

# FASD and Justice

WORKSHOP

COMMUNIQUÉ, 20TH NOVEMBER 2018



# FASD and Justice Workshop

COMMUNIQUÉ, 20TH NOVEMBER 2018

## Recommendations

This communique provides an overview of the outcomes identified from the attendees at the FASD and Justice Workshop, held in Perth, Western Australia on 20 November 2018. The following recommendations were identified by the participants at this workshop as key actions to ensure better justice outcomes for children and young people with Fetal Alcohol Spectrum Disorders (FASD) and other Neurodevelopmental Impairments (NDI);

### Key Actions:

- 1 **Advocate for a Plan & Strategy** - addressing neurodevelopmental disorders across the lifespan
- 2 **Deliver Training** - Government supported training developed in conjunction with experts for human service workforces as well as parents and carers
- 3 **Early Diagnosis & Intervention** – advocate and promote early diagnosis, support and intervention
- 4 **Plans for Individuals** – person-centred plans which caters to individual needs and minimises the risk of further engagement with state care and the criminal justice system

## Background

On the 20th of November 2018 the FASD Research Australia Centre of Research Excellence (FASD Research Australia CRE) convened a one-day forum to identify key issues and define actions for the future to support people with Fetal Alcohol Spectrum Disorder (FASD) who come in contact with the justice system. A local Planning Committee was established to guide the workshop, identify speakers and design group activities. FASD Research Australia CRE is extremely grateful for the time and expertise provided by the Planning Committee (Appendix A). This FASD and Justice Workshop was a pre-conference event as part of the 2018 Australasian FASD Conference held in Perth, Western Australia. It was an opportunity to learn about the experience of living with FASD, the complexity of the disorder and the difficulties those affected encounter in the justice system. This Communique provides a summary of the workshop aims, content and outcomes and outlines the actions recommended by participants to meet the needs of people with FASD in the justice system, their carers, families and communities.

## Workshop purpose

The aim of this workshop was to continue learning and identifying what needs to change so that there is wider understanding of the condition, those affected by FASD are better able to access justice, and service delivery within the justice system is improved. The purpose was for each participant to be aware of systemic failings as well as opportunities for positive change, enabling them to become an effective influencer within their own workplace or community.

## The need for action

FASD is a term for severe impairments of the growth and development of the brain or central nervous system (this may include difficulties with physical activities, language, memory, learning and behaviour) that result from brain damage caused by alcohol exposure before birth. FASD is a disability that can be prevented, and it is important that everyone is aware of the harm that can be caused by alcohol on the developing baby. Unfortunately, FASD impairments may lead to secondary disabilities including issues with learning, misuse of alcohol or drugs, mental illness, and contact with the justice system.

There is a growing interest in FASD from the Justice community, particularly in light of recent research led by Telethon Kids Institute that demonstrated the high prevalence of FASD (36%) and neurodevelopmental impairments (NDI) (89%) in young people currently in the justice system.

## Overarching principles

Based on discussions throughout the workshop, several overarching principles emerged and recurred throughout the day.

Ensuring better justice outcomes for children and young people with FASD and other NDI requires respect for the following key principles:

- 1 **Fairness for all.** We need to identify and manage children and young people with neurodevelopmental impairment (NDI) in ways appropriate to the nature and degree of their impairment, for them to be equal before the law.
- 2 **Culturally safe and respected practices.** We need to develop, support and maintain an environment that assists in overcoming stigmatisation and systemic racism, including the effects of colonisation and the stolen generation.
- 3 **Collaboration.** We need all relevant agencies and communities to work together and have collective ownership and shared intentions. We need Aboriginal and Torres Strait Islander communities, their organisations and representative bodies to be directly involved in decision-making about matters that affect Aboriginal and Torres Strait Islander peoples.
- 4 **A positive approach.** We need to build on the strengths and hopes of the young people themselves. We need to have perseverance and understanding, a willingness for and commitment to change, and an acknowledgement that change will take time, and will require multiple support systems and patience.
- 5 **Preventing prenatal alcohol exposure is always important.** However, we cannot carry out prevention activities in isolation, and need to ensure that alongside these activities there is ongoing recognition of and adequate support for individuals who are currently living with FASD and NDI.

## Who contributed?

The event brought together more than 90 people, the majority from Western Australia (80%) plus visitors from interstate and overseas (NZ and Canada). One third of participants worked for a health organisation, and one third worked in the Justice sector. Other disciplines represented on the day included Police, Disability, Education and NGOs. Community members who care for people living with FASD shared their stories and participated in group activities.

The demographic location and professional sector distribution of attendees are outlined in the following displayed graphics.

