



The Importance of Screening for FASD in Criminal Justice Settings

By Jerrod Brown

What Is the Problem?

Fetal alcohol spectrum disorder (FASD) is a condition caused by the consumption of alcohol during pregnancy, resulting in irreversible brain damage. The developmental trajectory of individuals diagnosed with FASD includes impaired social, educational, vocational, and cognitive skills. These impairments can lead individuals living with the challenges of FASD to be at an increased risk of becoming involved in the criminal justice system, with recent estimates suggesting that judges, correctional officers, law enforcement officers, and other professionals working within the system unknowingly interact with individuals diagnosed with FASD on a daily basis. Given recent survey evidence that criminal justice professionals often have a difficult time detecting FASD in their cases due to the invisible nature of the disorder, there is the need for regular screening of FASD in various criminal justice and legal settings. This is particularly true because individuals diagnosed with FASD who are charged with criminal acts often have problems successfully navigating the legal and correctional systems (e.g., inability to exercise legal rights, waive rights, understand a plea, consult with legal counsel, understand the nature of adversarial court system, comply with conditions of release, and the heavy influence of peer pressure).

Broadly, routine screening for FASD within criminal justice settings should assist in the following ways.

1. Routine screening for FASD may promote the use of a standardized, evidence-based metric of FASD signs and symptoms across mental health, correctional, and legal systems.
2. Screening for signs and symptoms of FASD will enable mental health, correctional, and legal professionals to communicate more effectively with individuals diagnosed with the disorder, especially through the subsequent use of prompts and language matched to their cognitive abilities.
3. Correctional and legal professionals need not rely solely on professionals with medical and mental health expertise to preliminarily screen for evidence of FASD.
4. Legal counsel will be able to better guide individuals with FASD through complex legal proceedings.
5. Judges will be able to make more informed sentencing decisions, including the use of diversion opportunities to promote treatment rather than incarceration.
6. Correctional and forensic mental health professionals will be better able to ethically obtain informed consent for both intra-institutional and community treatment.
7. Preventative measures (e.g., increased monitoring) can be put into place to reduce the likelihood of peer-victimization common with this population in correctional settings.
8. More effective re-entry plans can be established by parole and probation boards to maximize the likelihood of individuals with FASD being able to adhere to the conditions of their release by matching them with available social services, ultimately reducing rates of recidivism and unnecessary use of state funds.
9. Researchers will be able to extract easy-to-analyze quantitative data from completed screening tools and run independent studies on the accuracy and reliability of the screening tool to grow its evidentiary support.
10. Early identification of FASD may help to minimize the detrimental effects of confabulation and false testimony during criminal investigations and court processes.
11. Predicting the efficacy of different treatment modalities will become easier for mental health and correctional professionals (especially those working with sexual offenders) due to a better understanding of the signs and symptoms of FASD.

Biography

Jerrod Brown, M.A., M.S., M.S., M.S., is the Treatment Director for Pathways Counseling Center, Inc. Pathways provides programs and services benefitting individuals impacted by mental illness and addictions. Jerrod is also the founder and CEO of the American Institute for the Advancement of Forensic Studies (AIAFS), and the lead developer and program director of an online graduate degree program in Forensic Mental Health from Concordia University, St. Paul, Minnesota. Jerrod is currently pursuing his doctoral degree in psychology.