CANADA'S ABORIGINAL PEOPLE, FETAL ALCOHOL SYNDROME & THE CRIMINAL JUSTICE SYSTEM[1]

Denis C. Bracken, Faculty of Social Work, University of Manitoba, Canada

Abstract

This paper is an examination of fetal alcohol spectrum disorder (FASD) and the related conditions of fetal alcohol syndrome (FAS), fetal alcohol effects (FAE), and alcohol-related birth effects (ARBE)3 as they pertain to the Canadian criminal justice system, and specifically to Aboriginal Canadian offenders. FASD is considered a problem for the criminal justice system in general, but the over-representation of Aboriginal persons at various levels of the Canadian system, in particular in the Prairie Provinces of Canada (Alberta, Saskatchewan and Manitoba) places an additional factor into any consideration of the issue. This is further complicated by the fact that, as suggested by Tait (2003), it is important to recognize the 'secondary disabilities' identified as part of FASD in the context of those social characteristics that are the result of colonialism and related policies of discrimination, attempts at forced assimilation and economic marginalization experienced by Aboriginal people. Thus the high incarceration rate of Aboriginal people which many see as an outcome of colonialism, combined with common stereotypes of the "drunken Indian" may lead one to assume that FASD is a major contributing factor to Aboriginal peoples' over-involvement with the criminal justice system. What is really the issue at hand is the relationship between FASD and incarceration of Aboriginal people, not as an indicator of the connection between alcoholism addiction and Aboriginals, but rather as a sign that incarceration of Aboriginal people is connected to discrimination, and broader health and social development issues (the outcome of colonialism) and which may also include FASD. The problems of identifying offenders with FASD in the criminal justice system (and in particular the prison system), presents as disproportionately a problem of Aboriginal people. This must be taken into account when developing policies and practices around FASD and criminal justice.

Key Words: Aboriginal people, criminal justice, discrimination, fetal/foetal alcohol disorder/syndrome, health

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Introduction[2]

This paper will begin with a discussion of FASD and some of the problems encountered with identifying it in both young people and adults. It will then consider some of the challenges posed by FASD and the criminal justice system, challenges not unlike those presented by other persons with cognitive deficits. This will be followed by a discussion of the over-representation of Aboriginal persons in the criminal justice system. It will then examine briefly the literature on the health of Aboriginal people in Canada, and the connections between the impact of colonialism and health. FASD is an important aspect of the relationship between health issues for Aboriginal peoples and health research. The paper concludes by discussing policy and practice issues as they relate to identifying and providing support for those with FASD among Aboriginal peoples in the criminal justice system

What is FASD?

Foetal Alcohol Spectrum Disorder covers a range of conditions resulting from foetal exposure to alcohol. It is:

> a serious neuro-developmental and/or physical disorder that can result in disabilities that have lifelong physical, mental, behavioural and social consequences. FASD is caused by prenatal exposure to alcohol. The amount of alcohol necessary to cause FASD remains unknown…Alcohol crosses freely through the placenta. The first 3 to 7 weeks after conception is the period when alcohol can cause the greatest physical abnormalities. However, alcohol continues to impact the foetus throughout gestation, particularly the developing brain (Stade, et al. 2004).

Health Canada (Canada, 2003) follows the generally accepted view about the incidence of FAS. It is thought to occur in the range of 1 to 3 out of every 1000 live births. The range of alcohol-related disorders is estimated at 9.1 per 1,000. This rate is widely used to estimate the rate of FAE. It is based on international data, and at present there is no firm estimate of its incidence nationally based on Canadian research (Chudley et al. 2005).

The conditions subsumed under the FASD umbrella can result in a number of physical and mental disabilities. Examples include skeletal abnormalities such as facial deformities; physical disabilities such as kidney and internal organ problems; cognitive impairment such as difficulty understanding the consequences of one's actions; learning disabilities, particularly in mathematical concepts and other cognitive deficits (Canada 2006). It is important to understand that not all persons with any of the range of conditions considered under the umbrella of FASD will necessary show any or all of them. In fact, the diagnosis of FASD remains a matter of some contention. Attempts have been made to develop guidelines for diagnosis and there continues to be some disagreement about the need for confirming alcohol use and the extent of its use by the mother during pregnancy

(Tait, 2003). Observational diagnosis becomes more difficult over time, as some of the more common facial characteristics (assuming they were present to begin with) may start to become less recognizable.