### Geographical Location of Workshop Attendees

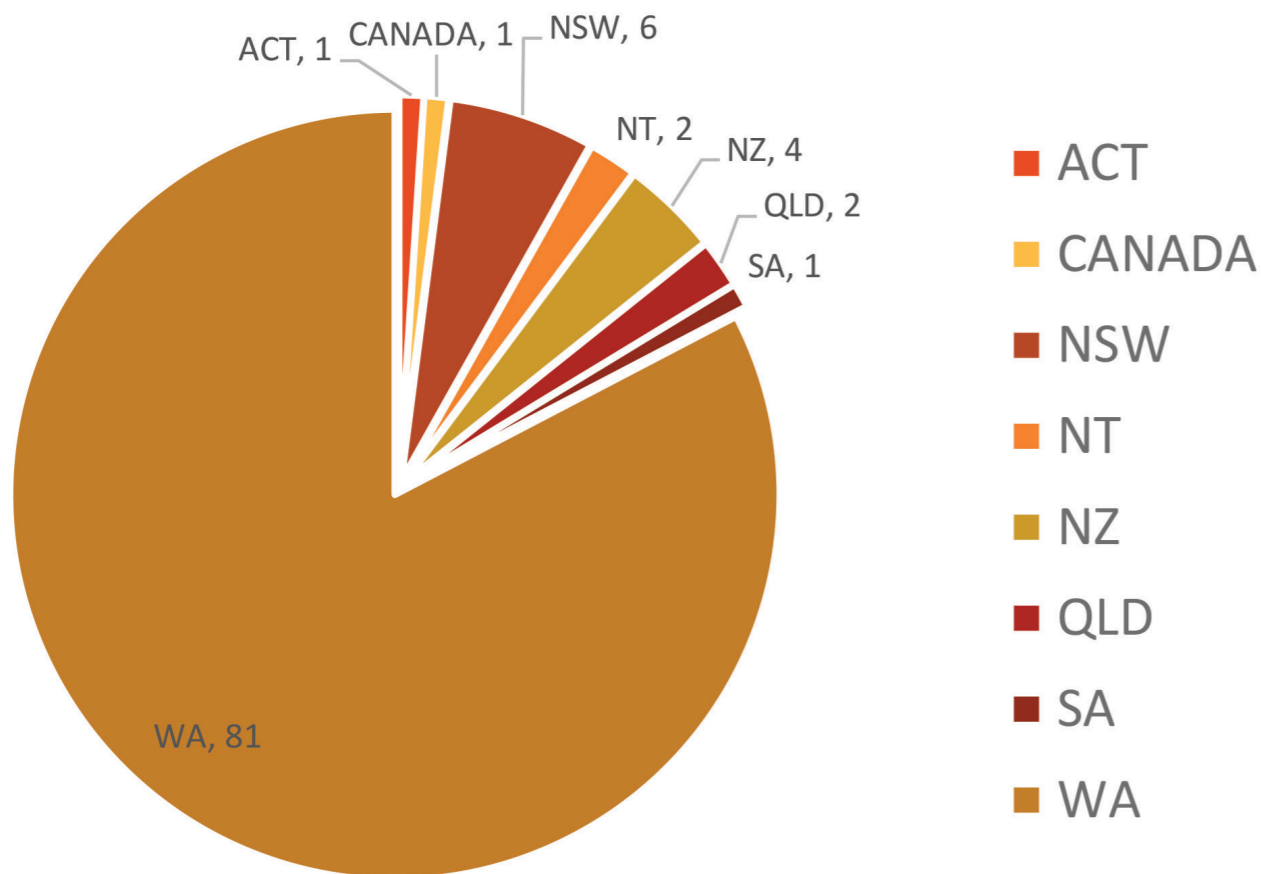


Figure 1: FASD and Justice Workshop, Attendee Geographic Locations Spread, n=98

## Attendee Professional Sectors

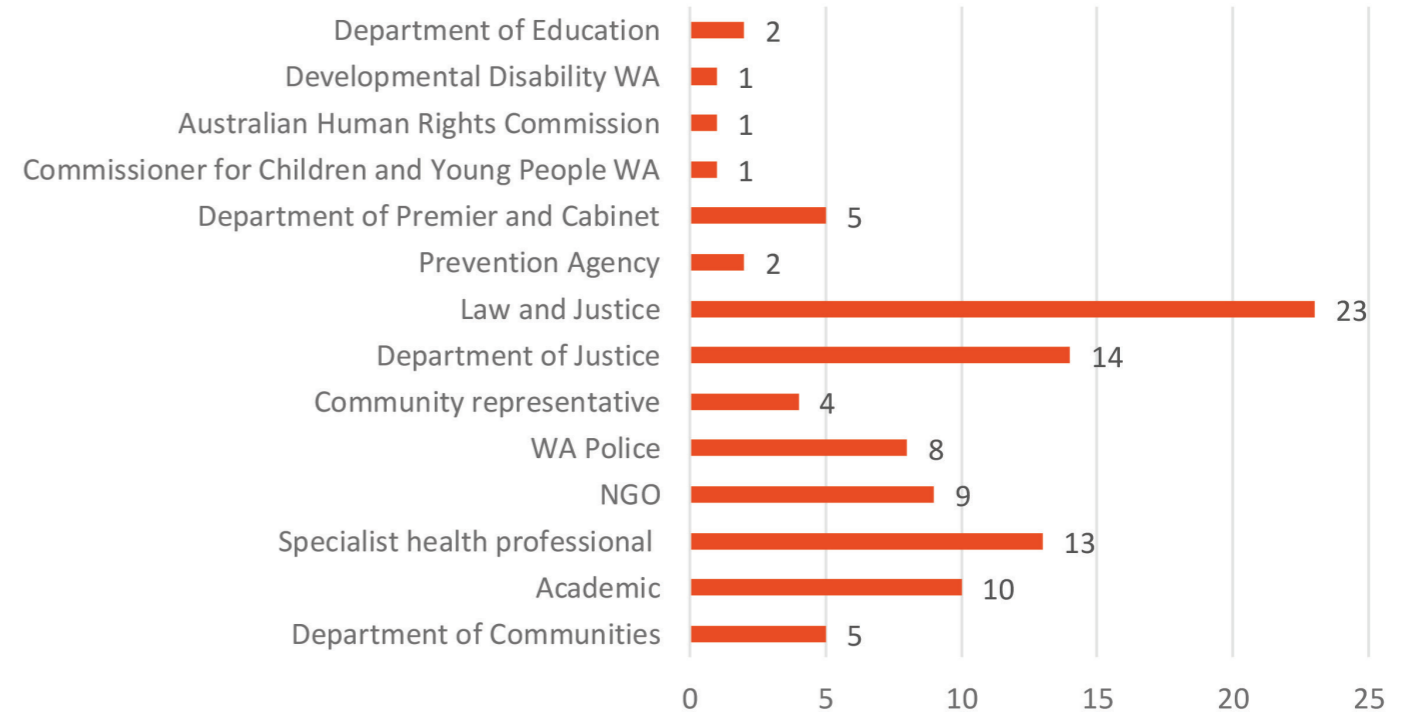


Figure 2: FASD and Justice Workshop, Attendee Professional Sectors, n=98

## Workshop process

The day's activities were facilitated by Renu Burr from Burr Consulting. Professor Jonathon Carapetis from the Telethon Kids Institute opened proceedings by acknowledging the increased understanding of the severity of disability in the custodial system and called on participants to share their knowledge with those working in different fields and with varying levels of experience. Robyn Collard then gave a warm Welcome to Country.

The workshop blended presentations from experienced researchers, lawyers, doctors and carers with three small group brainstorming activities –

- 1) Case Studies
- 2) Shared Intentions and
- 3) Call to Action (Attachment A – Workshop Program).

The commentary was recorded graphically by Will Bessen, from Tuna Blue Facilitation, prompting lively discussion and greater understanding of the issues.



## Setting the scene

Dr Raewyn Mutch provided an overview on the risks of consuming alcohol during pregnancy, the diagnosis of FASD and long-term impacts of the condition. Dr Robyn Williams informed all participants about the important cultural considerations, both the positive influence of extended families and challenging factors such as stolen generation descendants, on-going racism and poverty. Claire Rossi, Legal Aid Lawyer, stressed the need for responsible adults to ensure interviewing is always voluntary and fair.

