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TOWARDS AN FASD-INFORMED JUSTICE SYSTEM

PREPARED FOR THE DEPARTMENT OF JUSTICE,
GOVERNMENT OF NUNAVUT

PIRUQATIGIIT RESOURCE CENTRE



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PIRUQATIGIIT
RESOURCE CENTRE

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Executive Summary

This report is presented to the Department of Justice, in collaboration and support of the work Justice is doing. As a community of practice in Nunavut, we can all work together to support Nunavummiut affected by Fetal Alcohol Spectrum Disorder.

There are many successes in our territory's approach to justice and many staff at Justice who provide essential services. There are also opportunities for improvement and places where we can align with the best practices in supporting individuals with Fetal Alcohol Spectrum Disorder, their families and communities. When our communities and systems understand how to support individuals and families, and fully implement interventions, we can prevent justice involvement for vulnerable individuals and reduce harms caused to community members.

We acknowledge that some of the recommendations described here are already in the process of being planned, implemented or evaluated. To the best of our knowledge, we have mentioned the connections to ongoing projects at the Department of Justice. This points to the potential value of these projects and a shared vision between Piruqatigiit Resource Centre and the Government of Nunavut in these areas.

In 2019, Piruqatigiit Resource Centre conducted training for Baffin Correctional Centre and Young Offenders staff. Some staff shared experiences and feedback, through a brief five question confidential survey. The survey answers provide specific feedback on how to improve staff wellness and client experience as a result. From the ideas collected in this survey and at training, Piruqatigiit Resource Centre began to assemble the recommendations in this report.

As well as the wisdom shared by justice professionals, this review draws upon a number of expert recommendations, the current body of evidence, knowledge from Piruqatigiit Resource Centre's Inuit Advisory Circle and lived experience of Nunavummiut with FASD and their families.

These recommendations reflect a holistic approach to system improvement but have been grouped by themes for ease of organization. The categories are:

- Policy & Planning
- Human Resources
- Community-Based Programs
- Corrections
- Court Services

Background

“We’ve known for a long time that children, youth and adults have behaviour problems and difficulties because of prenatal alcohol use. It’s time to talk openly about it.”

Annie Nattaq, Piruqatigiit Elder Advisor

What is FASD?

Language is important when discussing Fetal Alcohol Spectrum Disorder (FASD). The Canada FASD Research Network (CanFASD) has developed a definition to create consistency across Canada:

“Fetal Alcohol Spectrum Disorder (FASD) is a lifelong disability that affects the brain and body of people who were exposed to alcohol in the womb. Each person with FASD has both strengths and challenges and will need special supports to help them succeed with many different parts of their daily lives.”¹

Piruatigiit Resource Centre (Piruatigiit) uses the current FASD diagnostic term in our work, and strongly encourages that all levels of government, service providers and policy reflect the same terminology. Piruatigiit uses the current terminology as knowledge grows and evolves. This is important because some of the current stigma about FASD is related to previous definitions. Historically, some experts believed it could be determined if someone has FASD by looking at their appearance.

After a lot of research and learning from people with FASD, there is no longer a heavy focus on facial differences (referred to as sentinel facial features) as a necessary criterion for FASD. The presence or absence of facial features does not indicate how much a person is affected by FASD. The presence of facial features simply means the timing of alcohol use was likely in the third week of gestational development, which interrupted typical facial development of the eyes, upper lip and philtrum (groove between the mouth and nose).

According to CanFASD, most people with FASD do not have distinguishable facial features². In 2015, the Canadian diagnostic guidelines were updated³; the two current diagnostic categories are FASD with sentinel facial features and FASD without sentinel facial features. There is a third

¹ CanFASD. (2019). Public Definition of Fetal Alcohol Spectrum Disorder (FASD). Retrieved from: <https://canfasdblog.com/2019/11/13/public-definition-of-fetal-alcohol-spectrum-disorder-fasd/>

² CanFASD. (2019). Basic Information. Retrieved from: <https://canfasd.ca/topics/basic-information/>

³ Cook et al. (2016). Fetal alcohol spectrum disorder: a guideline for diagnosis across the lifespan. CMAJ 188 (3) 191-197; doi: <https://doi.org/10.1503/cmaj.141593>

category for those who do not meet criteria for FASD diagnosis but are “at risk of neurodevelopmental disorder”⁴.

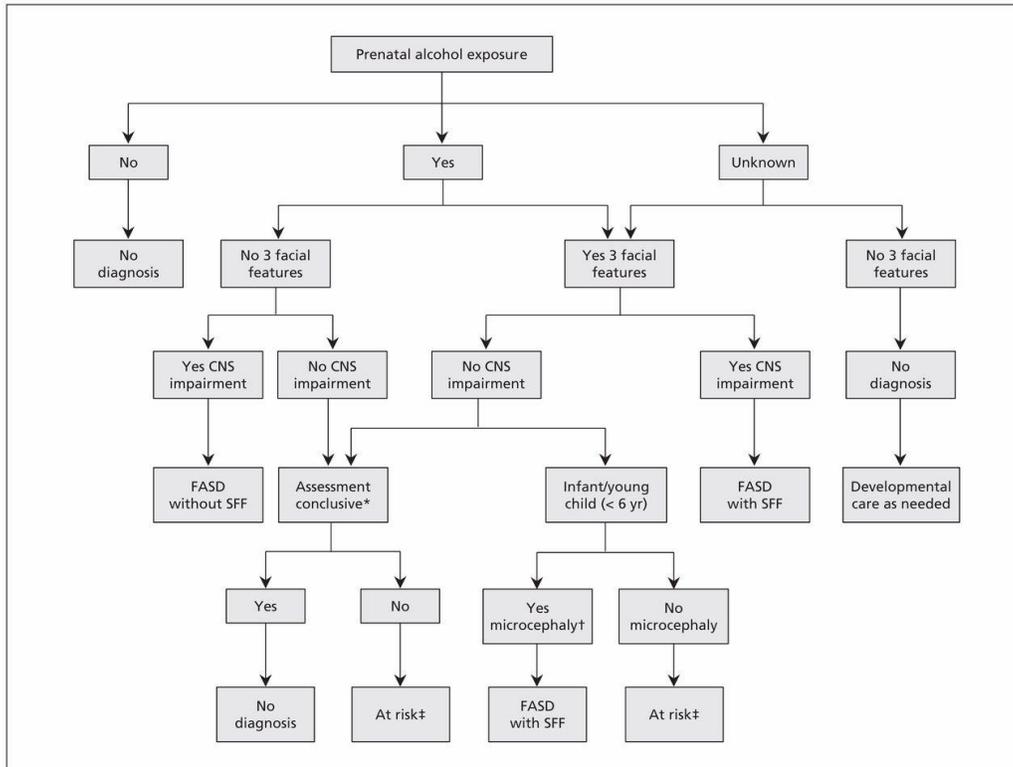


Figure 1 Diagnostic algorithm for FASD (Cook et al., 2016).

