

Notes taken from various sources, compiled and used as handouts
for participants attending the
Corrections Service Case Management Conference
Northwest Territories Justice
“Building A Continuum of Care”
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FASD and Corrections

Presented by

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“FASD and Justice Issues at the Community Level in the NWT”
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FETAL ALCOHOL SPECTRUM DISORDER (FASD) AND THE CRIMINAL JUSTICE SYSTEM: AN EXPLORATORY LOOK AT CURRENT TREATMENT PRACTICES

By Jennifer Chapman 2008 Simon Fraser University
<http://ir.lib.sfu.ca/bitstream/1892/10127/1/etd3362.pdf>

(Notes taken from pages 18 – 31, 46, 47)

TREATING PERSONS WITH FASD

Corrections programming

One of the fundamental purposes of sentencing is to assist in rehabilitating the offender. Although a variety of programs exist to aid in this endeavour, the majority are based on behaviour modification. Success is dependent upon self awareness, self motivation, impulsive control, people skills, mood management and changes in behaviour. However, these are skills that may not be able to be taught or should be expected from individuals with FASD. It has been suggested that sentences should aim to change a person's living or social situation, rather than his or her behaviour.

While the content of programs may be appropriate for persons with FASD, adjustments need to be made. Experts in the field of FASD believe that programming should focus on functional skills for independent living, for example, problem solving, arithmetic, social interacting and decision-making. It is important to develop realistic expectations, promote independent living, social skills, and communication skills. Role playing should be used to teach consequences and appropriate behaviour. Programs must be simplified, concrete and concepts must be frequently reviewed. The pace of programs should be adapted with time allotted for clients to practice skills over and over. Many individuals with FASD have difficulty focussing for long periods of time, therefore, shorter daily sessions may be beneficial. Program content should have less information, and programs should be delivered in small groups or on a one-to- one basis.

Treatment that works:

1. Individual therapy (mentoring, one-on-one, where they feel a bond with a staff member who serves as their advocate and contact). These programs work because they can be specifically tailored to accommodate the strengths and challenges of individual clients.

<p>External Brain (a term coined by Dr. Sterling Clarren refers to the presence of another responsible person who can mentor, assist, guide, supervise and or support the affected person to maximize success. -Kellerman 2003</p>

2. Family therapy bridges the support available in the home environment. Although family support is an asset, many times, this support is lacking.
 3. Case management (professional aftercare support: coordinating the many services the individual may need) should include:
 - Therapy
 - Continued social and life skills training
 - Vocational support
 - Job training
 - Job searching
 - Job coaching
 - Safe and appropriate housing
 - Transportation
 - Financial assistance
 - Substance use relapse prevention and management program (if appropriate)
 - Close and supportive supervision and monitoring
 - Ongoing evaluation
 - Health care
 - Development of community support networks
- ✓ The environment (includes the physical setting and the attitudes, beliefs and actions of people caring for and providing services to clients) should be as constant as possible.
 - ✓ Comprehensive and detailed Individual learning and aftercare plans
 - ✓ Educate employers about FASD
 - Job coach
 - Written instructions or ones in picture format
 - Stress relief options
 - Repetition of instructions
 - Forgiveness of mistakes and forgetfulness
 - ✓ Assessment, screening and/or diagnosis

Many people with FASD do not know they live with this disability, do not believe they need assistance and do not want to be perceived as “different”. They want to fit in and be treated like their peers.

The Disability Model (New Beginnings 2004)

The focus must be taken away from conventional behaviour modification principles and techniques which depend upon the individual for change. The Disability Model seeks to modify the elements of the environment for positive change, rather than try to change the person with FASD. It additionally accepts that difficult and problematic behaviours and issues of non-compliance are chronic in nature and usually arise as a direct result of organic brain damage and disability in the individual; they are not always a consequence of actual non-compliance, manipulation, or true criminality....New Beginnings understands that we cannot expect total behaviour modification, rather we can only expect the FASD person to learn behaviour management skills.

Strive to learn all you can about this disability on an ongoing basis to remain current in best practices

Compiled by Doreen Reid 2010

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FASD and Practice: Issues for Probation Officers

Government of Alberta FASD Learning Series

Compiled by Doreen Reid

Presenter: Jacqueline Pei Ph.D., R.Psych.

Government of Alberta FASD Cross- Ministry Committee

The FASD Learning Series is part of the Alberta government's commitment to programs and services for people affected by FASD and those who support them.

http://www.fasd-cmc.alberta.ca/home/documents/doc_FASDProbationOfficersFeb3-10.pdf

Information taken from PPT presentation compiled by Doreen Reid 2010

What Can You Do?