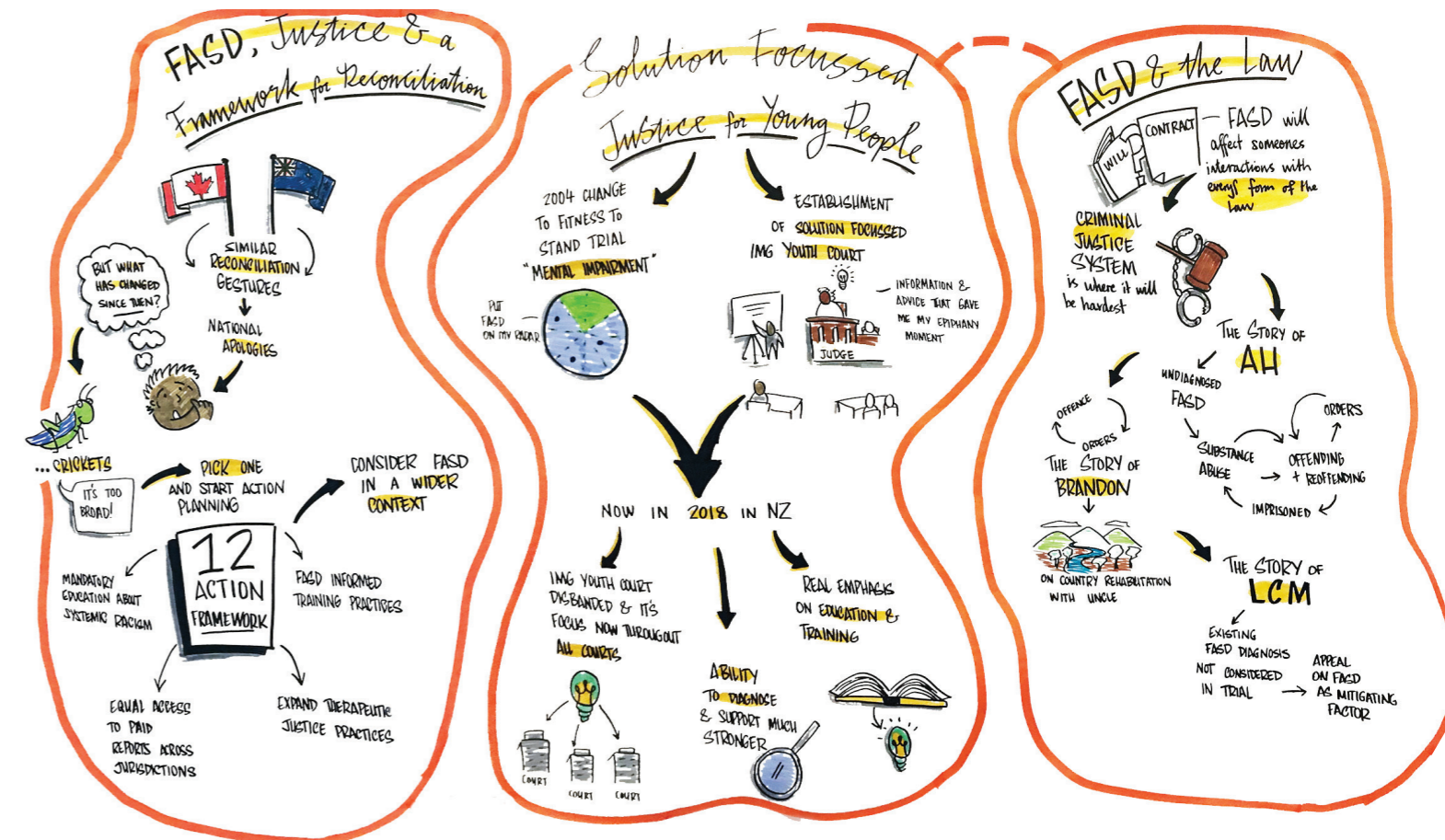


Source: Graphic artist Will Bessen, Tuna Blue Facilitation

## Policy & practice

Visiting experts from Canada, Dr Michelle Stewart, and New Zealand, Judge Tony Fitzgerald, described the current policy and practice from both countries, and the journey each country had taken to achieve incremental change over the years. Dr Stewart focused on outcomes-based research, evidence-based policy with projects aiming to bring about changes to frontline and policy changes as well as increasing accessibility and reconciliation to justice and child systems.

Judge Fitzgerald gave the audience a Youth Court example from New Zealand which resonated strongly and stimulated ideas for developing future actions. His solution-focused approaches to the cases of the people who come before the courts with mental health concerns were of particular interest. Karen Farley SC from Western Australia informed the audience about current justice practice in WA using real de-identified cases.

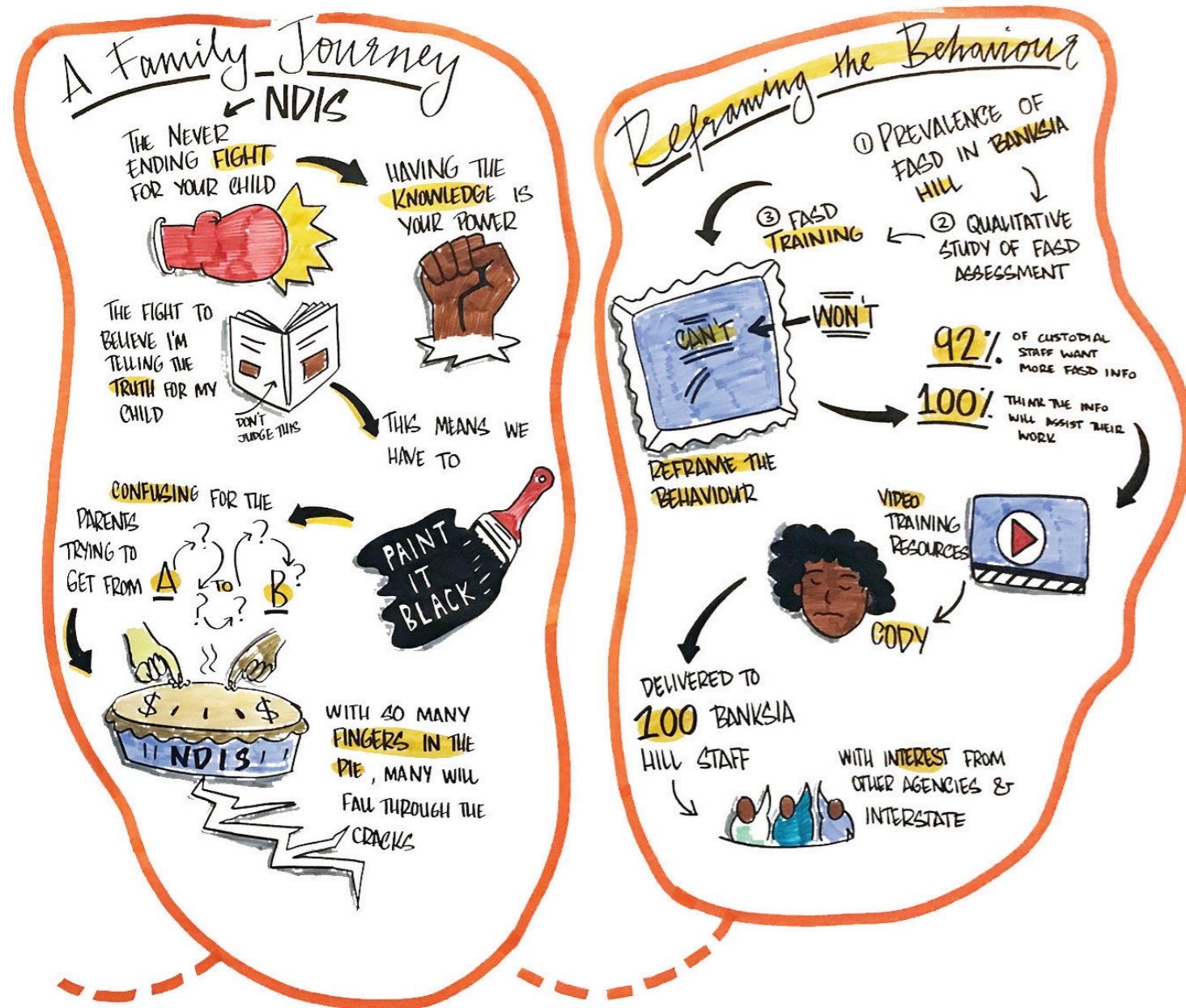


Source: Graphic artist Will Bessen, Tuna Blue Facilitation



## Disability support and workforce training

Neil Reynolds and Hayley Passmore were the final speakers of the day, providing participants with a perspective from families and the justice workforce. Neil is a parent to two siblings with FASD and a volunteer FASD Educator. Hayley shared her research from her PhD on the workforce training program called Reframe, developed to improve the management of young people with FASD in the justice system.



Source: Graphic artist Will Bessen, Tuna Blue Facilitation

## Case studies to identify gaps

Case studies were presented in small groups, encouraging the diverse audience to consider issues facing those who are diagnosed or suspected of having FASD and are also engaged with the law. The intersection of the complex needs that flow from disability and the law were discussed.

### What we heard:

Participants could relate to each of the case studies provided, and during the feedback session these were some of the issues and barriers highlighted:

- Lack of interagency collaboration and information sharing
- Vulnerability for pregnant women in rural and regional areas
- Missed opportunities for FASD Diagnosis and early intervention
- Limited understanding of the issues and the impact of FASD
- More through-care is needed at a young person's time of transition (primary to secondary schooling as well as leaving care or detention)

## Our shared intentions

Considering the newly acquired knowledge and bringing to the table their own experience, participants worked together in small groups to develop common intentions, goals and dreams for the future. An impressive depth and range of practice wisdom and professional knowledge was shared.

### What we heard:

- It was acknowledged that living with FASD is a long journey and organisations need to shift from untied to united support. The goals related to increased collaboration across health, education, child protection and justice as well as other agencies who work with the young people to share information and have a coordinated approach to management. There was a strong emphasis on working together where possible and cultivate change to help individuals. There was also a common goal to create a person-centered approach to support our young people involved in the justice system. Enablers for such an approach include strong evidence, increased consistent training and empowering families to advocate for adequate support.

### Shared Intentions

- 1) OCCI - organisations cultivating changes for individuals
- 2) Opening the door to success
- 3) Changing Pathways Together
- 4) Many hands caring for children: a collective response
- 5) Plaiting together a person-centered approach
- 6) A(d)just approach: The person-centered wheel
- 7) The river of collaboration
- 8) FASD is a journey-let's do it together

## What we need to move forward

The participants engaged in rich and far reaching discussion about FASD and Justice. Four clear areas emerged as next steps for future planning and consultation with relevant stakeholders. Each area involves a wide range of issues and levels of action to be further developed. In brief they can be summarised in Table 1.

