

UNDERSTANDING FASD

Challenges people with FASD face in the justice system

People with FASD are more vulnerable to being involved with the justice system than those without FASD. Justice involvement is one of the most adverse effects of FASD with up to 60% of diagnosed individuals estimated to have contact with the justice system at some point in their life.



Persons with FASD are over-represented within the justice system, both nationally and internationally. An important study conducted in a youth Detention Centre in Western Australia identified that 36% of detainees had FASD; the largest rate published anywhere in the world.

Recent research in Australia shows that justice involvement in FASD may start as young as 10 years of age with the most common offences in children and youth with FASD including stealing, burglary, property damage, disorderly behavior and acts intended to cause injury.

Several of the challenges people with FASD experience when it comes to their behaviour and thinking skills may increase their risk of justice involvement.



Language and communication difficulties

People with FASD can be very chatty and engaging leading others (including police, lawyers and judges) to overestimate their level of understanding of complex legal processes and their competency to stand trial. Language difficulties may also increase suggestibility and cause the individual to admit to crimes they did not commit.

Difficulties comprehending and appreciating information relating to the legal process, including their legal rights, factual knowledge regarding the legal procedure and the nature of the charges can lead to difficulties participating in defense and communicating with counsel.

A lack of social understanding and difficulties with interpersonal communication can affect the individual's ability to resolve conflict, leading to rapid escalation in situations.

FASD
AT WORK

- Supporting People with
- Fetal Alcohol Spectrum
- Disorder into Employment

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Patches acknowledges the Australian Aboriginal and Torres Strait Islander peoples as the first inhabitants of the nation and the traditional custodians of the lands where we live, learn and work.

The FASD Justice Employment Project implemented by Patches, received funding from the Australian Government.

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Disrupted learning of cause and effect and generalisation

People with FASD may not effectively learn that some behaviours are wrong, and punishments may not deter them from future offences. They may also not be able to apply knowledge gained in one situation to another similar one, reinforcing their risk of engaging in criminal activities. These issues may be worsened by a tendency to be socially vulnerable and easily led to commit unlawful acts by peers.

Memory

Genuine difficulties recounting events accurately during a criminal investigation may be experienced by people with FASD. Inefficient executive functioning abilities also means that they can be at risk of confabulation and being highly suggestible. Such difficulties have the potential to affect their capacity to stand trial.

It is important for the justice workforce as well as potential employers to understand that people with FASD are vulnerable to engaging in illegal acts due to some of the challenges they face.

Disrupted reasoning, decision-making and abstract thinking

People with FASD may not consider the long-term implications of their behaviour. They may be easily manipulated and coerced by peers to provide false confessions to police and the courts.

They also have difficulty with abstract information, including rules and laws, making it difficult for them to fully comprehend and internalise information, or to appropriately consult with their lawyers. They may struggle with moral reasoning, or not understand why what they have been accused of is wrong. For example, they may not consider that they have committed a crime if they return the car they stole the next day.

Difficulties with generalising

They may be unable to draw the connection between separate events although they may share similarities. For instance, an individual may learn that they will go to prison for committing an illegal act, but they may not understand that they may also be punished for being an accomplice to an illegal act.

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