not specifically mentioning neurodiversity, it could assist the assignee with preparing a response. The summaries of specific training sessions can be found below:

Police National Headquarters

180 Molesworth Street, PO Box 3017, Wellington 6140, New Zealand.
Telephone: 04 474 9499. Fax: 04 498 7400. www.police.govt.nz

CM06: People Experiencing Mental Distress

In this session Recruits listen to mental health service users' experiences with Police. Some of their stories are positive and some are negative. These may be confronting and trigger strong emotions.

Learning objectives:

- The powerful and lasting impact Police can have on people experiencing mental distress - positive or negative.
- How Police may better serve people experiencing mental distress.
- How to approach and engage with people experiencing mental distress with empathy and compassion.
- Before class recruits are expected to watch a Te Whare Tapa Whā video (5 mins).

WE09: Conversations that Create Hope

This session focuses on one of the often overlooked yet critical tactical options we have - our mindset and how we engage with those we encounter in the community.

This session will also include refreshing of concepts covered in earlier stress management sessions. Learning Objectives:

- The importance of wellness and mindset when attending incidents.
- Tips for effective engagement.
- How to create effective (re)solutions for those experiencing distress.
- Specific application of these tools when engaging with persons at risk of suicide.

On senior-level courses, including the high-level Interviewing courses, Police does not have any specific training that talks to neurodiverse people, or those with communications difficulties. The overarching principle that all are taught, and that staff are reminded to adhere to, is one of fairness – and thinking about equity, as opposed to equality.

Police teaches Investigators to deal with every person as an individual, regardless of how they may or may not present.

- Any statistics available on how many specialist interviewers are currently on the police force and where these interviewers are located around New Zealand.

Please find below the number specialist interviewers at each Police District:

Northland: 4
 Auckland City: 4
 Waikato: 7
 Bay of Plenty: 9
 Eastern: 9
 Central: 16

Wellington: 5
Tasman: 11
Canterbury: 9
Southern: 10

Included in these numbers are 30 Oranga Tamariki interviewers who receive the same training as Police and carry out the same roles in relation to interviewing.

You have the right, under section 28(3) of the OIA, to ask the Ombudsman to review my decision if you are not satisfied with the way I have responded to your request.

Your sincerely



Craig Scott
Detective Inspector
National Criminal Investigation Group