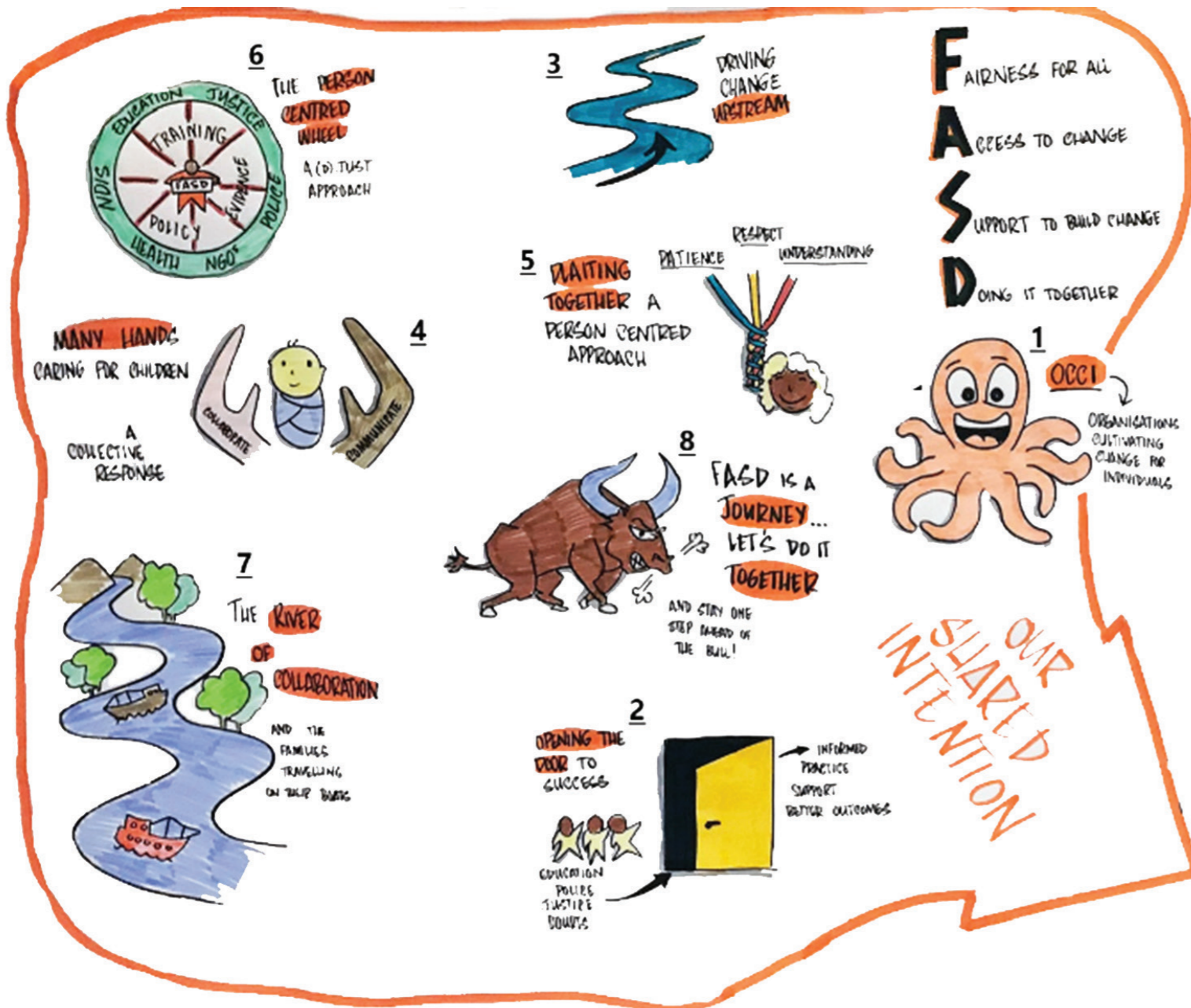


Table 1: Key actions identified by attendees at the Justice Workshop

KEY ACTIONS	RATIONALE AND PURPOSE
<b>Advocate for a Plan &amp; Strategy</b>	Advocate for the adoption by Government of a Framework Plan & Strategy to address NDI across the lifespan, which is developed in conjunction with, and intended to empower, families and communities to ensure supported and meaningful lives in community for those with NDI.
<b>Training</b>	Call upon Government to develop training packages, in conjunction with recognized experts, regarding NDI. Priority should be given to human service workforces including child protection, police, education, juvenile justice and corrective services as well as parents and carers. Such training will need to be regularly reviewed, updated and evaluated.
<b>Diagnosis &amp; Early Intervention</b>	Promote understanding of the necessity for early diagnosis, support and early intervention to ensure the best results for those with NDI
<b>Plans for Individuals</b>	Urge Government to develop an approach that: (1) identifies NDI as early as possible among children and young people in State care or involved in the Criminal Justice System; (2) crafts a person-centred plan, in conjunction with caregivers and family; and (3) caters to the individual's needs, minimizes the risk of further engagement with state care and the CJS and maximizes community safety. Such plans need to be stage-of-life based, reviewed at regular intervals and will depend upon collaboration across relevant agencies in the spheres of Education, Child Protection, Juvenile Justice, Disability, Health and Mental Health and Police.

*We appreciate the wisdom of those who came together today to consider how we can do more. We now have a collective and individual responsibility to share our understanding and facilitate action in our own spheres of influence*

**Magistrate Catherine Crawford**



## Appendix A

### 2018 FASD & Justice Workshop Planning Committee

Magistrate Catherine Crawford, Perth Children's Court (Chair)

Neil Anderson, Aboriginal Legal Service WA

Professor Carol Bower, Telethon Kids Institute

Sarah Dewsbury, Legal Aid WA

Heather Jones, Telethon Kids Institute

Kylie Kerin, Legal Aid WA

Narelle Mullan, Telethon Kids Institute

Dr Raewyn Mutch, Perth Children's Hospital/Telethon Kids Institute

Donna Nelson, Pioneers Aboriginal Corporation

Anna O'Connor, Legal Aid WA

Claire Rossi, Legal Aid WA

Dr Robyn Williams, Curtin University

## Appendix B



### FASD and Justice Workshop

The Platform Space, Perth, Tuesday, 20 November 2018



### PROGRAM

Time	Section	Detail
8 :30	Arrival	
9 :00	Introduction, Intention & Housekeeping	<b>Renu Burr</b> , Burr Consulting
9 :15	Welcome to Country	<b>Marie Taylor</b>
9 :20		<b>Dr Raewyn Mutch</b> , Perth Children's Hospital & Telethon Kids Institute, <i>What is FASD?</i>
9 :35	Presentations	<b>Robyn Williams</b> , Curtin University, <i>Cultural considerations</i>
9 :50		<b>Claire Rossi</b> , Legal Aid WA, <i>The responsible adult</i>
10 :10	Case Study Discussion	Syndicate Groups with Facilitators
10 :40	<b>MORNING TEA</b>	
11 :00		<b>Associate Professor Michelle Stewart</b> , University of Regina, Canada <i>FASD, Justice and A Framework for Reconciliation</i>
11 :15	Presentations	<b>Judge Tony Fitzgerald</b> , District and Youth Court, NZ <i>Ko te rongoa, ko te aro, ko te whai kia tika ai, mo nga Rangatahi; Solution-focused justice for young people</i>
11 :35		<b>Karen Farley Senior Counsel</b> , Legal Aid WA, <i>FASD and the law</i>
11 55	Case Study Completion	Syndicate Groups with Facilitators
12 :30	<b>Lunch</b>	
1 :15	Case Study Presentations	Scribe and leader report three key issues/gaps & one call to action
1 :45	Presentations	<b>Neil Reynolds</b> , FASD Educator, <i>Family experience and disability support- A family's journey into the NDIS</i>
2 :00		<b>Hayley Passmore</b> , Telethon Kids Institute, <i>Reframing the behaviour: Training for justice professionals</i>
2 :15	Emerging Common Intention and Purpose	
2 :45	Call to action	Alternative Syndicate Groups with Facilitators
3 :30	Closing remarks	<b>Magistrate Catherine Crawford</b>
4 :00	<b>Finish</b>	