The brain and central nervous system (CNS) continue to develop throughout pregnancy. Alcohol exposure at any stage of pregnancy can affect CNS development, which is why many common features of FASD are related to brain function. Other organs and systems in the body may also be affected, depending on timing of alcohol exposure and other complex factors. The neurodevelopmental aspect of FASD primarily impacts ten brain domains⁵:

- Neuroanatomy/neurophysiology: brain and nervous system’s structure and function;
- Cognition: thinking, information processes, and learning;
- Language: receptive and expressive language, processing speed, and comprehension;
- Academic achievement;
- Memory: storage and retrieval;

⁴ Previously, there were four possible diagnoses on the spectrum of FASD, including Fetal Alcohol Syndrome (FAS), partial FAS, fetal alcohol effects (FAE), and alcohol-related neurodevelopmental disorder (ARND). These categories of diagnosis are no longer used in Canada.

⁵ Healthy Child Manitoba. (2018). What educators need to know about FASD: working together to educate children in Manitoba with fetal alcohol spectrum disorder. Winnipeg, MB: Government of Manitoba.

- Memory can also be affected indirectly by attention deficits, mood regulation and sleep difficulties associated with FASD;
- Attention: difficulty concentrating, tuning out distractions, and focusing;
- Affect regulation: mood, emotional regulation, ability to cope, and hyperactivity;
- Executive function: impulse control, higher order thinking, planning and organizing, prioritizing, anticipating outcomes, abstract reasoning, understanding cause and effect, and applying meaning to perceived threat cues;
- Adaptive behaviour, social skills and social communication: functional capacity of the individual, ability to transfer learning and skills, ability to read social cues and the intention of others, and ability to adapt and adjust to changing circumstances;
- Motor skills: movement, coordination, balance, gait, and spatial awareness.

Prevalence

Recent research estimates the prevalence of FASD in Canada is approximately 4%⁶. A systematic review estimated the global prevalence of FASD among children and youth is 7.7%⁷. At present, we are not aware of any reliable data about how many Nunavummiut have FASD. Currently, Nunavut does not have diagnostic services for adults and has a small capacity for pediatric assessments. Therefore, the number of FASD diagnoses reported is extremely small. However, if the Canadian estimate is applied to Nunavut, that could mean over 1,500 people in Nunavut have FASD.

Due to racism and colonialism, FASD has sometimes been classified as an ‘Indigenous issue’, which is a harmful misconception. Anyone can be affected by FASD and anyone can contribute to the development of FASD through alcohol use. There is no racial difference that makes Indigenous people more prone to FASD. Ongoing colonialism, lack of access to services, stigma and racism are social determinants of health and impact the development of FASD and other medical conditions.

“FASD affects all people from all places and backgrounds. FASD does not only affect Indigenous communities. FASD exists wherever alcohol is consumed.”

Jennifer Noah, 2019

⁶ Flannigan K, Unsworth K, & Harding K. (2018). The Prevalence of Fetal Alcohol Spectrum Disorder. Vancouver BC: Canada FASD Research Network.

⁷ Lange et al. (2017). Global prevalence of Fetal Alcohol Spectrum Disorder Among Children and Youth: A Systematic Review and Meta-analysis. JAMA Pediatrics, 171(10):948-956. doi: 10.1001/jamapediatrics.2017.1919.

As well, these same social determinants impact who has access to the appropriate FASD-related supports, interventions and accommodations across the lifespan in order to reach one’s full potential. Although FASD is a disability that impacts anyone from anywhere, those most impacted tend to have less equitable access to the very resources, livelihood, and essentials for reaching high quality of life, leading to further adverse outcomes associated with FASD.

Inuit Tapiriit Kanatami (ITK) has identified specific determinants of health most relevant to Inuit. A holistic approach to health, justice and social services includes looking at the variety of factors that contribute to the conditions that create illness, crime, and disconnection. With the social determinants of health approach, we can see how all of life is connected, as is aligned with Inuit Qaujimajatuqangit. The key determinants of Inuit health identified by ITK are: quality of early childhood development, culture and heritage, livelihoods, income distribution, housing, personal safety and security, education, food security, availability of health services, mental wellness, and the environment⁸.

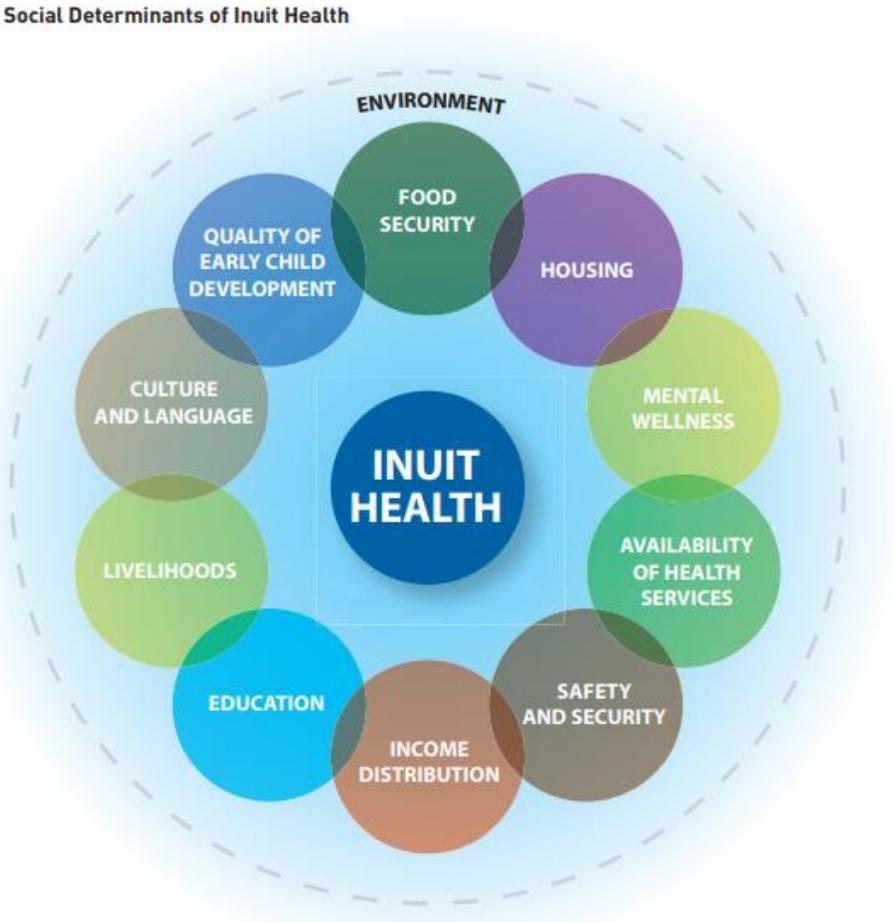


Figure 2 Social determinants of Inuit Health (ITK, 2014).

