# Fetal Alcohol Spectrum Disorders (FASD) within the Criminal Justice Sector in Queensland

## Researchers

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## Summary

This research set out ‘to survey the knowledge, attitudes, practices and training deficits within Queensland criminal justice agencies in regard to Fetal Alcohol Spectrum Disorder (FASD)'.

Between September and October 2011 judges, magistrates and legal professionals in Queensland were surveyed to determine their awareness and understanding of FASD. The survey also covered the impact that FASD has on their practice as well and their information and training needs.

The researchers initially aimed to survey: judicial officers and lawyers; correctional services officers; and police but were unable to obtain approval from correctional services or police to conduct the survey. However several meetings were held with relevant senior staff.

Ultimately 39 lawyers and 49 members of Queensland judiciary completed the survey. This included 37 magistrates, nine judges of the District Court and two judges of the Supreme Court. However due to the high workloads in both professions the response rates are low and the results should not be considered representative.

Significantly the research found that there are no specific policies or approaches to FASD in either profession.  While most of the judicial members and lawyers who were surveyed stated that they were aware of FASD all agreed that there were insufficient resources available to either understand or change practices. This was especially clear in relation to diagnosis and assessment of FASD, with both professions urgently needing to know where people could be sent to receive an assessment.  Overall the research found that there is an urgent need for FASD information to be made available to those working in this sector and for policies to be developed on how to change practice when working with a person who has FASD.

## Outcomes

The research found that:

* most respondents had ‘ever heard’ of FASD, this included 80 per cent of judiciary respondents and 81 per cent of the legal professionals.
* of those who had ‘ever heard of FASD’ most had an understanding that FASD resulted from the maternal ingestion of alcohol during pregnancy, this included 84 per cent of judiciary respondents and 81 per cent of the legal professionals.
* unfortunately most judges who suspected FASD (82 per cent) had ‘never’ sent an accused person for assessment to confirm the diagnosis. The most common reasons for not seeking an assessment (61 per cent) was that the judge ‘did not know where to send the person’. A smaller number (39 per cent) selected the reason that ‘it would be pointless because it would not change the result’.  For those in the Legal Profession, almost half (47 per cent) of the cases where FASD was suspected the person was not sent for diagnosis FASD, because the lawyer “did not know where to refer the person” (43 per cent) or believed that “an assessment would not change the outcome of the case” (43 per cent). One respondent thought ‘it would be pointless because it may result in a longer period of incarceration.’
* overwhelmingly both professions said they would like more information on FASD, 85 per cent of judiciary and 75 per cent of legal professionals asked for this. In particular both groups wanted guidelines on how to deal with FASD and a list qualified specialists to refer individuals for diagnosis and treatment.

## Recommendations

The research found a clear need for education and resources for both professions on FASD. The researchers recommend that this could achieved by adapting the resources that are available in the Canadian criminal justice system to the Australian system. This could include:

* the introduction of material about FASD to the Supreme Court of Queensland Equal Treatment Benchbook;
* the development of a Queensland Bar Association resolution / policy on FASD;
* the development of materials for undergraduate law school curriculum on FASD;
* the provision of continuing legal education and professional development opportunities for those working in the Criminal Justice System in Queensland; and/or
* the development of a Model of Care for use by Indigenous Community Justice Groups in order for them to better support offenders with FASD.

## Further Research

Future research is required to compare and contrast the research undertaken in Queensland with similar research undertaken with members of the judiciary and legal profession in Western Australian.

[view the report](/wp-content/uploads/12-feb-version-3-Douglas-et-al-FINAL-REPORT.pdf)