## Appendix C

### FASD and Justice Workshop - Presenters



#### Clinical Associate Professor Raewyn Mutch

##### Presentation title: *What is FASD?*

Raewyn Mutch is a triple-qualified specialist paediatrician in (i) general paediatrics, (ii) community paediatrics and (iii) respiratory medicine. Raewyn's completed the Harvard Certificate in Global Mental Health: Trauma and Recovery (HPRT). She is a consultant at the tertiary paediatric hospital in Western Australia. Raewyn has a proven track record of clinical and research work, teaching, advocacy, education and CPD resource development among culturally and linguistically diverse families, neurodevelopment and justice disciplines, researching knowledge attitudes and practices (KAP), closing identified gaps in care, translating new knowledge and building capacities to improve Social and Emotional Wellbeing (SEWB) for individuals, their communities nationally. In company with community stakeholders Raewyn attends to our most vulnerable, in hard to reach places, addressing rights, equity of health and law; all to restore SEWB of our young people. Raewyn is an Indigenous Woman of New Zealand's Ngai Tahu Tribe.



#### Robyn Williams, PhD, Curtin University

##### Presentation title: *Cultural considerations*

Robyn Williams is a Nyoongar woman and has supported families caring for children with FASD since 2008. Her qualifications include a Bachelor of Arts in Sociology/Anthropology and a Master of Arts. In 2018, Robyn completed her PhD on FASD in the south west region of WA. Her research on FASD includes best practice in interventions, cultural security, and supporting children and families with FASD. Robyn is recognised nationally as a FASD researcher and trainer and has a diverse employment background spanning over 25 years in Aboriginal community-based agencies, government sector and academia.



#### Claire Rossi, Senior Solicitor, Legal Aid WA

##### Presentation title: *The responsible adult*

Claire Rossi is a senior solicitor with the Youth Law Team at Legal Aid WA. Claire represents young people in the criminal jurisdiction of the Children's Court of Western Australia. In 2014 Claire worked with the Telethon Kids Institute to develop a series of FASD training videos for the Justice Sector. Claire is also a member of the FASD Hub Australia Subject Matter Expert Panel. In 2016 Claire was a joint winner of the Law Society WA 'Senior Lawyer of the Year Award'.



#### Dr Michelle Stewart, Associate Professor, University of Regina, Canada

##### Presentation title: *FASD, Justice and A Framework for Reconciliation*

Dr. Michelle Stewart is an Associate Professor in Justice Studies at the University of Regina (Treaty 4 Territory) and a Strategic Research Lead (Justice) with Canada FASD Research Network. She is an applied researcher focused on outcomes-based research, evidence-based policy with projects aim to bring about changes to frontline and policy changes as well as increasing accessibility and reconciliation in justice and child systems.



#### Judge Tony Fitzgerald, District and Youth Court Judge, NZ

##### Presentation title: *Ko te rongoa, ko te aro, ko te whai kia tika ai, mo nga Rangatahi; Solution-focused justice for young people*

Judge Tony FitzGerald is based in Auckland and spends about 70% of his time in the Youth Court and the rest in the adult criminal courts. He has a special interest in solution-focussed approaches to the cases of those people who come before the courts who have mental health concerns. He is the patron of FASD-CAN.



#### Karen Farley SC, Legal Aid WA

##### Presentation Title: *FASD and the law*

Karen Farley is a Senior Appeals Consultant at Legal Aid WA. She also Chairs on the Racing Penalties Appeal Tribunal in WA and is a local government shire councillor. Karen's practice has been wide-ranging, and she has had experience working with people with intellectual, physical and mental disabilities, drug and alcohol addictions, and people from a wide range of cultural backgrounds. She has taught at UWA, University of Notre Dame, Murdoch University and TAFE and has run many successful in house and adjunct courses and seminars. For many years she was responsible for Advocacy training at the WA Articled Clerks Training Programme. She also has experience in Commercial Litigation and M&A practice. Karen has enjoyed contributing to the Law Society of WA being a member of various Committees for over 25 years, currently as a member of the Criminal Law Committee and the Courts Committee. She was previously Secretary and Vice President of the Criminal Lawyers Association. In 2011, Karen was named as Senior Women Lawyer of the Year by the Women Lawyers Association of WA. Karen has a keen interest in mentoring and supporting junior practitioners and believes that one of her most rewarding professional achievements is working with young practitioners to foster their knowledge, confidence and ability. In December 2013, Karen was appointed Senior Counsel in and for the State of Western Australia.



### Neil Reynolds, Father, FASD Educator

**Presentation title: Family experience and disability support- A family's journey into the NDIS**

Neil Reynolds is father to five children and 4 foster children. He is parent to two siblings with FASD and has been on the FASD journey for almost 7 years. Neil volunteers his time as a FASD Educator as well as serving on committees involved in the promotion and research for FASD.



### Hayley Passmore, PhD, Telethon Kids Institute

**Presentation title: Reframing the Behaviour: Training for Justice Professionals**

Hayley Passmore is a PhD Candidate at the Telethon Kids Institute and The University of Western Australia. Hayley has qualifications in Criminology and Psychology. She has previous experience working with adult offenders and their families, and with vulnerable children and families across Western Australia. Hayley currently is in the final year of her PhD on the workforce development component of the NHMRC funded project titled 'A feasibility study of screening, diagnosis and workforce development to improve the management of youth with fetal alcohol spectrum disorder in the justice system'. Hayley also teaches Criminology units at the School of Law, Murdoch University.

## FACILITATOR



### Renu Burr, PhD, Burr Consulting

Renu Burr is Director Burr Consulting and has been a faculty member of the University Western Australia's Business School since 1992. Renu has worked in senior management, consultant and advisory roles to improve leadership, team, organisational and systems effectiveness in the private, public and not-for-profit sectors in Australia and overseas. She currently teaches the postgraduate Leadership for Social Impact course at the UWA Business School and is very involved in their Centre for Social Impact, in addition to her consultancy work. She is passionate about enabling leaders to create change that enhances the well-being of all.

## Appendix D

### Case Studies

#### Case Study 1 - June, Sidney and Johnny

June is an Aboriginal woman from a regional town in Western Australia (WA). June's current partner is Sidney. He is a 39-year-old Aboriginal man, also from a regional town in WA. Their child is Johnny, who is two years old.

June has six other children (who have different fathers), all of whom are in The Department for Communities (Child Protection and Family Support). At times her 3 oldest children have been returned to her care.

#### June

June has been involved with police and courts repeatedly as an adult for offences including being drunk and disorderly, fighting, assault, and assaulting a public officer. Despite this, when she is asked, June can't answer questions about her criminal record, including whether she has criminal convictions, and what they are for. She can't remember the circumstances of most of her past offending.

Without intensive assistance, June can't manage post-conviction processes such as completion of community justice orders or community service work, including reporting for supervision at particular times and days, and understanding and completing relevant paperwork.

#### Johnny – Child protection action

When June fell pregnant with Johnny (Sidney's first child), they were living in state government housing, several kilometres from the centre of town.

- State Government housing in poor condition
- Struggled to get maintenance done

- Home was a long way from town

If they couldn't get a lift from someone, they would have to walk to town, often in very hot weather, to attend meetings, appointments or do other business.

June was well known to the Department because of her struggles caring for her other children. June and Sidney were closely monitored by the Department as June's pregnancy with Johnny progressed.

June had to attend meetings with the Departmental workers, to discuss and plan for the arrival of the baby. June experienced some common issues with attending and participating in these meetings.

