

WHAT A LAWYER HAS LEARNED FROM DIANE MALBIN AND HOW YOU CAN USE THIS KNOWLEDGE

1. Fetal Alcohol is an invisible disability
2. Re-define normal and make it a wider more inclusive concept
3. Re –define success.....concentrate on strengths..... get off the punishment rollercoaster
4. This is a brain based birth defect caused by alcohol
5. Think younger...fair does not equal same: developmental age does not equal chronological age
6. Lower your expectations: they are not going to be different tomorrow so spending enormous energy attempting to “change them” serves no one.
7. Change their environment
8. Match intervention to the brain
9. Stop looking for logic in all the wrong places
10. Watch your language! Use humour! Be concrete and differentiate between literal and idiomatic languages

(NOTE: THERE ARE BLANK SPACES IN THESE PAGES, SPACES FOR YOU TO WRITE IN YOUR WORDS WHAT YOU HAVE LEARNED FROM OUR DISCUSSIONS, FROM THE VARIOUS ANSWERS TO QUESTIONS, AND FROM THE CONTRIBUTIONS FROM ALL OF YOU)

PAGE TWO

Let us quickly zip through the basics so we can spend some time on these ten main points.

There is an exercise later for you to demonstrate what you have learned.

To begin go to LAWYER'S BRIEF ...two pages (attached)

Also at www.asantecentre.org click on hot topics scroll to legal then click.

Now a few words about generic Criminal legal advice.

See: SEVERAL LANGUAGES OF LAW.

Also at: www.asantecentre.org

Your child needs a lawyer for the same reason a senator needs a lawyer when some one finds cocaine in her car while HER CAR is parked in the secure Senate parking lot.

1. Your relationship with your lawyer is like you and your family doctor - you must like and trust your lawyer.
2. Police are not paid to help you when your son is arrested.
3. Understand how the various "voices" of the criminal justice system work.
4. Look at your son's behaviour...dispassionately...as if you were a cranky neighbour who has had enough!
5. Prepare for jail, develop an External Brain, start educating everyone about Fetal Alcohol and enjoy small victories.

NOW WE CAN GO THROUGH THE TEN POINTS MADE BY DIANE MALBIN FROM A LAWYER'S EYES AND YOU CAN TAKE NOTES, ASK QUESTIONS, AND PREPARE FOR THE POLICE PHONE CALL, OR THE PHONE CALL FROM JAIL !

PAGE THREE

1. THIS IS AN INVISIBLE DISABILTY.

This means you cannot tell by looking....Yes.... about 10% to 25 % of people affected by Fetal Alcohol have distinctive faces.

Many pass undetected. Many Social Service agencies from the police to schools, from Social Services to job corps fail to recognize that their client has Fetal Alcohol. This brain based birth defect is under diagnosed.

This invisibility means the Judge, the police, the prosecutors and your lawyer will assume the standard Court/Prison processes work....if only he tried harder!

People will be frustrated that he fails to make appointments, misses curfews and does not follow the terms of his Probation Order. Frustration means more and harder punishments....up the corrections ladder. They will stare at him in disbelief and accuse him of NON-COMPLIANCE when it is a case of NON-COMPREHENSION

Invisibility means most doctors, lawyers, Judges, legislators, school teachers, the Police and social workers know nothing about this brain based birth defect. You will hear: ODD, ADHD, ASP, Bipolar and other diagnoses.

Examples:

PAGE FOUR

2. Re-define normal...make it a wider concept

Courts assume their methods work. Try telling your local Judge his methods do not work and you may be jailed. Gently educate your lawyer and let him tell the Judge. You can write Judges letters as long as it is not about a specific case and you can invite a Judge to a training session about Fetal Alcohol. Judges are ALWAYS continuing their legal education. Find out where Judges go to school and make a point of writing to that institution asking how you can contribute to continuing judicial education.

Give materials, books, articles, and cases from other jurisdictions. Use the LAWYER'S BRIEF.

Once your lawyer "gets" the distinction between your son and some "hardened" criminal, you can build on the relationship. Most of what defence lawyers do is separate their client from the endless stream of similar cases.

Start with the brain...LAWYER'S BRIEF....your son is missing brain cells, missing brain function: therefore his behaviour "seems" NOT NORMAL.

