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FASD in the Criminal Justice System Invisible in Plain Sight

By Jerrod Brown

Fetal alcohol spectrum disorder (FASD) is an under-recognized disorder affecting approximately 2 to 5% of the U.S. population. Persons affected generally experience an array of behavioral, educational, emotional, physical, and vocational deficits. Individuals most impacted are those not properly identified or who do not receive proper support, guidance, and treatment. These impairments, combined with a number of other factors, frequently bring persons with FASD into contact with the criminal justice system. In fact, crime rates for individuals with FASD are much higher than the general population in North America.

Once diagnosed with FASD and involved in the criminal justice system, these impairments can impede a person's understanding of Miranda rights and hinder his or her ability to navigate the judicial process. Complicating matters further is that the intact verbal abilities of many individuals with FASD may lead others to believe that their comprehension, executive functions, and overall intellectual capacity are similarly unimpaired. Therefore, it is important for professionals working in the justice system to be trained in areas related to effective treatment approaches that aim to service individuals with FASD in improving their quality of life, long-term outcomes, and ending the cycle of ongoing criminal justice involvement.

Because many individuals with FASD do not exhibit visible signs, professional training for the identification of FASD is important. Indeed, the absence of clearly identifiable markers of FASD prevents two areas of the justice system (police officers and legal professionals) from recognizing the disability. In other words, these lack of markers may partially account for the significant disadvantages facing afflicted individuals. Clearly, a validated screening protocol for FASD would be invaluable in correctional, forensic, legal, and psychiatric settings. Screening tools would benefit professionals as well as individuals affected by FASD. Furthermore, an accurate and timely identification of FASD could then lead to much-needed referrals for services and supports.

In addition to valid screening tools, additional research is also needed when addressing the best practices for persons with FASD. This is especially true for those who are at risk for becoming involved in the criminal justice system. At present, the majority of individuals who have been deleteriously affected by prenatal exposure to alcohol will remain undiagnosed and untreated. By continuing to increase competence among professionals in identifying and treating FASD, this can enhance the chances for success in those with the condition by providing treatments that address their unique needs for skill acquisition and practical supports.

Neglecting or failing to recognize the special needs of individuals with FASD in the criminal justice system can exacerbate associated problems. Taking steps to improve the manner in which our criminal justice system handles FASD will create a fairer justice system and better outcomes for these highly vulnerable individuals.

Biography

Jerrold Brown, M.A., M.S., M.S., M.S., is the Treatment Director at Pathways Counseling Center, Inc. Pathways provides programs and services benefiting 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 a doctoral degree in psychology.