#### These included:

- Being late or not going to meetings.
- Forgetting what she had been told repeatedly about the role and intentions of child protection workers.
- Being unable to read important written material which had been provided to her by the Department (she could not read it).
- Needing Sidney to help her in meetings. Sidney felt ashamed of his poor English literacy, and overwhelmed by how much people talked at them, and how little he understood. He didn't have the literacy skills or confidence to express these concerns to the Department workers.

The Department decided to remove Johnny from June's care at birth. The Department placed Johnny with non-Aboriginal foster carers who lived a long way from June and Sidney's town.

The people interacting with June did not identify or understand that she suffers suspected FASD.

**This created real inequity for June, including in the following ways:**

- June did not get legal advice and no one supported her to contact a lawyer. June did not know how to contact a lawyer or where to go without guidance and support, even though she has had lots of contact with lawyers in the past.
- June did not understand that the Department had been planning to remove Johnny from her care, that he would be sent to a home far away from June and Sidney, and that she would only see Johnny occasionally, and under strict supervision.

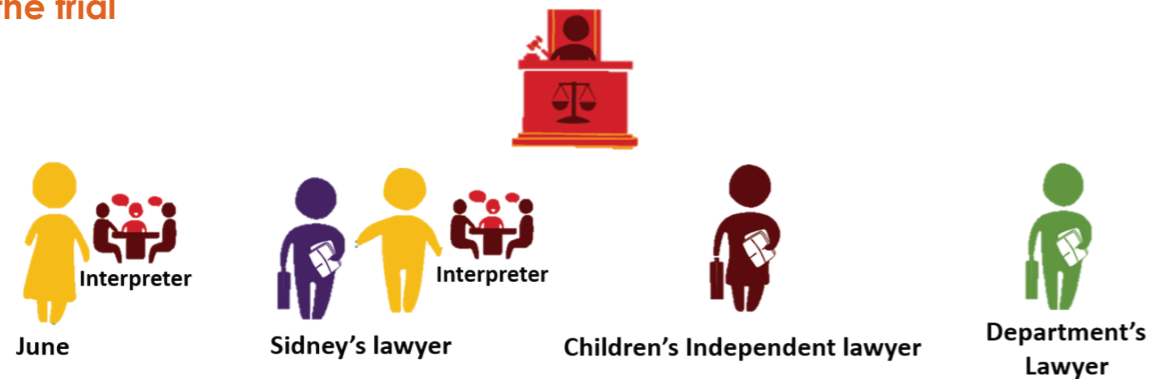
The Department asked the court to make a protection order, giving the Department parental responsibility for Johnny until he turns 18.

June and Sidney both objected to that request, and their case was set for trial in a Children's Court to decide about who would have responsibility for Johnny in the future. Johnny was 18 months old when the trial finally happened.

**Before the Trial**

Leading up to the trial, June did not have any legal advice or guidance to prepare her legal case, or to prepare her personally for the trial process and experience, (and manage her expectations). A few days before the trial, June had a one-off meeting with a lawyer. There was no interpreter assisting them. After the meeting, the lawyer informed the other parties and the Court that June now agreed the Department could be responsible for Johnny until he turns 18.

**During the trial**

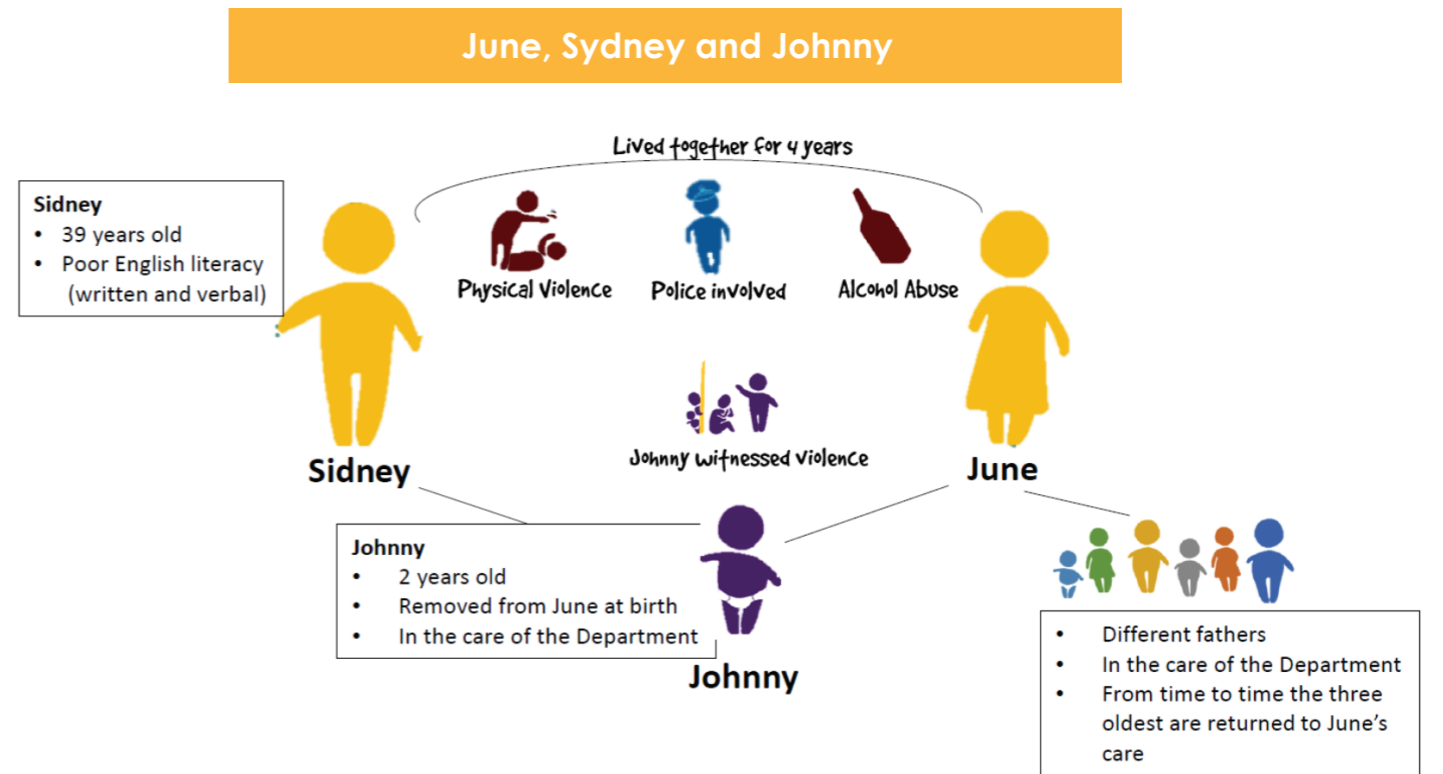


When the trial started, the Magistrate asked June to confirm whether she wanted the protection order to be made for Johnny. June was strong and clear that she did not want the order to be made.

The trial continued and all parties, except June, had experienced lawyers representing them. An interpreter was provided for the whole trial, but June was not assisted to manage her memory and hearing impairments or her comprehension issues.

Sidney's lawyer tried to help by giving June some simple information and explanations of what was happening, but he could not give her any legal advice or advocate for her needs. The Child Representative – a lawyer appointed by the court to represent Johnny's best interests – couldn't give June any help either.

June had virtually no capacity to represent herself in the proceedings and was therefore unable to present her case effectively.



**Case Study 2 - Uncle Rob, Annie and her children**

Annie is an Aboriginal woman from a regional town in Western Australia. Annie's children were taken into care because she exposed them to alcoholism and violence. Annie's brother, Uncle Rob, has always helped to care for her children, Jimmy (aged 10) and George (aged 12), on occasion, however now he cares for them full time. Annie, Jimmy and George all have Fetal Alcohol Spectrum Disorder (FASD) and Post Traumatic Stress Disorder (PTSD).

Annie and Jimmy have regular contact with the criminal justice system. Annie has gone to rehab several times and been in prison, all of which have assisted her from time to time. However, this creates challenges as her children's relationships with her are again impacted.