Explain the brain function in context of what is missing. Doctor Julianne Conry has a saying : ALARM

Adaptive behaviours
Language
Attention
Reasoning
Memory

Where is your son/daughter having difficulties? Then see the behaviour as normal given the neurological missing parts. Criminal lawyers will tell you there is a difference between the mean nasty brutish pathological professional clients and the rest. FASD clients are inside the second group. This means: expecting missed appointments, expecting directions to be confused, expecting what was explained on Tuesday to be forgotten or believed un-applicable on Thursday!

3. Re-define success....concentrate on strengths...get off the roller coaster of punishment/reward. Here success may mean attending probation in the right week or day or this may mean developing music or art skills.

Think ALARM .

SUCCESS STORIES:

Fetal Alcohol is a brain based birth defect. Issues of guilt may be tangled by what does he really know and understand about consequences, about time, about intentions of his actions. Here your lawyer may have an ethical dilemma: work brilliantly and get an acquittal or a reduced sentence...or get some services...like an assessment ...that often follows a guilty plea or finding of guilt.

We do not expect kids in wheelchairs to enter swim meets or track and field contests. Discover how other birth defects are treated and explain to your lawyer/probation/judge/prosecutor. Deaf kids who steal get an interpreter when they go to court. Make this invisible disability visible. Educate!

5. Think younger.

This is simple.....and we forget it easily. A judge will rattle off terms of probation in automatic mode. Your son will nod as everyone is looking at him asking “do you understand”? After he walks out of court he may ask: “When do I go to jail?” Not understanding what has just happened. He may be 17 going on 9. You must accommodate his brain power to the brain job you are asking to be done.

Examples:

6. Lower expectations.

A) Expect mistakes, skip blame investigate non-comprehension...do not jump to non compliance - - most repeat offenders have “crazy” reasons. Remember “all behaviour makes sense”

B) Note language in Probation Orders: make them fridge proof...in the language you use at home for notes on the fridge, or a family notice board.

4. Let us look at some probation terms from South Dakota...and fix them so you understand this basic tool.

PAGE NINE

10. Language!

We build our world with language and we are successful proportional to our language skills (unless of course you are in the movies, the NBA, or just happen to be a rock star). For persons with FASD language, expression and comprehension dictate behaviour. They do not process information the way we do because their brains are missing parts.

Examples:

The hard facts of criminal life: prisons are hard places. People with FASD often do well in jail with all furniture of the rigid structure....and they are also victimized. There is no magic pill for these folks....it is a long haul. I tell parents over and over again it took over 30 to 50 years to get police to respond to wife beating as a crime. Because the criminal rules were “invented” about 1830...some twenty years before Sigmund Freud was born...and they have not changed much, most lawyers and judges, cops and probation, consider Fetal Alcohol some kind of joke “get out of jail free “card. Education is key and a lifelong process.

David Boulding, Criminal Lawyer
Port Coquitlam, British Columbia
E:mail: dmboulding@shaw.ca

*THE HOME OF TERRY FOX
SO I BELIEVE THE IMPOSSIBLE CAN BE DONE*

PAGE TEN

RESOURCES:

1. www.asantecentre.org
2. www.fasstar
3. Google “fadu”

These three websites contain the best information and links to many other excellent websites

Books: in no particular order:

1. LOST BOYS***** J. Garbarino, Ph.D.
2. FREEDOM TO LEARN** Carl Rogers/H.J. Freiburg (3rd edition)
3. CHANGE** P.Watzlawick, J.Weakland and R. Fisch
4. THE ANTIDEPRESSANT ERA** David Healy
5. MYTHS THAT CAUSE CRIME****H.Pepinsky, P Jesilow
6. POLICE FOR THE FUTURE****D.Bayley
7. TRYING DIFFERENTLY RATHER THAN HARDER*D Malbin
8. MAKING CONTACT****V. Satir
9. FETAL ALCOHOL SYNDROME***A. Streissguth
10. THE CHALLENGE OF FAS****A. Streissguth, J Kramer
11. BEAUTIFUL SMILES GENTLE SPIRITS ***M. Michaud
12. SUPERPREDATORS***P.Elikan
13. DANCING WITH A GHOST***R.Ross
14. SONGS OF INNOCENCE/EXPERIENCE***W. Blake
15. BLAMING THE BRAIN***E. Valenstein
16. THE NUTURE ASSUMPTION***J.R. Harris
17. TO BE OF USE*****M.Piercy

