



Keeping FASD out of prison: a pilot programme

FASD Conference 2025, Tāmaki Makaurau

Dr Valerie McGinn, Clinical Neuropsychologist

Samuel Galloway, FASD Forensic Specialist

Individuals with FASD have a lot to contend with in a society where their disability is not recognised or funded. They may behave inappropriately at home, at school and in the community once they reach teenage and adulthood.

In Canada in 2011 Svetlana Popova found the risk of people with FASD becoming involved in the criminal justice system (CJS) increased by a factor of 19. This is in part due to factors inherent in the neurodisability, including being socially immature, gullible, easily led, overly trusting and having low awareness of risk. Many individuals with FASD are also neurologically impulsive making it difficult to stop and think of consequences before acting. They struggle with a low frustration tolerance, and some suffer severe emotional dysregulation when faced with stressors beyond their capacity to manage. All these features will be magnified by substance abuse which is often associated with FASD.

Lack of support

From our experience, individuals with FASD tend to have good morals and do not intentionally go out to cause harm. It is not judging right from wrong that is the problem – it is choosing right from wrong in the complex social situations they find themselves in.

More so, it is societal factors that place individuals with FASD in situations that lead to offending. There is a lack of safe settings to live in and productive activities to participate in. There is a breakdown of networks of support that may be put in place for children, but not adults with FASD.

Adults with FASD need lifelong support to meet their basic needs for housing, health, nutrition, hygiene and finances that is not available to them. Their self-esteem is typically low, due to a lifetime of failure set up through unrealistic expectations at school, home and in the work force. Mental health suffers through lack of FASD-informed services. As Canadian Forensic Psychiatrist Mansfield Mela has pointed out, FASD plus a hard life increases the risk of entering the CJS. Services to improve wellbeing and support adults with FASD decreases this risk.

Over-representation in the CJS

After 15 years of FASD diagnosis in Aotearoa, we are now seeing long-term incarceration of many individuals with FASD. They may enter the CJS for relatively minor offending but once in the system, an inability to tolerate the stressful sensory and social environment can lead to further charges. Once in the system, it is hard to get out due to an inability to follow unrealistic bail and parole conditions and a lack of support.

Security classification can increase from low to medium to high, placing disabled individuals with more dangerous offenders and increasingly into solitary confinement. Often gang membership is the only way to survive the harsh conditions.

We are currently working with six men in maximum security units at Auckland Prison. At over \$200,000 per year to keep an individual in a standard prison, at least \$2 million per year is being spent to incarcerate the few we know of there who have a diagnosis FASD. There will be many more undiagnosed or who have not reached out to us.

Pilot Programme: keeping people with FASD out of prison

Through instruction from lawyers and with legal aid funding, we have been conducting a pilot programme to work out what is needed to get offenders with FASD out of prison and keep them free from reoffending and further incarceration.

We supply a comprehensive FASD report and support plan which, when provided to the court, can give judges more confidence to use a community-based sentence rather than imprisonment. When we stand up in court and say we will be there to support this individual and describe how it will be done, the judiciary are willing to take that into consideration when crafting sanctions.

We are in the privileged position to visit and enter conversations with offenders who have FASD. Unlike when they were teenagers, we find that they want to find out more about their FASD and how they can better manage the symptoms. The rehabilitative process involves accepting and understanding their diagnosis, becoming willing to accept help and putting into place a wraparound of FASD-informed services to support them. Often whānau networks have often broken down – but these can sometimes be rebuilt once FASD is understood.

Once released, FASD-informed mentorship is vital to solve problems quickly, ensuring basic needs are met, liaising with services and upskilling supporters in FASD. We are forming close working relationships with offenders with FASD, building trust so that they will reach out when they need help. Sam is fielding calls day and night, but each one avoids a crisis developing into a situation where the police are called and further charges may be laid.

Through an individualised rehabilitation support plan put before the judge or parole board and then enacted, we are managing to keep some men with FASD out of prison who have not before lived freely. As networks strengthen and life becomes more settled, we expect the high input required to gradually reduce.

While we expect some reoffending, we are now seeing improved quality of life for individuals who have been caught up in the CJS and have not been able to get themselves out of it. The cost to support individuals with FASD within the community is small compared to incarceration – and they can then live a free, safe and productive life.

[The FASD Centre Aotearoa](#)
coordinator@fasd.co.nz