All of these factors are important societal influences on someone’s health and well-being, and can contribute to the development of disease or the support and maintenance of health.

⁸ Inuit Tapiriit Kanatami. (2014). Social determinants of Inuit health in Canada. Ottawa, ON: ITK.

Consideration of these factors helps to understand the conditions that may make someone more likely to develop FASD. The presence of a trauma history, misconceptions about the impacts of alcohol use in pregnancy, and a permissive drinking culture can increase a person's risk of consuming alcohol, which may increase prevalence rates of FASD. Additional risk factors for prenatal alcohol use include:

- Not being aware of pregnancy
- Experiencing high rates of stress
- Family violence and intimate partner violence
- Forced alcohol use by a partner or other person pressuring alcohol use
- Inconsistent health messaging about alcohol use in pregnancy
- History of substance use and addiction
- Feeling alone and unsupported
- Having a hidden disability such as FASD
- Not having access to resources, support and information

Researchers and the FASD community agree that the prevalence of FASD is likely much higher than what is reported for many reasons. An explanation for this discrepancy includes fear, stigma, lack of FASD knowledge or capacity within healthcare and other systems, and the complex, multidisciplinary diagnostic process. Some people may have difficulty getting a diagnosis if they are unable to confirm prenatal alcohol exposure. Some parents are fearful of confirming alcohol use during pregnancy due to risk of child welfare involvement, which often disproportionately affects Indigenous families. Confirmation of prenatal alcohol exposure can be provided by sources other than biological parents. For example, adoptive parents or other trusted family members can confirm if they witnessed alcohol use during the pregnancy of the person suspected as having FASD.

Access to diagnostic services will not only provide accurate prevalence information but can also rule out other neurodevelopmental diagnoses that may have been inaccurately suspected or given.

In Canada, it is estimated that over 50% of pregnancies are unplanned⁹. Additionally, about 75% of Canadian women reported alcohol use in the past year¹⁰. With this information, we know that unintentionally alcohol-exposed pregnancies are probable. The reported rate of alcohol use during pregnancy in Canadian literature is around 11%¹¹.

⁹ The Society of Obstetricians and Gynaecologists of Canada. (2019). Unintended pregnancy. Retrieved from: <https://www.pregnancyinfo.ca/your-pregnancy/special-consideration/unintended-pregnancy/>

¹⁰ Government of Canada. (2017). Canadian Tobacco, Alcohol and Drugs Survey (CTADS): summary of results for 2017. Retrieved from: <https://www.canada.ca/en/health-canada/services/canadian-tobacco-alcohol-drugs-survey/2017-summary.html>

¹¹ Walker, M., Al-Sahab, B., Islam, F., & Tamim, H. (2011). The epidemiology of alcohol utilization during pregnancy: an analysis of the Canadian Maternity Experiences Survey (MES). *BMC Pregnancy and Childbirth*, 11(1), 52. doi:10.1186/1471-2393-11-52

Emerging research also confirms a biological father's consumption of alcohol can affect fetal development from the point of conception. Affected sperm may increase the risk of FASD (if the mother consumed alcohol during pregnancy) or lead to brain differences resembling FASD even if the mother did not consume any alcohol during the pregnancy¹². In 2017, 79% of Canadian males reported consuming alcohol in the last year¹³.

With this in mind, the prevalence of FASD in Canadian populations is likely higher than 4%. As a territory and nation, we need to work together toward promoting respectful, culturally responsive conversations and support for people with FASD as well as for those who are pregnant or parenting.

FASD in Correctional Settings

There remains limited empirical evidence of the confirmed prevalence of FASD within the correctional system, with varying data collection approaches impacting those figures. It is however apparent, with general agreement across systems and within the field of FASD research and service provision, that the rate of undiagnosed FASD within the justice-involved population is very high.

Popova et al. identified youth with FASD were nineteen times more likely to be incarcerated than their peers without FASD¹⁴. Reports about the prevalence of FASD within correctional facilities range between 10-36%^{15,16,17,18}.

Factors Affecting Criminal Justice Involvement

“The cognitively challenged are before our courts in unknown numbers. We prosecute them again and again and again. We sentence them again and again and again. We imprison them again and again and again. They commit crimes

¹² Liyanage-Zachariah, V. and Harding, K. (2019). Genetic and epigenetic perspectives on the role of fathers in fetal alcohol spectrum disorder. Vancouver, BC: Canada FASD Research Network.

¹³ Government of Canada. (2017). Canadian Tobacco, Alcohol and Drugs Survey (CTADS): summary of results for 2017. Retrieved from: <https://www.canada.ca/en/health-canada/services/canadian-tobacco-alcohol-drugs-survey/2017-summary.html>

¹⁴ Popova et al. (2011). Fetal alcohol spectrum disorder prevalence estimates in correctional systems: a systematic literature review. *Can J Public Health*, 102(5):336-40.

¹⁵ Correctional Service Canada. (2011). Fetal Alcohol Spectrum Disorder (FASD) in a correctional population: Prevalence, screening and characteristics. Retrieved from: <https://www.csc-scc.gc.ca/research/005008-0247-eng.shtml>

¹⁶ Murphy, A., Chittenden, M., & The McCreary Centre Society (2005). *Time Out II: A Profile of BC Youth in Custody*. Vancouver, BC: The McCreary Centre Society.

¹⁷ McLachlan et al. (2019). Prevalence and characteristics of adults with fetal alcohol spectrum disorder in corrections: a Canadian case ascertainment study. *BMC Public Health*, 19(1):43. doi: 10.1186/s12889-018-6292-x.

¹⁸ Bower et al. (2018). Fetal alcohol spectrum disorder and youth justice: a prevalence study among young people sentenced to detention in Western Australia. *British Medical J Open*, 8(2):e019605. doi: 10.1136/bmjopen-2017-019605.

again and again and again. We wonder why they do not change. The wonder of it all is that we do not change.”¹⁹

Justice Trueman

Considering that up to one third of the residents in correctional facilities may have FASD, we must consider the reasons people with FASD may experience criminal justice system involvement as an adverse outcome related to their disability. There are many people with FASD who will not be involved with the criminal justice system. However, the impacts of FASD can make someone more vulnerable to being Justice-involved, without early identification and the proper support to them as individuals and their family and community.