Uncle Rob has talked about the following challenges of his relationship with his sister Annie, and nephews.

Uncle Rob struggles to manage Annie's impulsive responses – she can only do or comprehend one thing at a time. If Jimmy is doing well, Annie struggles to understand why he can't come home to her. **She doesn't have the cognitive ability to understand:**

- Jimmy and George's trauma
- How her presence triggers Jimmy's PTSD
- The ways that Rob specifically cares for the boys and manages their challenges, and his concern about how easily it is for Jimmy to regress
- The big picture of the Child Protection system

In addition, living in a regional town there are limited support services that Uncle Rob can link Annie with, so that she can be supported to parent more effectively.



Uncle Rob has been very involved with Jimmy and George's schooling. In recent years he has formed a supportive network with other carers of young people with FASD. During his years of navigating the education system there has been times when he hasn't always agreed with the school's approach.

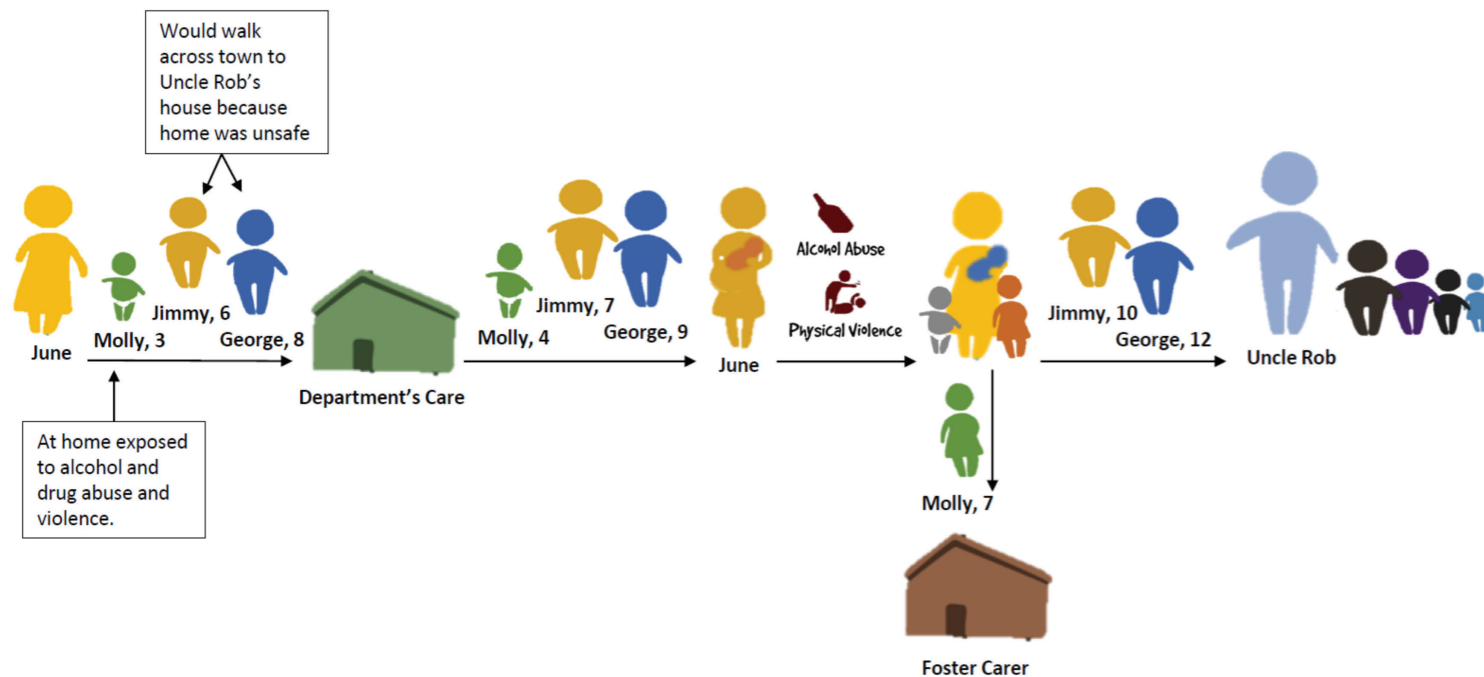
**These included:**

- Initially the boys were placed in programs for disengaged kids, including those that have low school attendance. The program separated them from the mainstream classes. Eventually they went back into mainstream classes with support staff, but only when Rob fought for them to have this option and
- educated the teachers about their FASD and mental health issues. Rob observed the school's approach to discipline for Jimmy was the same as other children who did not suffer FASD or PTSD. The school's approach to
- student education and discipline is centred on equality amongst all students rather than equity. Individual safety and behavioural management plans and individual education needs-based assessment/management tools (which are essential) contradicted the school policies of equality and treating all students the same. Uncle Rob is very concerned that this contradiction leads to discrimination of his nephews.



**Uncle Rob, Annie and her children**

**Case Study 2 Questions – Uncle Rob, Annie and her children**



**Case Study 3 - Jason**

Jason is a 12-year-old boy. He has been an "open case" brought to the attention of The Department of Communities (Child Protection and Family Support) but is not subject to a Protection Order.

He is the third of five children to the same mother. He has had infrequent contact with his biological father. Two older siblings are currently incarcerated. He lives at home with his mother, and his two younger brothers. He identifies a 25-year-old uncle as a positive role model. His uncle sees him about twice a year.



The family has lived in state housing in a suburb south west of Perth since Jason was born. They are at risk of being evicted due to non-payment of rent, and the damage caused by others who visit the home.

Jason has been banned from the alternative education programme in which he had been enrolled at the age of 11. His behaviour had been disruptive, and he had barely attended. He had previously been enrolled in state primary schools with educational support. His attendance at school had been poor, at about 20%.



The family environment is chaotic, with his mother having been the victim of domestic violence, a brother being subjected to documented sexual abuse by a family member and two of his older siblings being incarcerated.



Jason smokes marijuana, smokes cigarettes, and uses alcohol, occasionally to excess. He denies using any other illicit drugs.

Alcohol exposure in utero is confirmed and documented in medical reports and by Jason's mother. She reportedly used marijuana and smoked cigarettes as well as drinking alcohol whilst she was pregnant with Jason. He was born preterm at 35 weeks gestation. He had developmental delays in speech and language and was diagnosed with Global Developmental Delay aged 5, Intellectual Impairment and adaptive functioning problems at age 9 and has been registered with the Department of Communities, Disability Services at the age of 6.



The police had previously referred Jason to the Juvenile Justice Team for charges of home burglary, stealing, steal motor vehicle (a moped), and possession of drugs (Cannabis) and possession of a smoking implement.

Jason is currently charged with similar offences, including riding a moped without a licence, a burglary on a sports shop and possession of drugs (Cannabis).