Secondary disabilities are those which 'are potentially preventable, and result from the environment which many of these individuals experience' (Grant, et al. 2006 p1). Examples in the case of FASD might include poor school performance, drug addiction, conflict with the law, etc. Of particular relevance to the current study is the research by a leading American author and investigator into FASD (Streissguth, et al. 2004). She and her colleagues reviewed the life situations of 415 young people who had been identified with either FAS or FAE. They were interested in identifying what they called the risk of 'adverse life outcomes' for persons with these conditions under FASD. The results indicated the following adverse life experiences for their sample: trouble with the law (60%), interrupted school experiences (61%), confinement in prison/detention centre, psychiatric setting or residential alcohol/drug treatment (50%), repeated inappropriate sexual behaviours (49%) and alcohol/drug problems (35%). More positively, they found that 'good stable families, with enduring relationships with their children with FAS/FAE, appear to be a critical protective factor for helping children avoid adverse life outcomes' (p10).

It is also generally accepted that the physical conditions under FASD are life-long conditions which can be successfully managed, but not reversed. The research by Streissguth and her colleagues, along with other research would suggest that persons with FASD can anticipate significant social and behavioural problems throughout their lifetimes.

FASD & Criminal Justice

Criminal justice system personnel have begun to recognize the impact of FASD at various stages of the system although the extent of FASD among offenders is difficult to assess. A survey of provincial and territorial correctional systems published in 2003 (Burd, et al.) found the incidence to be an average of .087 per 1000 of offender population of the 10 (out of a possible 13) systems that participated. Yukon Territory reported the highest incidence which was 2.6% per 1000. The authors speculated that this overall rate is lower than expected, if one accepts the internationally accepted rate of 9.1 per 1000 of the population. None of the jurisdictions reporting indicated that they had a screening process within their correctional systems to identify those with FASD and were relying on identification of an FASD prior to admission to the criminal justice system, and that identification being accurately reported within the system (It is important to note that this study did not include the federal penitentiary or parole population).

As is the case with the broader term 'the mentally disordered offender', persons with FASD create particular problems for the assumption by the legal system of innocence until proven guilty. For example, many offenders plead guilty as part of plea bargaining

processes that can lead to a reduced charge and often a less severe sentence than if the original charge had been heard by the court. Such activity is common in many legal systems, and can be seen as placing pressure on defendants to plead guilty. Research by Moore and Green (2005) presented examples from court cases, appeal decisions and other legal research of unreliable testimony on the part of persons with an FASD disorder as well as false confessions. The implication here is that FASD offenders may admit to things they did not do during police interrogation, and plead guilty without understanding the implications of such a plea. Assuming a finding of guilt by the courts, there is a presumption in legal systems based in English common law that the offender is a rational actor capable of ultimately recognizing right from wrong and learning from her/his mistakes. However, as the study quoted above found, 'Persons with FASD, as a group, challenge the underlying premise that defendants understand the relationship between actions, outcomes, intentions, and punishment' (Moore & Green, 2004 p5).

All of the ways that the system responds after a finding (or admission) of guilt, pose particular problems for the FASD offender. Some jurisdictions allow for informal, 'alternative' or 'diversion' processes to take place, assuming that the offender is prepared to admit to the offence. These may take the form of family group conferences, victim-offender mediation and/or reconciliation and other alternative measures. Most of these are used in youth proceedings, although some are also being used at the adult level.

These alternative measures (nearly all of which fall into the general category of 'restorative justice' processes) assume that an offender is prepared to accept responsibility for the offence. Many of them are based on a process in which the victim can be heard, and the hope is that the offender will respond with both understanding and remorse. This is a difficult issue for the FASD offender, as research has shown that:

> …they do not learn from their experiences; they do not connect cause and effect. They tend to be egocentric, being unable to appreciate their effect on others or to take another's perspective. This can be interpreted as lack of empathy and remorse. People with FASD can have sporadic memory recall, which can be influenced by suggestion. They can confabulate, confusing details of a specific event with previous and subsequent real events and with fictional events. They may have poor concepts of time and sequence (Fast & Conry 2004 p162 emphasis original).

