

Fetal alcohol spectrum disorders (FASD) typically include some level of brain injury that can affect behavior and cognitive ability.¹ Because of this, people with FASD are involved in the justice system as victims, witnesses or suspects at an alarming rate. As many as 60% of teens and adults with FASD have had contact with the justice system; this rate is 30 times higher than the general population.²

Reasons People with FASD May Get Involved with the Law

12.6

The average age that people with FASD first get involved with the law.³

"Many of the features that are characteristic of FASD, such as attention deficits, hyperactivity, and impulsivity, have been shown in studies to be predictors of criminal behavior."

-National Council of Juvenile and Family Court Judges⁴

Having FASD may increase the risk of getting involved with crime.⁵
[1] This is because the brain injury associated with FASD can lead to risky behaviors.

These include:

- Not being able to understand consequences⁶
- Lack of impulse control⁷
- Poor judgments and decision-making⁸
- Having explosive episodes and taking longer to calm down⁹
- Giving into peer pressure (for example, they may commit a crime to please their friends)¹⁰

What Justice Professionals Should Know

"Most current offender rehabilitation programs are based on the assumption that offenders have a strong degree of control over their own behaviors, and these programs rely heavily on cognitive intervention approaches. Unfortunately, offenders with FASD struggle with attention, executive functioning, and adaptive functioning and often do not possess these abilities."

-Canadian Journal of Criminology & Criminal Justice¹¹

- In 2012, the American Bar Association passed a resolution (112B) urging all attorneys and judges to receive training to help identify and respond effectively to people with FASD.¹²
- Accommodation for a cognitive disability like FASD is both a human rights issue and a due process issue.¹³
- People with FASD may make false confessions.¹⁴
- People with FASD may not understand their Miranda rights.¹⁵
- **Common scenarios for people with FASD include:**¹⁶
 - Frequent breaches of court orders
 - Trouble remembering bail conditions or court dates
 - Difficulty linking cause and effect
- Attorneys may be successful in presenting FASD as a mitigating factor.¹⁷
- Alternative/diversionary sentencing options should be explored.¹⁸
- Court-ordered treatment is sometimes the most appropriate intervention.¹⁹

"There is hope. We can change how lawyers, clients, police, judges, probation officers, prison guards, and family members work with FASD clients."

– David Boulding, attorney for clients with FASD

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