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Fetal Alcohol Spectrum Disorder (FASD) and Suggestibility: A Need for Greater Awareness and Understanding

By Jerrod Brown and Anthony P. Wartnik

Introduction

Afflicting 2% to 5% of the U.S. population (May, Gossage, Kalberg, Robinson, Buckley, Manning, & Hoyme, 2009), fetal alcohol spectrum disorder (FASD) is precipitated by prenatal alcohol exposure (PAE). FASD consists of life course persistent symptoms including cognitive (e.g., executive control, attention, short- and long-term memory, and intelligence; Green et al., 2009; Brown, Connor, & Adler, 2012; Mattson, Riley, Gramling, Delis, & Jones, 1997), social (e.g., maturity, verbal and nonverbal communication, and gullibility; Fast & Conry, 2009), and adaptive (e.g., problem-solving ability, capacity to make decisions, and ability to link behaviors to consequences) impairments (Edwards & Greenspan, 2010; Thiel et al., 2011). This array of symptoms can differ wildly by individual case, which increases the difficulty of identification, assessment, and diagnosis. As such, many FASD cases do not receive appropriate treatment and support, which often results in individuals with FASD having persistent difficulties in social, education, work, and criminal justice settings.

FASD and Suggestibility

The cognitive (i.e., short- and long-term memory deficits) and social (i.e., gullibility) impairments of FASD may directly contribute to a vulnerability for suggestion (Brown, Gudjonsson, & Connor, 2011). This is the degree that individuals are willing to accept the views and recommendations, truthful or not, of another as their own. Exacerbating these vulnerabilities to suggestion is the fact that individuals with FASD often possess an innate desire to please others. As such, this predisposition to suggestibility is particularly problematic because it places an individual at an elevated risk for manipulation (Brown et al., 2016; Fast & Conry, 2009).

Susceptibility to suggestibility places an individual with FASD at disproportional risk of manipulation by others across a variety of contexts including social and criminal justice settings (Douglas, 2010; Fast & Conry, 2009). In social settings, individuals with FASD not only can be pressured into antisocial acts by peers, but individuals with FASD also can be manipulated into being a patsy for a crime (Brown, Gudjonsson, & Connor, 2011). In legal settings, individuals with FASD are prone to manipulation by law enforcement officers and attorneys. For example,

individuals with FASD may be prone to rendering false confessions (Fast & Conry, 2009; Roach & Bailey, 2009), particularly in stressful situations like interrogations where the use of deception and manipulation are common (Greenspan & Driscoll, 2015). To protect against the potential impact of suggestibility on the criminal justice process, criminal justice professionals should remain skeptical of the statements made by individuals with FASD until their accuracy has been verified with collateral evidence (e.g., witnesses and physical evidence) (Brown et al., 2016). As such, legal and mental health professionals should have a basic understanding of FASD symptoms and their potential contributing effect to suggestibility. The primary goal of this brief article was to introduce the reader to the topic of FASD and suggestibility and understand how these topics can be contributing factors in some cases involving miscarriages of justice (i.e., false confessions and wrongful convictions).

Biographies

Jerrold Brown, Ph.D., is the Treatment Director for 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 Editor-in-Chief of Forensic Scholars Today (FST) and the Journal of Special Populations (JSP). Jerrod has completed four separate master's degree programs and holds graduate certificates in Autism Spectrum Disorder (ASD), Other Health Disabilities (OHD), and Traumatic-Brain Injuries (TBI). Jerrod is certified as a Youth Firesetter Prevention/Intervention Specialist, Thinking for a Change (T4C) Facilitator, Fetal Alcohol Spectrum Disorders (FASD) Trainer, and Problem Gambling Treatment Provider.

Anthony P. Wartnik was a trial judge for 34 years, serving as Presiding Judge of Juvenile Court, Family Law Court Chief Judge, Dean Emeritus of the Washington Judicial College, Judicial College Board of Trustees Chair, and Chair of the Washington State Supreme Court's Judicial Conference Education Committee. He is nationally and internationally recognized as a speaker, author, and trainer on issues involving FASD and the law. Judge Wartnik also serves as an adjunct professor at Concordia University, St. Paul.

References

- Brown, N. N., Connor, P. D., & Adler, R. S. (2012). Conduct-disordered adolescents with Fetal Alcohol Spectrum Disorder intervention in secure treatment settings. *Criminal Justice and Behavior*, 39(6), 770-793.
- Brown, N., Gudjonsson, G., & Connor, P. (2011). Suggestibility and Fetal Alcohol Spectrum Disorders: I'll Tell You Anything You Want to Hear. *The Journal of Psychiatry & Law*, 1, 39-73.

- Brown, J., Wartnik, A., Aiken, T., Watts, E., Russell, R., Freeman, N., ... Cich, J. (2016). Fetal Alcohol Spectrum Disorder and Suggestibility: Tips for Criminal Justice Interviewers. *The Journal of Law Enforcement*, 5(4), 1-9.
- Douglas, H. (2010). The sentencing response to defendants with foetal alcohol spectrum disorder. *Criminal Law Journal*, 34, 221-239.
- Edwards, W., & Greenspan, S. (2010). Adaptive behavior and Fetal Alcohol Spectrum Disorders. *Journal of Psychiatry & Law*, 38, 419-447.
- Fast, D. K., & Conry, J. (2009). Fetal alcohol spectrum disorders and the criminal justice system. *Developmental Disabilities Research Reviews*, 15(3), 250-257.
- Green, C. R., Mihic, A. M., Nikkel, S. M., Stade, B. C., Rasmussen, C., Munoz, D. P., & Reynolds, J. N. (2009). Executive function deficits in children with fetal alcohol spectrum disorders (FASD) measured using the Cambridge Neuropsychological Tests Automated Battery (CANTAB). *Journal of Child Psychology and Psychiatry*, 50(6), 688-697.
- Greenspan, S., & Driscoll, J. (2015). Why People with FASD Fall for Manipulative Ploys: Ethical Limits of Interrogators' Use of Lies. In *Fetal Alcohol Spectrum Disorders in Adults: Ethical and Legal Perspectives* (pp. 23-38). Springer International Publishing.
- Mattson, S. N., Riley, E. P., Gramling, L., Delis, D. C., & Jones, K. L. (1997). Heavy prenatal alcohol exposure with or without physical features of fetal alcohol syndrome leads to IQ deficits. *The Journal of Pediatrics*, 131(5), 718-721.
- May, P. A., Gossage, J. P., Kalberg, W. O., Robinson, L. K., Buckley, D., Manning, M., & Hoyme, H. E. (2009). Prevalence and epidemiologic characteristics of FASD from various research methods with an emphasis on recent in-school studies. *Developmental Disabilities Research Reviews*, 15(3), 176-192.
- Roach, K., & Bailey, A. (2009). The relevance of fetal alcohol spectrum disorder and the criminal law from investigation to sentencing. *University of British Columbia Law Review*, 42, 1-68.
- Thiel, K., Baladerian, N., Boyce, K., Cantos, O., Davis, L., Kelly, K., Tavenner, K., Mitchell, K., & Stream, J. (2011). Fetal Alcohol Spectrum Disorders and victimization: Implications for families, educators, social services, law enforcement, and the judicial system. *Journal of Psychiatry & Law*, 39, 121-157.