The result is that many of these offenders, particularly if the FASD condition has not been identified, are deemed as inappropriate for these alternative measures, or as having failed to benefit from them if they do not follow through on what is agreed as part of an alternative process (Enns, 2004).

For the majority of cases that proceed to court, once the court has decided on guilt, the next step in the process is sentencing. Sentencing implies that the court has taken a number of factors into account (e.g. seriousness of the offence, extent of harm to a victim

and level of remorse by the offender, previous response to other criminal justice interventions, etc.) prior to the passing of a sentence. At the risk of oversimplifying, sentences in Canada fall into two categories: custodial and community. Custodial sentences mean a period of time in a prison, where release in advance of the expiry of the sentence may be based on the offender's institutional behaviour and participation in correctional programmes. Community sentences range from fines and community work to a period of time under supervision usually as part of a probation order. They rely on the offender being able to make her/his own way in society, but with conditions related to regular reporting, and possibly to participation in a community-based program to address offending issues.

There is greater research on the issue of FASD among offenders in correctional facilities, perhaps because with this population close observation can occur over longer periods. The opportunity to diagnose offenders as having some aspect of FASD therefore may also be greater. As well, difficulties in functioning are more readily observable in a custodial population. A study by the Correctional Service of Canada 10 years ago (Boland et al. 1998) suggested the possibility that FASD offenders 'may adapt relatively easily to the structured environment of the institution' but could have difficulty 'with the close interpersonal relationships that take place in a confined setting' (p 72). This was echoed in a more recent finding, also by the Correctional Service of Canada. 'While the prison environment is temporarily structured, it is noisy, over stimulating, requires new coping skills be learned quickly, and there are many opportunities to be misled by other offenders looking for people to participate in illegal activities' (Grant, et al. 2006 p2). In short, those with FASD are not likely to function well in a prison environment, and may be subject to misunderstandings by prison staff and harassment by other offenders. That said, Boland et al. in the study cited above, made reference to an unpublished American study concerning knowledge of correctional staff about FASD. The study reported that the behavioural characteristics of those with FASD were known to correctional personnel, although these staff did not know what the characteristics represented nor that they might be connected with pre-natal exposure to alcohol.

There has been some debate over whether a community sanction is a 'better' sanction for those with a FASD. The structure of a prison setting is thought helpful but, as indicated above, the offender is open to abuse. On the community side, an offender who is given a community sanction may or may not have sufficient support available from either the probation officer or some other community person. Without such support, a return to crime seems likely. Verbrugge (2003) provides examples at the youth level in which, in one case, a judge sentenced a young offender to custody on the grounds that due to the offender's FASD, he was not amenable to rehabilitation. He also identifies the problems of using custody. 'A common justification for not incarcerating youth with FASD is the fear that their risk level will be increased through bringing them in contact with anti-social individuals.'

