

The Implications of FASD for the Legal System

THE REVOLVING DOOR OF CRIMINAL JUSTICE

FIA JAMPOLSKY

Brain Domains

- ⦿ Achievement
- ⦿ Cognition
- ⦿ Executive Functioning
- ⦿ Adaptation
- ⦿ Attention
- ⦿ Language
- ⦿ Memory
- ⦿ Motor
- ⦿ Sensory/Soft Neurological
- ⦿ Social Communication

BRAIN DOMAINS AFFECTED IN CRIMINAL JUSTICE SYSTEM?

- MAYBE NOT MOTOR SKILLS

- %90!!!

Characteristics of FASD with implications in the CJS

- Impulsivity
- Hyperactivity
- Sensitivity to surroundings
- Impaired Judgment
- Inability to understand consequences
- Higher level conceptual thinking
- Suggestibility / Mimicry

Characteristics of FASD with implications in the CJS con't

- Learning disabilities – time impairment
- Intellectual impairment
- Language impairment
- Developmental delays
- Poor concentration
- Poor memory
- Attention deficits
- Adaptive living skills

What we see

The Criminal Justice System

_ based on normative assumptions that a person acts in a voluntary manner, makes informed choices with respect to the decision to commit crimes, and learns from their own behavior and the behavior of others;

What they see

CRIMINAL CRIMINAL CRIME

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VOLUNTARY MANNER MAKES INFORMED CHOICES WITH RESPECT

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from their own behavior and the behavior of others;

RECOMMENDATIONS

ABOVE ALL ELSE

⦿ **KEEP THEM OUT OF
THE SYSTEM!!!!**

HOW DO WE KEEP THEM OUT?

- DIAGNOSIS
- INTERDISCIPLINARY/MULTISECTORAL APPROACH TO CO-ORDINATED, INTEGRATED SERVICE DELIVERY
- ALLOCATE NEW/SHUFFLE EXISTING RESOURCES TO SUPPORT AND PREVENTION
 - Housing
 - Supportive, not punitive services

ONCE THEY ARE IN – THEN WHAT?

- ◎ MANDATE EDUCATION FOR ALL JUSTICE SYSTEM PROFESSIONALS
- ◎ DIVERSION/ALTERNATIVE MEASURES

REFORM CRIMINAL CODE

- ① INCLUDE ESCAPE CLAUSES IN MANDATORY MINIMUMS IN SENTENCING
- ① INCLUDE FASD AS A MITIGATING FACTOR IN SENTENCING

MIMIC YCJA

- ① AMENDMENTS TO CRIMINAL CODE
 - YCJA S.34 - ALLOW FOR FASD ASSESSMENTS
 - YCJA S.25 – ENSURE COUNSEL
 - YCJA S.19 – CASE CONFERENCING

CORRECTIONS ACT

- ① INCLUDE THE DUTY TO ACCOMMODATE INDIVIDUALS WITH FASD IN THE CORRECTIONS ACT
- ① REVIEW STANDARDIZED CHECKLISTS AND RISK ASSESSMENT TOOLS USED IN CORRECTIONS TO ENSURE VALIDITY AND RELIABILITY FOR PERSONS WITH FASD

HUMAN RIGHTS

- PROTECTION IN HUMAN RIGHTS
LEGISLATION ACROSS THE
COUNTRY

CBA RESOLUTIONS

- 2010

<http://www.cba.org/cba/resolutions/pdf/13-12-A-bckd-pdf.pdf>

- 2013

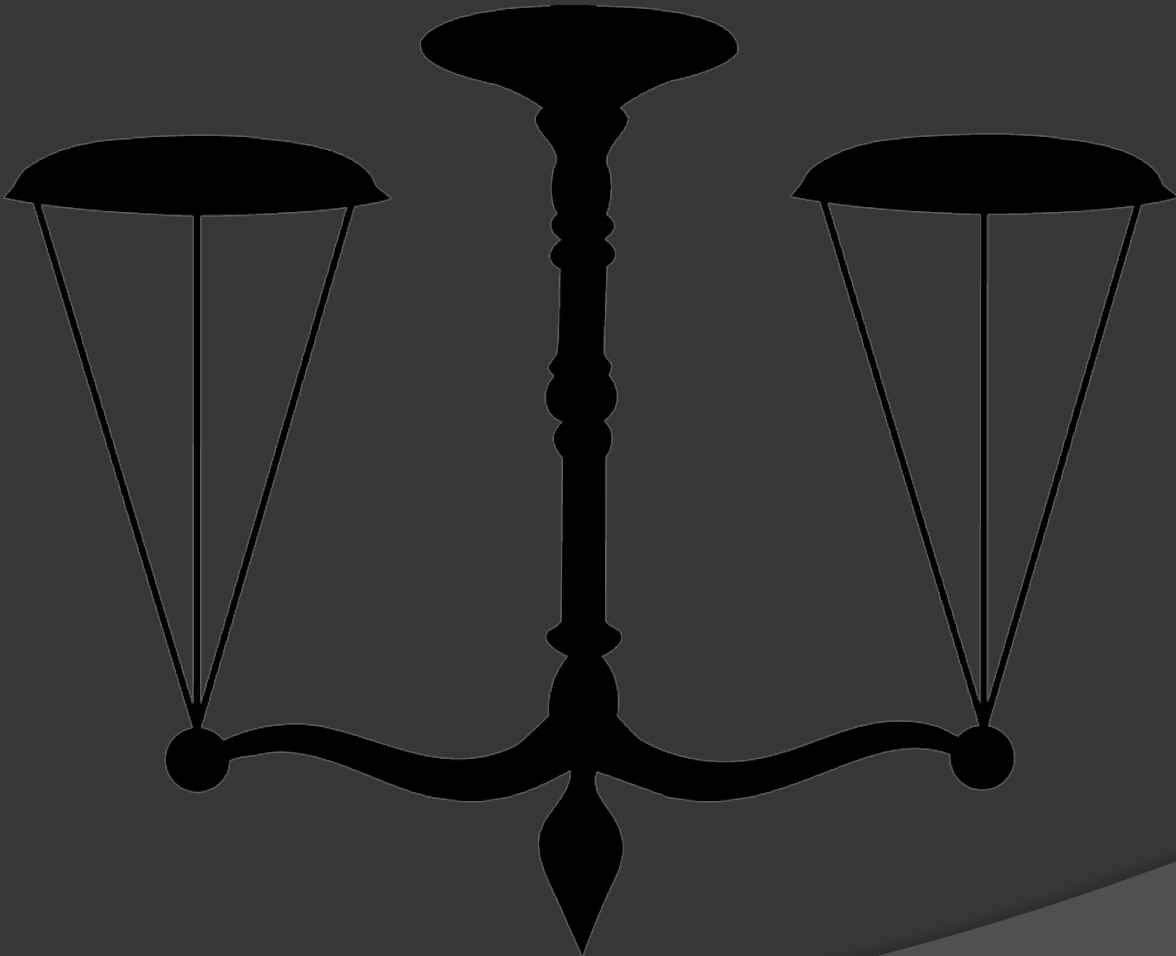
<http://www.cba.org/cba/resolutions/pdf/13-12-A-pdf.pdf>

To Stop This



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Turn it all upside down



To Achieve Balance