Without the understanding and support of family, community and formal social supports to provide wraparound services, supervision and coaching, an individual with FASD may be at increased risk of becoming justice involved. When our communities and systems understand how to properly support individuals and families, and fully implement these interventions, we can prevent justice involvement for vulnerable individuals and reduce harms caused to community members.

“There is no other disability where the characteristics (related to the brain domains) create the same kind of risk for individuals to come before the criminal justice system.”²⁰

- Fia Jampolsky, Lawyer, Chair of Yukon Human Rights, 2013

The specific neurodevelopmental ways FASD may manifest can contribute to involvement with the criminal justice system, by affecting behaviour. Some specific examples of how FASD may affect someone’s behaviour include:

Cognition and learning

- Difficulty learning through the conventional punishment and reward systems, resulting in repeating past mistakes or continuing to employ maladaptive behaviours;
- Difficulty with sound judgement and reasoning;
- Struggling to follow through with intentions or follow instructions without support, coaching, and constant repetition or observation and practice; and,
- Difficulty with abstract processing including cause and affect or anticipating outcomes of actions.

¹⁹ R. v. Harris, 2002 BCPC 33 (CanLII), Retrieved from: <http://canlii.ca/t/5t1x>.

²⁰ Jampolsky, F. (2013). Implications of FASD for the Legal System – the Revolving Door of Criminal Justice [Video file]. Retrieved from: <https://www.youtube.com/watch?v=ay1RM4rhBec>

Academic achievement, memory, and attention

- Missing appointments or struggling to remember routines, medication management, and other hygiene or expected daily living tasks;
- Frequently missing work or difficulty maintaining employment or studies; and,
- Confabulating (the brain unconsciously fills memory gaps with fictional or distorted information without the intent of lying). This impacts individuals who are victims of crime, perpetrators of crime and witnesses. Confabulation differs from lying and is a direct result of memory error and a brain-based disability. Justice professionals may perceive this behaviour as intentional if they are not aware of how FASD can impact the brain.

Executive function and affect regulation

- Experiencing limbic reactivity, due to decreased executive functioning capacity to decipher legitimate threats; may mis-perceive threat and act aggressively or defensively without provocation;
- Being impulsive and engaging in risk-taking, substance use and other adverse behaviour leading to adverse outcomes impacting themselves and others; and,
- Experiencing higher risk of substance use and co-morbid mental health difficulties, as well as increased risk of death by suicide or overdose.

Adaptive behaviours, language and communication

- May be developmentally dysmature (functional capacity is not equal to chronological age); may not be able to follow through with expected age-related capacities;
- Being comfortable in the company of people younger than them, which is a better fit for them socially/emotionally; however, this may be inappropriate for others; and,
- Seeking belonging and membership, which often makes them vulnerable to others who may not have good intentions.

Individuals with FASD may experience dysmaturity in one or more areas, such as communication, expressive language, social skills, self-care and life skills, mood regulation and others²¹. Maturity levels might vary from person to person and between an individuals' brain domains; simultaneously, some people experience elevated maturity levels in some domains.

Corrections Staff and Stress

When discussing FASD and the justice system, we must also consider how to create an environment in which frontline justice professionals can implement best practices.

Working in a correctional setting can be a highly stressful experience, involving witnessing violence, having personal safety threatened, and the common risk of physical assault and other difficult events. When people feel stressed over a period of time and their ability to cope is exceeded, they may develop work burnout, defined by the World Health Organization by low

²¹ Centre for Addiction and Mental Health. (2019). Fetal alcohol spectrum disorders (FASD). Retrieved from: <https://www.camh.ca/en/health-info/mental-illness-and-addiction-index/fetal-alcohol-spectrum-disorder>

energy; decreased job efficacy; and emotional distance or negative view of one's job²². Corrections staff may also experience compassion fatigue, as a result of being exposed to difficult situations and witnessing suffering. This is a condition experienced by many people in helping professions and similar to work burnout, can result in loss of productivity²³.

A study in Washington found the Post-Traumatic Stress Disorder (PTSD) rate among correctional workers was 1 in 5, as high as combat veterans. Officers of colour, women, and officers working for 10 years or longer were more likely to be affected²⁴.

The chronic stress experienced by correctional workers can contribute to impatience with clients and coworkers, difficulty concentrating, anger outbursts, and other factors that affect job performance. Work-related stress can also increase susceptibility to addiction or other self-medicating behaviours. Understandably, it can be difficult to implement trauma-informed strategies under these circumstances, as this usually requires the staff to be able to self-regulate their own emotional responses. With this in mind, consideration must be taken on how to support staff to feel safe, valued and heard as an employee. Developing a supportive work environment and culture can also reduce staff turnover and absenteeism.

In the face of stress, practices that can reduce the likelihood of developing PTSD include opportunities to debrief difficult events within an appropriate time frame (such as support circle), supportive relationships, knowing what actions to take in response to the event, and having positive coping strategies²⁵. The best environment for clients with FASD is one where employees feel supported and safe and have FASD and trauma knowledge, so they can be responsive to clients' needs and strengths.

Strategic Guidance

Truth & Reconciliation Commission Calls to Action

Based on the testimony of many First Nations, Métis, and Inuit in Canada, the Truth and Reconciliation Commission (TRC) made several recommendations of how local, territorial, and federal governments can begin to repair the extensive harms caused by colonial practices across the country.

Residential schools, the tuberculosis (TB) epidemic and associated family separation; relocation programs and forced settlements; the dog slaughters and other deeply harmful colonial practices aimed at the cultural genocide of Inuit continue to affect the lives and well-being of Nunavummiut and Inuit across Inuit Nunangat. These events happened in recent history: the last residential school closed in 1996; the dog slaughters and forced relocations happened

²² World Health Organization. (2019). Burn-out an "occupational phenomenon": International Classification of Diseases. Retrieved from: https://www.who.int/mental_health/evidence/burn-out/en/

²³ Centre for Addictions and Mental Health. (2020). Is there a cost to protecting, caring for and saving others? Beware of Compassion Fatigue. Retrieved from: <https://www.camh.ca/en/camh-news-and-stories/is-there-a-cost-to-protecting-caring-for-and-saving-others-beware-of-compassion-fatigue>

²⁴ James, L. & Todak, N. (2018). Prison employment and post-traumatic stress disorder: Risk and protective factors. *American Journal of Industrial Medicine*; DOI: 10.1002/ajim.22869.

²⁵ Centre for Addiction and Mental Health. (2019). Posttraumatic stress disorder. Retrieved from: <https://www.camh.ca/en/health-info/mental-illness-and-addiction-index/posttraumatic-stress-disorder>

approximately from 1950 to the 1970s^{26,27}; and over a century after TB was introduced into the north by settlers, Inuit continue to have 290 times higher rates than non-Indigenous people born in Canada²⁸.