Aboriginal Over-Representation in Canadian Criminal Justice

FASD and criminal justice in Canada are often considered in the public mind as almost uniquely Aboriginal problems. This is a misconception, born out of the percentages of aboriginal people involved in the criminal justice system in Canada. Aboriginal people in Canada are disproportionately represented in Canadian criminal justice. This is a well-known fact in Canada. Academic studies going back to the 1980's demonstrated this, and current Canadian government statistics continue to bear it out. In 1988, a study done at the University of British Columbia by Michael Jackson for the Canadian Bar Association found that at the federal level (those serving sentences of 2 years or more) 10% of the male inmate population was Aboriginal (and 13% of the female inmate population), although at the time Aboriginal people represented 2% of the Canadian population. At the provincial level (those inmates serving less than two years) in Manitoba and Saskatchewan, Aboriginal people were between 6 and 7% of the population, but constituted 46% (Manitoba) and 60% (Saskatchewan) of prison admissions (Jackson 1988, p216) Recent figures, nearly 20 years on, are similar. According to figures published by the Canadian government in October, 2006 'In 2004/2005, Aboriginal people accounted for 22% of admissions to provincial/territorial sentenced custody, 17% of admissions to federal custody, 17% of admissions to remand, 17% of probation admissions and 19% of admissions to conditional sentence[3]" (Canada, 2006b). Aboriginal people currently make up 3% of the Canadian population. In the provinces mentioned in the Jackson study, the figures have not improved since 1988. In Manitoba, Aboriginal people make up 11% of the population, but 70% of admissions to sentenced custody, and for Saskatchewan the figures are 10% and 77%. For Aboriginal women, the figures are even more disproportionate. In Saskatchewan, almost 9 of every 10 (or 87%) of female admissions to custody were Aboriginal. Manitoba and the Yukon were not much better at 83% of female admissions being Aboriginal. As the Federal study pointed out with notable understatement 'since 2000/2001, the proportion of sentenced admissions represented by Aboriginal people has increased for both males and females'.

The reasons why have also been subjected to scrutiny, mostly by provincial government commissions of enquiry or federal royal commissions, the first being in Manitoba[4] which began its work in 1988. The Report of the Aboriginal Justice Inquiry (Hamilton & Sinclair, 1991) pointed out that Aboriginal people are subject to different practices at most steps in the criminal justice process. For example, the inquiry stated that:

- Aboriginal accused are more likely to be denied bail.
- Aboriginal people spend more time in pre-trial detention than do non-Aboriginal people.
- Aboriginal accused are more likely to be charged with multiple offences than are non-Aboriginal accused.
- Lawyers spend less time with their Aboriginal clients than with non-Aboriginal clients.
- Aboriginal offenders are more than twice as likely as non-Aboriginal people to be incarcerated.

Over-representation assumes either that Aboriginal people commit disproportionately more crimes, or are subject to discrimination within the system. The Manitoba Commission's answer was that both are true. However, a greater number of crimes committed is not due to any natural inclination toward crime among Canada's Aboriginal people, but rather because 'the causes of Aboriginal criminal behaviour are rooted in a long history of discrimination and social inequality that has impoverished Aboriginal people and consigned them to the margins of Manitoban society.' It would seem that as far as the statistics are concerned, the situation has not changed in terms of over-representation and one may also assume that this process of discrimination and social inequality continues in various forms up to the present day. (Avery Kinew, 2006)

Aboriginal Health Issues and FASD

What is the impact then of over-representation of Aboriginal people in the criminal justice system on considerations of FASD? If FASD is the problem for the criminal justice system that it appears to be, and Aboriginal people make up a substantial and disproportionate percentage of those under sentence across the country, does this suggest a connection between FASD and Aboriginal peoples in conflict with the law? A brief examination of the connections between colonialism and the health of Aboriginal people generally may provide some help in answering these questions.

There is an important body of literature which examines the health inequalities experienced by Canada's aboriginal people. Avery Kinew, 2006, Tait, 2000, Tait, 2003a, Tait, 2003b, Kirkmeyer et al. 2000, Canada 1996 are all important examples of this work. The reserve system which was designed in the 19th century to keep Aboriginal people away from both economically productive farmland and emerging urban centres, legislation which denied Aboriginal peoples certain basic rights of citizenship, and perhaps most importantly the residential schools system which was part of a concerted effort at forced assimilation[5], have all played a major part in the higher incidence of factors indicating ill health of Canada's Aboriginal people. As the Royal Commission stated in 1996:

> We are deeply troubled by the evidence of continuing physical, mental and emotional ill health and social breakdown among Aboriginal people. Trends in the data on health and social conditions lead us to a stark conclusion: despite the extension of medical and social services (in some form) to every Aboriginal community, and despite the large sums spent by Canadian governments to provide these services, Aboriginal people still suffer from unacceptable rates of illness and distress. The term 'crisis' is not an exaggeration here (Canada 1996, p15, Ch. 3).