- ✓ What you do best - advocate for your client
- ✓ Watch for flags even in the absence of a diagnosis
- ✓ If some flags are present, respond to the needs identified

Recognize difficulties and know they:

- ✓ Function best within a well-controlled setting
- ✓ Are most successful in an environment that provides predictability and accountability
- ✓ Require ongoing support throughout adulthood
- ✓ Need to be connected with social supports that provide coaching, redirection, and supervision
- ✓ May not have the skills to live successfully on their own

Strategies

- ✓ You can be the information hub
 - Help coordinate resources
- ✓ With conversation allow extra time for responses
- ✓ Use simple, short directives when speaking
- ✓ Be very concrete and very specific when given instructions
- ✓ Do not over-schedule their days but keep time productive
- ✓ When a response is given, stories may be fabricated due to your expectations and wanting to please. Simplify
- ✓ Assist with (or arrange for assistance with) applications, forms, money management
- ✓ Less reliance on verbal exchanges
- ✓ Use and advocate for visual learning by using
 - Models
 - Pictures graphs
 - Written checklists

Ask yourself:

- ✓ Does this individual have the ability to comply?
- ✓ Could instructions be rephrased for better understanding?
- ✓ Should the task be broken down into more manageable, concrete steps?
- ✓ Will what I am requesting result in success for this individual?

Conditions on Probation Order:

- ✓ Review conditions each and every appointment
- ✓ If possible, have a caregiver/partner present. Encourage communication with “external brain” if available
- ✓ Encourage individual to involve network of family and friends in assisting to keep conditions

Understanding Conditions:

- ✓ Explain each condition
- ✓ When asking if they understand, they will say yes, but not necessarily comprehend
- ✓ Use concrete examples that will help give a visual of the expectations
- ✓ Repeat as necessary

No contact:

- ✓ No contact means no contact
- ✓ Each appointment, review list of individuals to remind of what no contact means and who it is referring to

Keep the Peace/Good Behaviour:

- ✓ Ask what that means to them and wait for an answer
- ✓ Be specific about expectations

Appear as required:

- ✓ Talk about going to
 - Court
 - Additional appointments
 - Probation appointments
 - Attending school
- ✓ Enlist families or others in helping to ensure appointments are kept
- ✓ Make appointments same day of each week, same time of day, if possible

Curfew:

- ✓ Keep it simple
- ✓ Same time every night
- ✓ All curfew times and appointments should be written in pocket size format

Contact Information

Jacqueline Pei, Ph.D., R.Psych. February 3, 2010
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Probation Orders and the External Brain: A Sane Response

I could be wrong, but I still believe it was Ben Franklin, the “time is money” guy, who also said: “a definition of insanity is repeating the same action over and over again, and each time continuing to expect a different outcome.” Yes, it is true Mr. Franklin is not running the part of the legal system that puts people in jail.

I believe that it is a waste of time and resources to jail 90% of offenders. Probation can achieve what is needed to protect the community and develop good citizens. I see jail as cold storage, as a deep freeze; upon release, our clients thaw and we are all back where we started before the jail time. This is my assumption based on my years as a criminal lawyer; you may not share this assumption.

Ask yourself what, are your assumptions about jail and how do they play out when you interview? Do you assume jail is necessary or inevitable in your interview?

I believe probation, or what I prefer to call “community response”, is far more effective than jailing persons with FASD. Here is where we need to talk about the good news called the “external brain”.

An external brain is what the experts say we need to construct for the individual involved with the judicial system and living with FASD. An external brain is family, friends, and community members who will step in and assist with decisions and actions, helping the individual with FASD to stay crime-free. Persons with a brain-based birth defect from alcohol exposure in the womb are missing brain cells, resulting in a physical brain disability just as if they were missing a left leg. They have compromised or reduced brain function in some areas. For example, they may have impulse control problems, be easily led, be unable to take what they learned on Tuesday and apply it in a similar but not same situation on Thursday. Time in jail does not repair or create new brain cells.

I believe a community can create probation orders that focus on successes, not weaknesses. Probation orders can intervene in a positive way if we understand that the person on probation has a neurological deficit, a brain-based birth defect that can be managed through help from the community.

Diane Malbin, an expert in the study of FASD, advises that we:

- match the task to the brain before you;
- assess our personal assumptions;
- lower our expectations; and
- change their environment.

Obviously, we need to expect failures, but we can expect fewer failures if we fashion a community response to help these individuals. Here are suggestions for how to do this:

1. **Make probation orders “fridge-proof”.** This means use language familiar in the home. Judges in criminal courts do not speak everyday English. For example, the phrase “keep the peace and be of good behaviour” means nothing to a brain affected by alcohol; it is too abstract. This first rule means that before going to court, you should consult the family and find out what language works and what language does not. Identify the language used in the home. The parents/caregivers have years of experience; draw on their experience.