To create an FASD-informed justice system, we must consider the role of intergenerational trauma, as it relates to the existence of FASD, behaviours and justice-involvement. The TRC Calls to Action include 18 justice recommendations and two sections specifically addressing FASD. TRC Call to Action #34 reads:

“We call upon the governments of Canada, the provinces, and territories to undertake reforms to the criminal justice system to better address the needs of offenders with Fetal Alcohol Spectrum Disorder (FASD), including:

- i. Providing increased community resources and powers for courts to ensure that FASD is properly diagnosed, and that appropriate community supports are in place for those with FASD.
- ii. Enacting statutory exemptions from mandatory minimum sentences of imprisonment for offenders affected by FASD.
- iii. Providing community, correctional, and parole resources to maximize the ability of people with FASD to live in the community.
- iv. Adopting appropriate evaluation mechanisms to measure the effectiveness of such programs and ensure community safety.”²⁹

Implementing this Call to Action will require extensive, systemic change at all levels, which can be challenging for organizations to approach. CanFASD developed a Framework for Action to guide work in this area, including twelve actionable steps³⁰.

1. Mandatory Education about Systemic Racism
2. Equal Access to Paid Gladue Reports Across Jurisdictions
3. FASD-Informed Training Practices:
 - Frontline inside the courts
 - Frontline outside the courts
4. Expand Therapeutic Justice Practices

²⁶ Qikiqtani Inuit Association. (2013). Qikiqtani Truth Commission: Analysis of the RCMP Sled Dog Report. Retrieved from: https://www.qtcommission.ca/sites/default/files/public/thematic_reports/thematic_reports_english_rcmp_sled_dog.pdf

²⁷ Qikiqtani Inuit Association. (2013). Nuutauniq: Moves in Inuit Life. Retrieved from: https://www.qtcommission.ca/sites/default/files/public/thematic_reports/thematic_reports_english_nuutauniq.pdf

²⁸ Patterson M, Flinn S, & Barker K. (2018). Addressing tuberculosis among Inuit in Canada. Canada Communicable Disease Report. 44(3/4):82-5. Retrieved from: <https://doi.org/10.14745/ccdr.v44i34a02>

²⁹ Truth and Reconciliation Commission of Canada. (2015). Truth and Reconciliation Commission of Canada: Calls to Action. Winnipeg, MB: Truth and Reconciliation Commission of Canada.

³⁰ Stewart, M. & Glowatski, K. (2018). Truth and reconciliation call to action #34: A framework for action. Canada FASD Research Network, Regina, SK.

5. Enhance Alternative Diagnostic Practices
6. Strengthen Community Supports
7. Implement Sentencing Reform During Current Justice Review
8. Remove Mandatory Court Fees
9. Robust Release Planning
10. Bail/Release Conditions that are FASD Informed
11. Evidence-Based Internal/External Evaluations of Programs
12. Training for Communities to Develop and do Evaluation

Recommendations for the Department of Justice, including implementing Call to Action #34, are discussed in the next section.

Turaaqtavut

The recommendations in this report are developed to align with the Government of Nunavut's mandate, *Turaaqtavut*³¹, and the principles identified by the current legislative assembly, especially:

- **“Inuusivut:** We will work towards the well-being and self-reliance of our people and our communities.”

Creating FASD-informed systems in Nunavut will help people affected by FASD to live to their highest potential and reach greater well-being, and reduce the Territory's dependence on southern supports for families and individuals. Key aspects of this priority that relate to FASD are valuing the input of Elders and their knowledge, as well as increasing support for community-based justice and healing.

- **“Sivummuqaqpaliajjuvut:** We will provide education and training that prepares children, youth, and adult learners for positive contributions to society and for meaningful employment.”

To achieve implementation of TRC Call to Action #34 and meet the needs of Nunavummiut, increased education and training will be required to ensure front-line staff and policy makers within the public service are FASD-informed. Increased education and training will also allow the Government of Nunavut to increase Inuit employment by making more inclusive, safe, and accessible workplaces for anyone with neurocognitive disabilities or mental health difficulties.

- **“Inuunivut:** We will strengthen Nunavut as a distinct territory in Canada and the world.”

Using Inuit Qaujimajatuqangit to inform legislation and policy is a key principle of the government's mandate and a part of achieving our collective goals. As territorial

³¹ Government of Nunavut. (2017). *Turaaqtavut*. Retrieved from: <https://gov.nu.ca/information/turaaqtavut-0>

organizations, we have an obligation to develop policy and programs that align with the people in our territory.

"In this era, discussion of limited funding is merely another way to avoid implementing constitutional rights and human rights."

*Marie Battiste, Mi'kmaw Educator, Author, and Researcher at the University of Saskatchewan*³²

Inuit Qaujimagatugangit

Piruatigiit Resource Centre's Inuit Advisory Circle strongly supports an open discussion of FASD that is respectful and strengths-based, so that Nunavummiut with suspected and confirmed FASD can receive the support and accommodations that they might need without shame or stigma.

Elders have shared that FASD did not exist before colonialism and is a result of the introduction of alcohol to Inuit, first by whalers and traders. Therefore, alcohol was not a known substance, and there was few cultural rituals and knowledge to guide alcohol use³³. Pauktuutit Inuit Women of Canada have said that "traditional Inuit prenatal nutritional knowledge advised pregnant women not to consume berries at certain times of the year because of natural fermentation"³⁴. The introduction of alcohol was sudden, along with other colonial events of the same period³⁵.

The importance of talking openly about FASD is guided by the Inuit Societal Values of *Tamatta* (interconnectedness; all of us together); *Tunnganarniq* (Fostering good spirit by being open, welcoming and inclusive); and *Inuuqatigiitsiarniq* (Respecting others, relationships and caring for people). These values support Nunavummiut with FASD, but also help to reduce shame, blame and stigma for people who used alcohol and other substances during pregnancy.

By making it safe and welcoming to talk about FASD, more people and families can ask for the help and resources that they might need that promotes well-being, harmonious relationships, and to prevent adverse outcomes.

³² Battiste, M. (2000). Maintaining Aboriginal Identity, Language, and Culture in Modern Society. In M. Battiste (Eds.), *Reclaiming Indigenous voice and vision* (pp.193-208). Vancouver, BC: UBC Press.