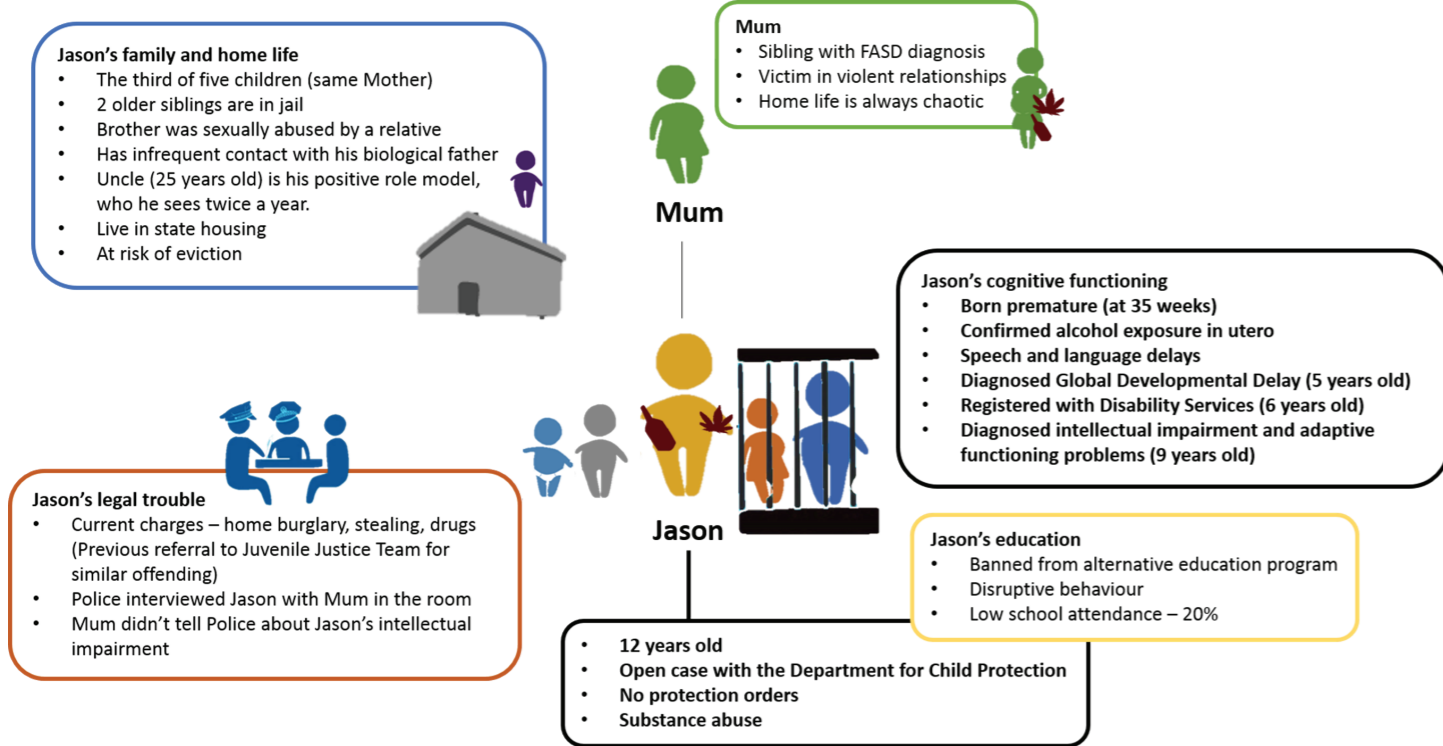
Jason's lawyer asked him some questions to determine whether he understood legal terms such as "guilty" and "not guilty" or the roles of various key personnel in Court.

Jason's lawyer watches his interview with police. She notes that his responsible adult, his mother, does not inform police that he has an intellectual disability, and doesn't raise this throughout the interview.



The police ask Jason leading questions and he agrees with the suggestions that they put to him.

## Jason's Story



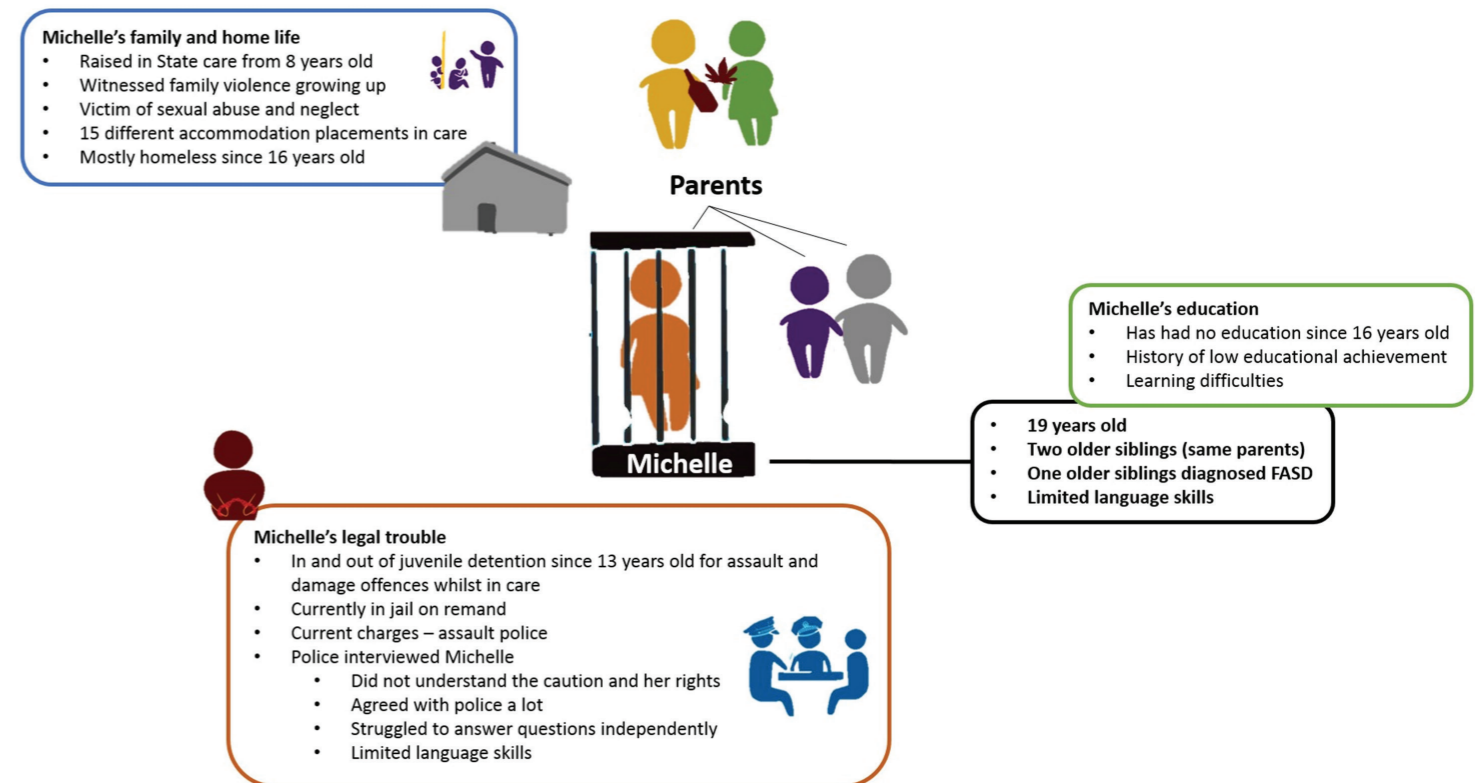
Michelle has been in and out of juvenile detention since the age of 13 and she is now on remand in adult custody for assaulting police. Michelle's juvenile offending history mainly comprises assaults and damage offences whilst in care.

Michelle's lawyer watches Michelle's interview with Police. She notices that Michelle seems to struggle with understanding the police caution and the information about her rights. She notices that Michelle tends to agree with what the Police put to her, but that she has difficulty answering questions independently. Michelle also has limited language skills.

Upon further enquiry, Michelle's lawyer discovers that Michelle has also had several admissions to hospital mental health units.



## Michelle's Story



## Case Study 4 - Michelle

Michelle is 19 years old.

Michelle is the youngest of three children born to the same parents.



Michelle was raised in State Care from the age of 8 years, after substantiated allegations of sexual abuse and neglect, and exposure to domestic violence.

Michelle had 15 different accommodation placements whilst in care and began to self-select unapproved accommodation from the age of 16 years. She has been largely homeless since then.



Michelle's parents have a history of alcohol and drug abuse. One of Michelle's older siblings has been diagnosed with FASD.

Michelle has not attended any educational programme since the age of 16. She has a history of low educational achievement and learning difficulties.





Northern Entrance, Perth Children's Hospital,  
15 Hospital Avenue, Nedlands WA 6009  
PO Box 855, West Perth WA 6872  
T | 08 6319 1000  
E | [contact@telethonkids.org.au](mailto:contact@telethonkids.org.au)  
W | [telethonkids.org.au](http://telethonkids.org.au)