Although there are indications of improvement, the situation overall has not changed significantly since the Royal Commission reported in 1996. More recent data from Health Canada (2000) and the Canadian Institute for Health Information (2004) would indicate that the health of Aboriginal people continues behind those of the general Canadian population.

It is only in the past 15 years or so that the impact of colonialism generally, or the residential school system more specifically, has been the subject of research in Canada with respect to Aboriginal people. The trauma related to the residential school experience, and in particular the intergenerational impact of the trauma has been brought out into the open (Quinn, 2007; Wesley-Esquimaux & Smolewski, 2004). The various commissions of inquiry and the Royal Commission mentioned above have helped to bring these issues into the consciousness of non-Aboriginal Canadians as well as governments. Tait (2003a, 2003b) has written on the issue of FASD and Aboriginal people, looking specifically at the connections between the legacy of colonialism and residential schools experiences, and the linking of FASD to Aboriginal people in both the public mind, and in research studies. The connections between what are termed 'secondary disabilities' of FASD and Aboriginal people merits careful scrutiny. How does one assess some of the apparent indicators of ill health without considering the context within which those indicators appear? The danger is that in considering, for example, the abuse of alcohol by a particular segment of the population, in this case Aboriginal peoples, both the context in which it may occur, and the influence of common stereotypes, are ignored. Of importance to the present discussion is the possibility that attempts to identify the prevalence FASD among Aboriginal People could in fact contribute to discrimination and oppression in ways that end up promoting misunderstandings about both the incidence of FASD within Aboriginal communities, and its connection or lack thereof to over-representation of Aboriginal people in the criminal justice system.

The concerns of Aboriginal peoples in Canada, and on particular concerns like FASD and Aboriginal over-representation in criminal justice, may be part of more complex processes of resistance and attempts for a stronger voice in self-government and self-determination. One set of health researchers has commented on the importance of:

> …ownership of the epidemiological narrative as a critical issue in the production of public understandings of the nature of Aboriginal communities. In Canada, and elsewhere, epidemiological portraits of Aboriginal sickness and misery act as powerful social instruments for the construction of Aboriginal identity. Epidemiological knowledge constructs an understanding of Aboriginal society that reinforces unequal power relationships; in other words, an image of sick, disorganized communities can be used to justify paternalism and dependency (O'Neil, Reading, & Leader 1998 p 230).

Discussions of FASD and Aboriginal people must be mindful of the pitfalls of making too many assumptions about its prevalence, especially among criminal justice offender populations. If over-representation is the result of factors identified by the various Commissions of Inquiry and the Royal Commission, it is perhaps possible that the same or similar factors are at work in the identification of FASD among Aboriginal peoples. One author and researcher who has written extensively on the issue is Catherine Tait (Tait,

2000, 2003a, 2003b). Her work has tried to demonstrate that FASD, although a problem of both Aboriginal and non-Aboriginal communities alike, has been promoted in such a way as to link FASD with individual decisions by Aboriginal women to drink while pregnant.

> …the diagnostic category FAS not only provides a medicalized framework to explain undesirable behavior by individuals and collective dysfunction in Aboriginal communities, but it also provides hope for a better future that is perceived to be obtainable through straightforward changes in behavior—that being the refraining by pregnant women from alcohol use. Significant gains will be made, according to many Aboriginal and non-Aboriginal health and social service providers involved in FAS prevention, specifically a reduction in the range of social problems/"secondary disabilities" attributed to alcohol-related pathology…the source of "Indian problems" to an increasing degree is situated on the backs of Aboriginal women who are led to believe that they have physiologically damaged the brains of large numbers of their children due to their alcohol use (Tait, 2003 p 339-340).

Her conclusion is that the impact of colonialism, discrimination, etc. has been ignored. Instead, the implication appears to be one of 'simply' getting Aboriginal women to stop consuming alcohol during pregnancy and this will eliminate the problem of FASD in Canada. Health research has clearly demonstrated that it is inappropriate to see health as exclusively the result of 'lifestyle choices' and issues around substance abuse as well as other indicators of ill health are also directly related to income inequality, poverty and social exclusion (Raphael, 2002). These are the very factors which many Aboriginal persons in Canada confront every day, as the outcome of their experience with colonialism. For pregnant Aboriginal women seeking treatment of their addiction, barriers to pre-natal care can include, among others, 'unavailability of childcare; fear of having children apprehended were mothers to admit to being addicted; the powerful stigma attached to being pregnant and addicted; and barriers related to treatment programs, such as whether such programs are woman-centred and culturally appropriate' (Mitten, 2004 pp9-20).