2. **List positive alternatives for actions.** Instead of listing “do not...do not...do not...”, include positive possibilities. For example: “Do not hang out with Bob Smith; you CAN hang out with Joe White or Sam Black.” Or, “You cannot go to 7-11; you CAN go to Quick Stop.”

3. **Keep it simple.** Use as few clauses and terms as possible. Confirm that the individual understands. As Judge Jeffreys from Alaska State Court says, do not assume that because the person heard the order read out in Court and nodded, he understands. Check to make sure.

4. **Ask the family and community members for help;** get them onside as part of the team. Family connections are often overlooked. You may also need to contact schools, employers, doctors, neighbours, business owners, coaches, and religious leaders. “Deputize” family friends and other care providers to support the person in making appointments, getting to work, staying away from persons and places of trouble. Build in daily reminders and have as many people as possible know about the terms of the probation order.

5. **Use teamwork.** This external brain is a combined effort. No one, not even you, can do this alone, so make sure you get help. You have a great deal of common sense, and a well of community learning to draw from. Now is the time to use this community reservoir of knowledge.

Do not expect lawyers, or police, or judges to solve this situation alone. No one can create an external brain alone. And remember, the treasure you find depends on the map you use. If you rely solely on a police map you will get a police solution, if you rely only on lawyers and judges, you will get a legalistic solution, but if you have a community map—an external brain—you will find a community treasure.

David Boulding (Lawyer) 2007 [What Legal Professionals Need to Know About Fetal Alcohol Spectrum Disorder and the Law](http://davidboulding.com/pdfs/17.pdf) pages 13 & 14 Port Coquitlam, British Columbia dmboulding@shaw.ca
<http://davidboulding.com/pdfs/17.pdf>

WHAT WE ARE GOOD AT

“We’re very good at the sausage-factory justice, the Kentucky Fried justice, the millions and millions served. But if you take the time to do it properly, it’s worth the investment.”

[Manitoba provincial court Judge Mary Kate Harvie, 2010
In Man. courts tailor youth sentencing, by MARY AGNES WELCH, Edmonton Journal

WHO IS FAILING?

We must move from viewing the individual as failing if s/he does not do well in a program to viewing the program as not providing what the individual needs in order to succeed.

Dan Dubovsky 2000

THE CHALLENGE

Involvement in the legal system indicates more a hole in the person’s social support network rather than deliberate criminal behaviour.

THE CHALLENGE: “The cognitively challenged are before our courts in unknown numbers. We prosecute them again, and again, and again. We sentence them again, and again, and again. We imprison them again, and again, and again. They commit crimes again, and again, and again. We wonder why they do not change. The wonder of it all is that we do not change.” Judge Trueman, BC Prov Ct 2002

- ✓ Transition planning
- ✓ Wrap-around supports in the community post release and on-going
- ✓ Integrated case management model (Circle of Support)
 - Parties working together from a common understanding for the benefit of person
 - Developing agency protocols specific to FASD
- ✓ Respect person and recognize strengths

Ray Marnoch 2007 “Understanding clients with Fetal Alcohol Spectrum Disorders” (FASD)” Healing in Corrections Conference Whitehorse, Yukon
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EXPECTATIONS

We need to re-examine our expectations of people who are substance-exposed. Often many of these individuals look “normal” and we tend to forget they have permanent brain injury. A person who is alcohol or drug affected has an invisible disability, and therefore is often unable to accomplish tasks in the same way as others. This does not mean we give up hope; this means ACCEPTING there will always be challenges. So, we must adjust our expectations accordingly.

Adapted from Canadian Centre on Substance Abuse (CCSA) 2001

www.ccsa.ca

SUPERVISION

...judges [need to] insist on the preparation of an adequate probation or conditional sentence plan. Such a plan must address the needs of the individual offender. It will answer questions like:

- Where will the offender live?
- With whom will the offender live?
- Where will the offender go to school and for what purpose?
- Where will the offender work?
- What curfews, if any, will be imposed?

In short, **a proper plan will address the full 24-hour day of the offender, seven days a week, and fix the responsibility for the delivery of specific services.** If services and programs are not available, this, too, will be apparent if the plan is properly designed. Such a process, while time consuming, meets both the goals of public safety and protection and the needs of the individual offender.

Mr. Justice David H. Vickers

Supreme Court of British Columbia, Vancouver

In Fetal Alcohol Syndrome and the Criminal Justice System 2000