What impact does FASD have on the juvenile justice system?

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Prenatal Alcohol Exposure

• Primary disabilities:
  – social, behavioural, cognitive and physical deficits

• Secondary disabilities:
  – school truancy and failure, mental health issues, alcohol and other drug misuse, engagement with the criminal justice system (CJS)

• Foetal Alcohol Spectrum Disorder (FASD)
  – Umbrella term covering a range of alcohol-related conditions
Recent Australian Research

Justice professionals indicate they:

• Are uncertain in defining FASD and how
  – it occurs,
  – to identify it,
  – it is relevant to and influences proceedings
    (Douglas, Hammill, Russell, & Hall, 2012)

• Understand relevance to FASD in the sector

• Only have a basic understanding of FASD and its effects
  (Mutch, Watkins, Jones, & Bower, 2013)
Increased Risk

Children with FASDs are at increased risk of:

- child abuse and neglect
- placement in out-of-home care
- multiple foster-care placement breakdowns
- interaction with the juvenile justice system
Over-representation in the CJS

• 23.3% remanded for committing a criminal offence had a FASD (Fast, Conry, & Loock, 1999)

• 14% children, 60% adolescents and adults had trouble with the law (Streissguth et al., 2004)

• Of these, 13%, 67%, and 87% were actually charged, arrested and/or convicted

• FASD prevalence
  – 1-3 in 1,000 live births (US), 2% of all Australian babies
Cognitive and Psychosocial Deficits

- **IQ**  
  Average = 90 (for people with FASD)  
  Range = 20-130 (for people with FAS)

- **ALARM** (Conry & Fast, 2000)
  - Adaptive Functioning
  - Language
  - Attention
  - Reasoning
  - Memory
Increased Interaction with the CJS

• Deficits increase likelihood of interaction, particularly deficits in adaptive and executive functioning
  – e.g. meeting age appropriate norms, abstract thinking, inhibition, verbal fluency and reasoning, flexible thinking, planning, and attention

• Exhibited in social behaviour, relationships and competence
Social Deficits

• Poor social competence, social skills, social judgement and problem solving
• Difficulty forming interpersonal relationships, perceiving and responding to social cues, exhibiting consideration for others
• Social relationship problems
• Display socially inappropriate behaviours
• Externalising behaviour problems
Language and Memory

Oral language competence

“the ability to express one’s ideas, thoughts and needs verbally, as well as the ability to process and understand what others say – very often at a non-literal level”  (Snow & Powell, 2004)

Children with FASD exhibit deficits in working memory, free recall, spatial learning, spatial memory and logical memory
Implications for Interaction with the CJS

- unable to organise thoughts, recall and explain their story chronologically or in sufficient detail
- unable to make informed decisions on basic legal processes
- Vulnerable to suggestion and misunderstanding of judicial processes

May effectively be denied a fair hearing
Implications for Recidivism and Rehabilitation

• Increased likelihood of recidivism
• Inability to link actions to consequences
• Incarceration may lead to further victimisation and exploitation
• Alternative approaches to sentencing may be more beneficial
  – Diversionary processes
  – Sentencing Circles
  – Conditional sentences
What can we do?

Early Detection and Intervention

• Social skills interventions - capitalise on neural plasticity of child’s brain
• Children’s Friendship Training (O’Connor et al., 2006; Frankel & Myatt, 2003)
• Children can learn appropriate skills and behaviours to mitigate deficits

More research is needed
What can we do?

• Better training to identify and respond to FASDs Early and ongoing evaluation of children suspected to have a FASD
• Early intervention to prevent children with a FASD entering or returning to the system
• A consistent judge to follow a child’s case
• Children’s attorney experienced in FASD
• Support and training for parents/caregivers

(Paley & Auerbach, 2010)
What can we do?

• Develop guidelines for dealing with FASD
• Pathways for diagnosis and treatment
• Identify qualified experts to consult to court
• More research into FASD
  (Douglas, Hammill, Russell, & Hall, 2012)

• Comprehensive medical-legal reports
  (Fast & Conry, 2009)
Resources

• The Asante Centre
  http://www.asantecentre.org/resources.html

• Foundation for Alcohol Research & Education

• The National Organisation for Fetal Alcohol Syndrome and Related Disorders (NOFASARD)
  http://www.nofasard.org.au/
References


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