FASD, Aboriginal People & Criminal Justice

Correctional administrators must live with the very real possibility of FASD among their inmate populations. Correctional administrators in the Canadian prairies provinces, Manitoba and Saskatchewan in particular, must combine this with the likelihood that given the high percentages of Aboriginal people among their inmates, if there are inmates with FASD, they are probably Aboriginal due to their over-representation in the system.

Research currently underway by the Correctional Service of Canada is attempting to identify the extent of FASD in the federal inmate population, while being mindful of the problems indicated above. As one of the researchers pointed out '[I]n Canada, many

people see the FASD issue as being one associated with the Aboriginal population. We believe that in fact it is more linked to social issues that are prevalent in all groups' (Grant, 2006 personal communication). The problem still remains of what correctional personnel can do with respect to working with those showing signs of FASD, even before a reliable diagnosis is available, and how whatever is proposed can be culturally sensitive to Aboriginal offenders. Contemporary correctional theory in Canada, the UK, the USA and other countries, assumes that programmes for offenders, be they operated in the community or in correctional facilities, are effective if properly structured and delivered. The key to effective (and in this case, effective means being able to reduce the likelihood of reoffending) correctional programmes is adherence to 3 key principles: accurate assessment of risk, identification of criminogenic needs, and programs that match the learning styles of the offenders (also known as the responsivity principle). Assessment of risk is based on accurate collection of information, much of it gathered from the offender her/himself. Persons with cognitive impairment may not be very reliable in the provision of such information, weakening the risk assessment. Many of the programs thought to be consistent with offenders' learning styles are based on cognitive-behavioural theory. While the debate continues over how well this approach to offender management is generally, its use on more specific populations, particularly women offenders, also has attracted debate (e.g. Mair, 2004). With respect to FASD offenders, little can be found in the literature on correctional programming. The Correctional Service of Canada study referred to above (Boland et al. 1998) suggested that 'cognitive-behavioral [programs] with a strong component of interpersonal skills training is helpful for individuals with FAS/FAE because it is more concrete, directive and skills-based than other therapeutic approaches' (p 76).

More broadly, there is a need to take into account the particular needs of Aboriginal FASD offenders, just as Canadian correctional systems have been forced to consider the needs of all Aboriginal offenders. Aboriginal people are also developing their own responses (e.g. Anderson, 2002).

A few suggestions for policy and practice emerge from this discussion. First, there is a clear need for better screening for FASD incidence both within the general population, and in the criminal justice system. Sensitivity must be maintained to the issues surrounding the general experiences of discrimination and oppression of Aboriginal people in Canadian society when considering screening, especially in the inmate populations. The current CSC study (mentioned above) has identified these as issues to be given major consideration in their current research. Social workers will need to be aware of the potential for stereotyping Aboriginal offenders, particularly those where FASD is a possibility but has not been identified. Community-based programs (e.g. diversion programs, family group conferencing, sentencing circles etc.) may be suitable for Aboriginal persons with a FASD, but possibly only within a context that has strong connections to Aboriginal culture and extensive follow-up support that remains consistent with the cultural aspects of the program.