³³ Korhonen, M (National Aboriginal Health Organization, Ajunnginiq Inuit Centre). (2005). Alcohol and Inuit Communities: Current services and new directions [presentation]. Available from: https://www.saintelizabeth.com/getmedia/27d52e0f-b516-4b59-9293-09d5f5414a3e/2005_Alcohol_CCSA_presentation.pdf.aspx?ext=.pdf

³⁴ Pauktuutit Inuit Women of Canada. (2020). Fetal alcohol spectrum disorder. Retrieved from: <https://www.pauktuutit.ca/health/fetal-alcohol-spectrum-disorder/>

³⁵ Korhonen, M (National Aboriginal Health Organization, Ajunnginiq Inuit Centre). (2005). Alcohol and Inuit Communities: Current services and new directions [presentation]. Available from: https://www.saintelizabeth.com/getmedia/27d52e0f-b516-4b59-9293-09d5f5414a3e/2005_Alcohol_CCSA_presentation.pdf.aspx?ext=.pdf

Recommendations for Action

Evidence-Based Practices

This review draws upon a number of recent expert recommendations, including CanFASD's Framework for Action on TRC Call to Action #34 (developed with input from a national symposium)³⁶, the Final Report from the Steering Committee on FASD and Access to Justice³⁷, and Pei et al.'s 2018 review of the literature³⁸. Many recommendations from these sources focus on policy-level and systemic changes.

There is limited evidence in the literature outlining specific strategies and best practices for providing FASD-informed spaces within correctional facilities, courts and other divisions of Justice. However, several jurisdictions are working closely with stakeholders such as people with lived experience, service providers, researchers, and all justice divisions to develop FASD specific programs, court diversion, and front-end recidivism prevention programs a reality in their communities with success. Additionally, strategies from other sectors like the educational system can be adapted with success.

In 2019, Piruqatigiit Resource Centre gathered Justice staff experiences and feedback, following training for BCC and Young Offenders staff. As conversations unfolded, it became apparent that a brief five question confidential survey would be a helpful tool. The survey answers provide specific feedback on how to improve staff wellness and client experience as a result. In total, there were three written responses to the survey, though several others provided in-person feedback at the trainings. For a list of questions asked in the survey, see Appendix A.

The recommendations also draw upon traditional knowledge and guided approaches and strategies that consider Nunavut-specific histories, geography, and existing systems approaches. It is our belief that together, Nunavut can be a leader by addressing FASD through a holistic approach that honours the Truth & Reconciliation Commission's Call to Action #34.

These recommendations reflect a holistic approach to system improvement but have been grouped by themes for ease of organization.

³⁶ Stewart, M. & Glowatski, K. (2018). Truth and reconciliation call to action #34: A framework for action. Canada FASD Research Network, Regina, SK.

³⁷ Canadian Intergovernmental Conference Secretariat (2016). Final Report to Federal/Provincial/Territorial Ministers Responsible for Justice and Public Safety. Retrieved from: <https://scics.ca/en/product-produit/final-report-to-federal-provincial-territorial-ministers-responsible-for-justice-and-public-safety/>

³⁸ Pei, J. et al. (2018). FASD and the criminal justice system: A review. Vancouver, BC: Canada FASD Research Network.

Policy & Planning

Recommendation 1: Develop a Nunavut FASD Strategy and advocate for an interagency/interdepartmental approach, in alignment with piliriqatigiinniq (working together for a common cause).

- Propose an interagency/interdepartmental committee on implementing TRC Call to Action #34, including Inuit organizations and people with lived experience, and advocate to other Departments for their participation.
- Develop Nunavut FASD Strategy with the support of the committee that outlines a clear way forward.
- Piruqatigiit could provide a role in coordinating a committee and providing current research and best practices related to FASD.

Recommendation #2: Involve justice staff in screening and identifying people at risk for FASD and providing referrals for assessment.

- Justice staff at multiple levels who interact with the public should be trained to identify signs of FASD. This could be done in partnership with Health. A specific process for identification of possible signs, follow-up, and referral to appropriate care should be created to guide frontline staff. Piruqatigiit can support the development of a culturally appropriate screening tool, in partnership with CanFASD, the Government of Nunavut, and our Inuit Advisory Circle.
- Screening for signs of FASD would be beneficial when anyone comes into contact with the justice system, including intake to facilities, courts, Community Justice, or police interactions. Some organizations have trepidation in screening individuals for FASD, as identified individuals will then need follow-up support. However, TRC Call to Action #34 specifically calls on governments to ensure access to FASD diagnostic services for justice-involved individuals. Additionally, when people with FASD are identified and receive more support, we will be honouring their human rights, promoting well-being and positive relationships among clients and staff, and working in alignment with inuuqatigiitsiarniq (respecting others, relationships, and caring for people).

Recommendation #3: Ensure access to FASD diagnostic team for Justice clients, through partnership with Health or a Justice-specific diagnostic team.

- Building on Recommendation #2, Justice can take a lead role in ensuring their clients have access to appropriate medical care, including FASD assessment, and can be a leader in implementing Call to Action #34 in Nunavut.

Human Resources

Recommendation #4: Create a plan for organizational well-being and retention, with specific measures for frontline workers.

- Promote existing employee supports such as Employment Assistance Program (EAP), Hope for Wellness Line, and accommodation options for employees with disabilities or mental health difficulties, and their families.

- Provide new employees with information about the risk of developing PTSD, as well as strategies for reducing their risk. Include information about the effect that chronic work stress can have on family and partners. Sharing with families can help them to understand the sometimes difficult nature of essential service provision, and make them aware of the supportive resources available.
- Explore possible incentives and ways to increase staff resiliency. For example, provide passes to a recreational centre and other local wellness resources, offer in-house mental wellness activities like stress management class, land time, or country food/inuksiut days.
- Increase communication opportunities, including a staff newsletter that highlights professional development opportunities, staff wellness opportunities and shared successes. Include avenues for regular staff feedback/suggestions on improvement.
- Create, support and maintain a work culture in which leadership can intentionally express appreciation/gratitude for staff.

Recommendation #5: All program and territorial justice staff be educated about FASD, systemic racism, and a trauma-informed approach, including management, lawyers, court workers, community-based workers, and corrections officers.

- Mandatory attendance at “Building Relationships through Reconciliation: Indigenous Cultural Competency” (offered through Government of Nunavut training) for all new and experienced staff.
- Continue to offer sessions for staff on FASD and creating FASD- and trauma-informed practices. As with trauma-informed practice, it is not necessary to know the results of an FASD assessment to begin using best practices for working with people with FASD. If a justice staff member suspected FASD was a possibility, they could employ FASD-informed practices following sufficient training.
- Upon the completion of Piruqaitgiit Resource Centre’s online/USB FASD training for Nunavut Justice Professionals, ensure all new hires receive training and have an opportunity to complete shadow shifts, if applicable, to see how to implement strategies and training.

Community-Based Programs

Recommendation #6: Offer programming that supports individuals with FASD and their families, to reduce initial criminal justice contact and recidivism.

