



Policing and Fetal Alcohol Spectrum Disorder

By Peter Wigand

Policing is evolving at a rapid pace and officers must stay updated on changes to legislation, technology and social issues to be proficient in their role. One of the critical health and social issues impacting society is prenatal alcohol exposure.

Fetal Alcohol Spectrum Disorder (FASD) is an umbrella term used to describe the range of disabilities and diagnoses that result from drinking alcohol during pregnancy. This disorder can cause permanent brain injury and impairments that affect individuals their entire life. The impacts of prenatal alcohol exposure vary from person to person and cause an array of disabilities or loss of capacities. This is why it is considered a disorder that falls along a continuum or spectrum. Specific birth defects

and the degree of the disability can depend on how much alcohol was consumed, how often and when during the pregnancy (though no amount of alcohol during pregnancy is considered safe). It can also depend on the state of health of the pregnant woman.

FASD is one of the most common disabilities in society today—even more common than autism. In Canada, it is estimated that more than 3,000 babies are born with FASD each year and about 300,000 people are currently living with the disorder. Given this statistic, there is a high probability a police officer will encounter someone with FASD.

Studies published in the *Journal of Law Enforcement* and the *International Journal of Psychiatry* indicate individuals with FASD are likely to have contact with police, whether by being involved in a

3,000
babies are born with
FASD each year

10%
of the Canadian
population is
estimated to have
FASD

criminal act as a victim, witness or suspect. While it is estimated that individuals with FASD only make up about 10 per cent of the population in Canada, studies also suggest affected individuals are 15 times more likely to be a victim of crime. They are also believed to be overrepresented in the correctional system. Some estimates claim FASD individuals make up as much as 40 per cent of the prison population.

One of the greatest difficulties police officers face in regard to this disability is, unlike other disabilities, people with FASD typically do not present with visual signs or indicators of having a cognitive impairment, nor is their disability often detected in speech. It is estimated less than 10 per cent of individuals diagnosed with FASD have observable facial features indicative of this disability that could provide officers

with a sign they may have impairments due to prenatal alcohol exposure. Without indicators, officers are often disadvantaged when engaging citizens with cognitive impairments and are therefore unaware of a need to alter their approach.

Officers may, however, see signs of this disability through the person's secondary challenges. Secondary challenges are those not directly caused by the prenatal exposure of alcohol but that develop over time as the culmination of their limitations. These challenges faced by individuals with FASD very commonly present as secondary mental health issues. It is estimated 90 per cent of diagnosed individuals struggle with mental health issues like depression, anxiety, ADHD and bipolar disorder. Other secondary challenges are homelessness, addictions and involvement with the justice system.

Officers may see individuals with an FASD as people who impulsively commit crimes or appear to commit the same crime repetitively (breaches of conditions). Alternatively, they may commit a crime with a high likelihood of being caught (inability to predict consequences/outcomes). A common experience for those serving people with FASD is an incredulous questioning of why the individual "just doesn't seem to get it".

Individuals with FASD think differently, depending on where the damage to the brain occurred. Often affected persons are concrete thinkers and may not understand sarcasm or irony. They may also be people pleasers or appear to be engaged in a conversation while they may not actually understand what is being said. For example, when an individual with FASD is provided with a charter and caution, they may respond by agreeing while not remotely understanding their rights. Instead, they commonly respond the way they believe the officer wants. People with this disability are often also very skilled at parroting back phrases without understanding their meaning. They can be very convincing in their intentions or promises but not be able to follow through.



While it is estimated that individuals with FASD only make up about 10 per cent of the population in Canada, studies suggest affected individuals are 15 times more likely to be a victim of crime.

Police need to be aware that individuals with FASD are more likely to provide false confessions. Prior to interviewing, officers should be scanning for potential indicators as a present disability may impact the statement or answers provided. This is not to say that individuals living with FASD cannot provide accurate information. Every individual varies in relation to cognitive and physical strengths and abilities but, through the utilization of best practices, accurate information can be obtained.

Recommendations to increase the validity of information provided:

- Speak to individuals using plain language and check to gauge their understanding by asking them to explain the meaning of a statement (not just repeat it back).
- Section 715.1(2) of the Criminal Code of Canada allows video statements to be taken from individuals with disabilities to be used as evidence in court (as is done with children). It is good practice to record these interviews.
- Officers are recommended to use appropriate interview techniques (peace method/ cognitive interview) as well as tools such as open-ended questions and audio/video recording of interviews whenever possible.

40%

of the prison population is made up of FASD individuals, researchers suggest

- When speaking with someone with FASD, try to eliminate as many distractions as you can; turn down your radio, turn off the patrol lights (individuals with FASD may also have sensory or attention issues).
- Police must work in partnership through multidisciplinary teams with prosecution, probation, health and social services as well as community agencies to share information and better understand the individual's needs, strengths, limitations and how to best support them collectively.

As a result of the challenges faced, courts in Canada have viewed FASD as a mitigating factor. It does not absolve individuals from the crimes committed, but it is a factor to consider at sentencing. Case law on this topic is growing but by officers knowing more about FASD and the impacts it may have on a person, officers will be better prepared to recognize some of the possible indicators and tailor their approach to achieve better outcomes for all those involved. ■

Canada FASD Research Network (CanFASD) also offers free online training to officers and individuals working in the justice system should anyone want more information on this subject. Learn more by visiting <https://canfasd.ca>.

Cst. Peter Wigand is the youth FASD program officer for the Lethbridge Police Service. He can be contacted at FASD@lethbridgepolice.ca.