Summary/Conclusions

Any discussion of FASD and criminal justice in Canada must take account of two major issues. The first is the continuing over-representation of Aboriginal persons in the criminal justice system. The second is the impact of three centuries of colonial policies toward Aboriginal persons, and in particular the legacy of discrimination, forced assimilation (largely through the Residential School system) and economic marginalization. Both have created the situation in which FASD among offenders in the criminal justice system is seen to be a problem unique to Aboriginal offenders. Policies toward FASD have been criticized for not recognizing the impact of colonialism on research and identification of FASD. All of this has had implications for criminal justice policy and practice. At the same time, there are Aboriginal persons in the criminal justice system who have been identified as having some aspect of FASD, and for whom services need to be provided. The test for practitioners and policy makers is to develop ways of identifying FASD among offenders which does not perpetuate the stereotypes of Aboriginal peoples. Partnerships with Aboriginal communities in developing screening tools may be one way to do this. A further challenge is to develop programs of support both within the criminal justice system and beyond, which is respectful of and inclusive towards aboriginal culture and traditions. (Mitten 2004) Failure to do either will result in little progress towards addressing this issue, for Aboriginal peoples and others.

End Notes

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3 A conditional sentence is one in which the offender is permitted to serve a custodial sentence in the community, most often under a form of house arrest.

4 The present author was a research consultant to that Inquiry.

5 Although not part of the reserve system, the Mètis were subjected to a systematic loss of their land, often originally promised by the federal or provincial governments (Canada 1996, pp. 33-34, Chp.5). Economic marginalization followed.

References

Anderson, D. (2002) 'Traditional Aboriginal Justice' in *Ontario Association of Friendship Centres Special Report: Aboriginal Approaches to Fetal Alcohol Syndrome/Effects*. Toronto: Ontario Association of Friendship Centres.

Avery Kinew, K. (2006) 'Returning to Pimatiziwin: Overcoming Indigenous People's Health Inequalities in Manitoba and Canada. The Role of Research, Intervention, Advocacy and Alliances in Social Work'. Unpublished paper presented at the *Health Inequalities Seminar Series*, University of Coventry, March 27-29, 2006

Boland, F. J., Burrill, R., Duwyn, M. & Karp, J. (1998) *Fetal Alcohol Syndrome: Implications For Correctional Service*. Ottawa: Correctional Service of Canada

Burd, L., Selfridge, R. H., Klug, M. G., Juelson, T., (2003) Fetal Alcohol Syndrome in the Canadian Corrections System, *Journal of FAS International*, Volume 1. http://www.motherisk.org/JFAS_documents/FAS_Corrections_REV.pdf

Canada (1996) *Royal Commission on Aboriginal Peoples* Report Ottawa: Indian and Northern Affairs Canada. http://www.ainc-inac.gc.ca/ch/rcap/sg/ sgmm_e.html

Canada (2000) *Statistical Profile on the Health of First Nations in Canada-Highlights*. Ottawa: Health Canada. http://www.hc-sc.gc.ca/fnih-spni/pubs/gen/stats_profil_e.html

Canada (2003) *Fas/Fae Information Tool Kit*. Halifax: Population and Public Health Branch First Nations and Inuit Health Branch Atlantic Region

Canada (2006a) *It's Your Health: Fetal alcohol Spectrum Disorder*. Ottawa: Health Canada.

Canada (2006b) Adult Correctional Services in Canada, *Juristat* 26(5)

Canadian Institute for Health Information (2004) Improving the Health of Canadians Chapter 4: *Aboriginal People's Health*, Ottawa: Canadian Institute for Health Information (http://www.cihi.ca)

Chudley, A. E., Conry , J., Cook, J. L., Loock, C., Rosales, T., and LeBlanc, N. (2005) Fetal alcohol spectrum disorder: Canadian guidelines for diagnosis. *Canadian Medical Association Journal* 172 (3/05) pp. S1- S21

Enns, K. W. (2004) *Community justice forums and offenders with intellectual disabilities*. Unpublished MSW Practicum Report, Manitoba: University of Manitoba

Fast, D. K. & Conry, J. (2004) The challenge of fetal alcohol syndrome in the criminal legal system. *Addiction Biology* 9(6/04) pp161-166

Fast, D. K. & Conry, J. & Loock, C. (1999). 'Identifying FAS Youth in the Criminal Justice System' *Developmental and Behavioral Pediatrics*, 20 pp370-372.