- Develop or fund FASD-informed community-based programs in pre-employment/essential skills, life and self-care skills, healthy relationships and consent, mental health, coping skills, self-regulation and stress management, positive and traditional parenting, and understanding FASD. This could include an inter-departmental/inter-agency approach to service delivery and fulfills piliriqatigiinniq.

- As a part of being FASD-informed, use a variety of teaching strategies, including visuals, role playing, and social stories³⁹. Real-life scenarios can be useful to demonstrate consequences and practice how to handle people and situations in the future.
- These examples of programming are considered ‘front-end’ approaches that help to reduce potential justice-involvement and recidivism, which reflects an investment in community wellbeing. Upstream investments will reduce the strain on the justice system and other social systems, saving resources.

Recommendation #7: Explore ways to provide mentorship to those who are justice involved through a peer support program.

- For individuals who are doing well, pair them with an individual to promote positive social affiliation and coaching in addition to formal supports (daily check-ins; visits; appointment reminders, etc.). This should be a paid position and creates employment opportunities for adults successfully reintegrating into the community and being well. Individuals with FASD are often seeking belonging and friendly, but may have difficulty with social communication, which makes them vulnerable to exploitation by others.

Recommendation #8: Consider the role of dysmaturity when developing and implementing programs (community-based and correctional institutions).

- Individuals with FASD may be dysmature (functional capacity is not equal to chronological age), and may not be able to follow through with expected age-related capacities. Build flexible programming that can suit a variety of needs and developmental abilities.
- Ensure staff receive appropriate training for working with individuals experiencing dysmaturity. For example, staff with experience working only with adults may need to learn about mood regulation strategies that work for developmentally younger people.

Corrections

Recommendation #9: Create a new position for an Occupational Therapist (OT) for all facilities.

- OT would be able to recommend and provide appropriate sensory equipment and strategies, as well as provide education about life skills, nutrition and functional skills.
- OT is commonly recommended as a part of the follow-up needs for people with FASD. This recommendation would benefit many clients, including those affected by suspected or confirmed FASD, mental illness, or other neurocognitive disabilities.

Recommendation #10: Streamline intake process and make information dissemination appropriate for those with FASD.

- Provide clear written and visual instructions of the intake process. For individuals with FASD, this is often what is required to assist them with understanding what is expected of them and the next steps.

³⁹ Yukon Education. (2007). Making a difference: Working with students who have fetal alcohol spectrum disorders. Whitehorse, YK: Government of Yukon.

For example, create a numbered description with visuals:

1. Talk to Intake Clerk	 <p>1. Talk to Intake Clerk</p>
2. See the nurse	 <p>2. See the Nurse</p>

- Wherever possible, reduce redundancies or repeated questions, and coordinate the intake process with nursing and classification officers.
- Provide clear written communications, with associated visual prompts, of expectations for conduct and community agreements, as well as related consequences if these expectations are not met. Specific examples are helpful for people with FASD being asked to apply abstract concepts.
- As described in Recommendation #2, implement screening for FASD upon intake to facility to identify those who need a referral for assessment. In addition, screening will give corrections staff more information about their clients from the outset, allowing them to provide care aligned with the individual's needs and strengths. This also links to Recommendation #14.

Recommendation #11: Increase opportunities for staff involved in critical incidents to debrief and process events.

- Staff may need to take time away from a shift following an event or incident in which they were involved. They may need a safe environment during or after their shift to debrief what happened, what went well, and lessons learned. Staff will benefit from an opportunity for ongoing debriefing as necessary, where they feel heard and valued.

Having opportunities to debrief incidents has been shown to decrease the risk of developing PTSD among corrections workers⁴⁰.

- Connect staff to an off-site counsellor or support person who can provide confidential wellness support and solutions-focused suggestions specifically for corrections and shift workers (e.g. sleep habits, mindfulness, stress coping skills).

Recommendation #12: Offer programming within Justice facilities that supports individuals with FASD to reduce recidivism and improve well-being of staff and clients.

- Develop or fund FASD-informed programs in pre-employment/essential skills, life and self-care skills, healthy relationships and consent, mental health coping skills, self-regulation and stress management, positive and traditional parenting, and understanding FASD.
- Provide one-to-one support opportunities for clients with FASD and other neurodevelopmental disabilities. Coach clients through comprehending charges, preparing for court dates, ways to prevent future justice-involvement, and territorial/federal systems paperwork (i.e. taxes, Income Assistance for people with disability, medical/social services report).
- This may require adjusting staff to client ratios in some cases to allow for one-to-one support when needed. It would also be beneficial to have specialized positions to work with this client group and be an individualized case worker. This could potentially be work done by the same individual as comprehensive discharge support (see Recommendation #14).

Recommendation #13: Use a variety of communication strategies to assist clients with understanding processes and instructions.

- As a part of being FASD-informed, use a variety of teaching strategies for any educational programs (group or one-to-one), including visuals, role playing, and social stories⁴¹. Real-life scenarios can be useful to demonstrate consequences and practice how to handle people and situations in the future.
- Use visual schedules to help people with FASD follow steps or know what to expect, which can assist with mood regulation and interpersonal relationships. Schedules and instructions can be individualized for each person and their needs.
- When safety is cleared, increase clients' access to a notebook and pencil or blunted writing tool to keep track of their schedules/flow, draw, doodle, etc.
- Within reason, when circumstances have occurred when the expected routine has changed, anticipate clients will struggle with this. Try to keep them informed about what is happening next to help reduce stress and potential escalation.

⁴⁰ James, L. & Todak, N. (2018). Prison employment and post-traumatic stress disorder: Risk and protective factors. *American Journal of Industrial Medicine*; DOI: 10.1002/ajim.22869.

⁴¹ Yukon Education. (2007). *Making a difference: Working with students who have fetal alcohol spectrum disorders*. Whitehorse, YK: Government of Yukon.

Recommendation #14: Expand release planning and continuum of support.

- Treat the point of entry into the justice system as the beginning of comprehensive discharge planning for a successful re-integration into the community. With this approach, clients can be identified on entry for assessment, connected with programming within the facility (Recommendation #12), and when released, linked to community programs and mentorship (Recommendations #6 and #7).
- This may be best served by a systems navigator or individualized caseworker position, who can work with clients throughout their involvement with a tangible plan for discharge, court preparation, life skills and having support in the community after leaving the institution. As someone who has knowledge of the client, the systems navigator could provide insight to the crown, defense and judge to ensure appropriate sentencing and outcomes. This worker could also facilitate communication with family circles and community to understand FASD as a brain-based disability and how to best provide support to reduce recidivism.

Recommendation #15: Practice interdependence and circle of care approach within institutions.

- Circle of care information-sharing within the institution could be a beneficial approach. It is not breach of privacy/confidentiality for floor staff to be provided with essential information regarding flags for possible illness, diagnosis, triggers, tendencies, etc. As well, floor staff offer a unique insider's knowledge on clients that can inform the case management team. An oath of confidentiality to not disclose client information inappropriately is to be taken seriously with ramifications if breached by staff. However, personal information including suspected FASD, is in the client's best interest so that everyone is aware of how to work with that person (i.e. a script, approach). Consistency between shifts and squads is an essential best practice.
- With sufficient training and support, staff can then act in accordance with best practices for FASD- and trauma-informed practice. One example is to manage vulnerable clients' privileges on their behalf as necessary to prevent exploitation (e.g. canteen).

Recommendation #16: Review staffing policies at BCC and other Corrections facilities.

- To ensure staff have the best opportunities to implement trauma-informed practices and be their best, review the staff complement and policies at BCC, and adjust to provide the resources needed to meet the other recommendations.
- Continue to have a teacher available to support clients with skills upgrading, and Pathways to Adult Secondary School (PASS).
- Continue to champion having Elders and other knowledgeable Inuit as staff to provide guidance and support through an Inuit Qaujimajatuqangit lens.
- Schedule and maintain the appropriate number of staff on each shift to allow for the required regular breaks. Provide an appropriate space for staff to take rest that is safe and away from the stresses of the job. Additionally, ensure enough staff are present to facilitate regular routines of the clients, including outdoor time. As discussed in Recommendation #11, more staff may be needed to provide one-to-one support

opportunities. Having a designated casework/support person for court and discharge planning (and across the continuum of care) will relieve pressure from floor staff, as well.

- Consider and evaluate the possibility of having a mental health unit with space for confidential care, and work with the Department of Health if needed to ensure clients have access to mental health care and other health care related to suspected or confirmed FASD.
- Assign an extra staff member as a “floater”, who does not have an allocated job. This position’s role on each shift would be to provide additional support to crisis situations, deescalate and preemptively address problems, redirect clients on an as-needed basis on the flex unit (or any unit), and fill in for others where unexpected gaps occur. This will reduce burden on staff because staff know there is a sufficient team supporting them (e.g. observation, attuning). Alternatively, there could be a case manager who is assigned with planning and coordination of discharge and any arising concerns related to clients with high needs and provides afternoon support (e.g. 3pm-11pm).

Court Services

Recommendation #17: Provide Elder support at sentencing and throughout the court process.

- Continue to champion having Elders and other knowledgeable Inuit as staff to provide guidance and support through an Inuit Qaujimajatuqangit lens.

Recommendation #18: Encourage alternative sentencing options including therapeutic justice.

- As an alternative to incarceration, when possible, provide a placement or facility to support individuals flagged with suspected or confirmed FASD to provide ongoing support (ie. supported housing; support with employment; case management, addictions support and life skills). If needed, clients could be discharged to this placement for ongoing lifelong support.
- Build on the Cambridge Bay pilot for Therapeutic Justice Court in all communities to streamline and identify needs and appropriate sentencing and alternative approaches.

Recommendation #19: Implement FASD-informed communications tools and strategies at sentencing and throughout the process.

- Whenever possible, provide clear instructions with accompanying visual depictions.
- The system navigator/individualized caseworker could help to clearly explain the sentencing and expectations.
- Due to the nature of memory deficits, impulsivity and other related disabilities, individuals identified as at risk for FASD should have daily support to meet the expectations and requirements of their sentence. Ensure justice professionals involved in the person’s case (probation officers, parole officer, etc.) are FASD-informed and implementing best practices for supporting someone with FASD. Some examples include keeping meetings at the same time/day/place; sending reminders; or meeting the person in a community place before meetings.

Community Justice

Recommendation #20: Review Community Justice materials and policies and modify, if needed, to make sure they are appropriate for people with FASD.

- Where possible, use best practices and visual descriptions to assist people with FASD and other neurodevelopmental disabilities with understanding.
- Support or encourage people with suspected or confirmed FASD to come with a support person who is familiar with FASD and their individual needs.
- Family Violence Specialists, Community Justice Outreach Workers, and the Restorative Justice committees may need to adjust their approaches in some cases for people with FASD. They should be included in training initiatives (see Recommendation #5) to support them in this work.

Opportunities for Collaboration with Piruqatigiit Resource Centre

These recommendations represent ongoing opportunities for the Nunavut FASD community to improve on our service provision and approach as it relates to justice. As Piruqatigiit Resource Centre continues to grow and develop our capacity, we hope this series of recommendations can form a basis for ongoing work between Piruqatigiit and the Department of Justice to make specific policy, program and workplace changes in the future.

Piruqatigiit was born out of grassroots movement to create and sustain accessible, holistic and culturally responsive territorial programming for Nunavummiut and families navigating the world of life with FASD. As a team, we are proud of what we have developed so far, using our important knowledge, lived experiences, and stakeholders' insights. We would welcome the opportunity to partner with the Department of Justice to continue to examine the implications for justice-involvement for Nunavummiut with FASD and how to improve the life course of Nunavummiut.

With ongoing financial support, we could work very closely with the Department of Justice, as well as other key organizations (ie. CanFASD). Examples of some of the potential ways we envision a partnership with Justice, on an ongoing basis:

- Conduct meaningful research guided by our Inuit Advisory Circle and other recommended Inuit with strong justice, FASD and cultural knowledge.
- Continue to develop and deliver training to all levels of Justice. Currently, Piruqatigiit is producing a certificate training program specifically for Nunavut justice and policing professionals through Makigiaqta Inuit Training Corporation funding.
- Research & develop workshops and programming for inside facilities, community corrections and service providers. Train selected Justice staff as Leads in the program delivery to be able to facilitate training.
- Provide consultation and support with specific situations occurring within the justice system.
- Provide ongoing community of practice for learning and education, as well as to brainstorm solutions for difficult cases or possible strategies to support an individual/family.
- Support the administration of specific FASD-related screening tools for use within Nunavut's justice system.

Appendix A: Staff Survey Questions

1. What type of support do you need in order to use the FASD & trauma-informed strategies reviewed during training?
2. In your own words, what do clients with suspected and confirmed FASD need before entry/re-entry into BCC and after release?
3. In your own words, how can Corrections and other divisions of Justice provide 'front-end' programming/services (front-end meaning 'before people fall into the river'; proactive; preventative)
4. We know that personal safety, consistency and support in high-stress environments is important for everyone. What would be helpful for you to feel valued, heard and safer on shift by your employer?
5. What else do you think is important for us to know how to best support you in your work?