Grant, B. A., MacPherson, P. and Chudley, A. E. (2006) Update on Research in a Federal Prison on Fetal Alcohol Spectrum Disorder. Unpublished paper

Grant, B. A. (2006) Personal communication

Hamilton, A.C., and Sinclair, C.M. (1991). *Report of the Aboriginal Justice Inquiry of Manitoba*. Volume 1: The Justice System and Aboriginal People. Winnipeg: The Queen's Printer.

Jackson, M. (1988). Locking up Natives in Canada: *A Report of the Canadian Bar Association Committee on Imprisonment and Release*. Ottawa: Canadian Bar Association

Kirmayer, L. J., Brass, G. M., Tait, C. L. (2000). 'The Mental Health of Aboriginal Peoples: Transformations of Identity and Community'. *Canadian Journal of Psychiatry*, 45(7) pp607-617.

Law Reform Commission of Canada (1991) *Report on Aboriginal Peoples and Criminal Justice: Equality, Respect and the Search for Justice*. Ottawa: Law Reform Commission

Mair, G. (ed.) (2004) *What Matters in Probation*. Cullompton: Willan Publishing.

Mitten, R. (2004) *Fetal Alcohol Spectrum Disorders (FASDS) and the Justice System: A submission to the (Saskatchewan) First Nations and Metis Justice Reform Commission, Final Report, Volume II* http://www.asantecentre.org/_Library/docs/Criminalization_of_FAS.pdf reference for CrimofFASD.pdf

Moore, T. E. and Green, M. (2004) Fetal Alcohol Spectrum Disordere (FASD): A need for closer examination by the criminal justice system. *Criminal Reports* 19(1) pp99-108

O'Neil, J. (2004) Aboriginal Health Governance, *Journal of Aboriginal Health* 1(1) p4

O'Neil, J., Reading, J. & Leader, A. (1998). 'Changing the Relations of Surveillance: the development of a discourse of resistance in Aboriginal epidemiology' *Human Organization*, 57(2) pp.230-237

Quinn, A. (2007) "Reflections in Intergenerational Trauma: Healing as a Critical Intervention." *First Peoples Child & Family Review*, 3 pp72-82

Raphael, D. (2002) *Poverty, Income Inequality, and Health in Canada*. Toronto: The CSJ Foundation for Research and Education http://www.socialjustice.org/pdfs/PovertyIncomeHealth.pdf

Stade, B., Clark, K. & D'Agostino, D. (2004) Fetal Alcohol Spectrum Disorder and Homelessness: Training Manual *Journal of FAS International*, 2:e10 – June http://www.motherisk.org/JFAS/econtent_commonDetail.jsp?econtent_id=63

Streissguth, A., Bookstein, F. L., Barr, H. M., Sampson, P. D., O'Malley, K. and Kogan Young, J. (2004) Risk factors for adverse life outcomes in fetal alcohol syndrome and fetal alcohol effects. *Journal of Developmental & Behavioral Pediatric*, 25(4) pp 228-239

Tait, C. L. (2000). Aboriginal Identity and the Construction of Fetal Alcohol Syndrome. In L.J.Kirmayer, M.E. Macdonald and G.M. Brass (eds.) (2000). *The Mental Health of Indigenous Peoples: Proceedings of the Advanced Study Institute*. Montreal: Culture and Mental Health Research Unit. Report No. 10: 95-111.

Tait, C. L. (2003a) *"The Tip Of The Iceberg": The "Making" of Fetal Alcohol Syndrome in Canada*. Unpublished PhD dissertation, McGill University available from http://www.mcgill.ca/files/namhr/Tait-2003.pdf

Tait, C. L. (2003b) *Fetal Alcohol Syndrome among Aboriginal People in Canada: Review and Analysis of the Intergenerational Links to Residential Schools*. Ottawa: Aboriginal Healing Foundation

Verbrugge, P. (2003) *Fetal Alcohol Spectrum Disorder and the Youth Criminal Justice System: A Discussion Paper*. Ottawa: Department of Justice. http://www.justice.gc.ca/en/ps/rs/rep/2003/rr03yj-6/rr03yj-6.html

Wesley-Esquimaux, C. C., & Smolewski, M. (2004). *Historic trauma and aboriginal healing*. Ottawa: Aboriginal Healing Foundation