social justice. With hindsight, the latter objective now seems to be rather formal and sterile and, on review, to understate the potential impact and significance of what has written. Returning to Fook’s and Humphries’ thoughts on social justice, what runs through the various articles are convincing and scholarly expositions of the wide-ranging structural and personal dimensions of inequity and injustice and a resounding call to take up the equally broad political and human challenges required to promote social justice.

Reviewing this volume in the light of Humphries’ three standards, I feel confident that our authors have made significant contributions to the pool of evidence on social justice: to understandings of the concept and to strategies for action. By description or direct report we have heard the voices of many diverse participants in the justice system, commanding attention to the issues and arguments presented.

At some point in these articles each one of us will find issues that relate to our own life-worlds. It would be foolhardy to imagine that inequity and injustice are a problem of others, the excluded and disadvantaged. Social justice demands participation in a common campaign for human rights, personal dignity and greater fairness in access to services and resources. Current times of ‘credit crunch’ and economic downturn make this particularly pressing and challenging. The pursuit of social justice becomes even more timely and necessary as the threat of inequity and injustice is magnified and, probably, widened. I believe that the contributions to this volume can provide materials and inspiration to those committed to take up this challenge.

References

SOCIAL CAPITAL, RESILIENCE AND DESISTANCE: THE ABILITY TO BE A RISK NAVIGATOR
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Abstract
There has been increasing attention to the role of social capital in fostering resilience to risk and challenging life transitions, particularly for young people (Evans, 2002). In the criminological arena recent studies have focused on the role of social capital in facilitating desistance from crime (Farrall, 2002; 2004). Such studies have also emphasised the crucial inter-play between agency and structure (Giddens, 1998), and the concept of the ‘agentic’ individual capable of exercising choices and shaping their futures (Ward and Maruna, 2007). In this article we explore the role of social capital in assisting young people to negotiate key life transitions, and in particular how social capital (or the absence of it) can facilitate or hinder desistance from crime.

Key Words: Desistance, life transitions, resilience, risk, social capital, young people

Introduction
In a post modern society transitions and pathways are forged within a globalised system of trans-national corporations and a universalized mass-mediated consumer culture. Heavy targeting of young people by firms marketing consumer products offers new ways for young people to constitute themselves within a “fluidity of opportunities and moments of consumption” (Kenway & Bullen, 2001 in Vaughan, 2005 p182), producing all manner of indeterminate domains and possibilities of identity for young people (Vaughan, 2005 p181). However, it is argued that this fluidity has also created a sense of ‘risk’ and an increased individualisation within society leading to the replacement of stable identities based on familiar social class hierarchies with multiple, fragmented and more uncertain identities based on ‘life-style’ and consumer choices. (Mitchell et al, 2001). Research on youth transitions shows that young people face a range of social, cultural and economic risks that make contemporary life particularly challenging, many of which are beyond their ability to influence and control (Furlong & Cartmel, 1997). Furthermore, there is not one single, uniform way of growing up and a context of social exclusion does not
generate just one sort of youth transition (MacDonald & Marsh, 2001). Transitions and trajectories through life are a matter of negotiation and the interaction of structure and agency is seen as central to understanding this process (EGRIS, 2001).

**Structure and Agency**

Youth research highlights the interaction of agency and structural influences and its impact on life transitions. Young people as ‘active agents’ means that as individuals they have the possibility and the freedom to create, change and influence events within their life transitions. This personal and individual engagement, known as agency, is influenced but not determined by existing structures (Evans, 2002) and is shaped by the experiences of the past, the chances present in the current moment and the perceptions of possible futures.

Young people’s experiences of life are complicated by the fact that they can react and respond to structural influences, that they can make their own decisions with respect to a number of major, as well as minor, life experiences and that they can actively shape some important dimensions of their experiences. Evans refers to this as ‘bounded agency’: Young adults manifest a sense of agency, but there are a number of boundaries or barriers that circumscribe and sometimes prevent the expression of agency (Evans, 2002 p261).

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All this raises the important question about the individual’s ‘power resources’, that is, the capacity and competency to act, to choose alternatives and to implement them (Bloor, 1995; Rhodes, 1997), and the range of limitations on these resources. What is the relationship between the resources young people have available to them and their resourcefulness in drawing upon these to forge their futures? (Thomson et al, 2003 p33). The relationship between resources and resourcefulness is complex and variable; the exploration of how resources are implicated in individual biographies of social mobility shows that individual resources of ability and ambition do not necessarily translate into success for all young people (Holland et al, 2007). In effect, some young people have the personal and social resources to navigate and some do not, in other words to be ‘resourceful’ (Boeck et al, 2006).

**Do Young People have Choices?**

Neo-liberal social policies (including crime policies) have tended to characterise the citizen, including young people, as ‘active citizens’ required to self-risk manage from an early age (Kems hall, 2008). Active citizens are required to make ‘prudent choices’ (Kems hall, 2002) and to self-regulate away from negative risks, for example crime. Contemporary neo-liberal policies construct the individual as active, autonomous shapers of their own worlds (Rose, 2000). However, these approaches fail to appreciate that “individuals can react quite differently to apparently similar events and that this reaction is not fixed, clear or predictable” (MacDonald & Marsh, 2001 p383). Thus, choices can be heavily constrained and actions and choices made by young people are not open and free. Choices are often constrained by a practical knowledge and understanding of what is possible, a knowledge and understanding that is clearly mediated by locality, gender and class, and to a lesser extent, ethnicity (Raffo and Reeves, 2000; MacDonald & Marsh, 2001).

In our study, described below, many young people felt that their choices were heavily constrained, by the power and views of adults, by lack of adult support for their choices, a sense that their actions would have little impact, or a sense that choices were already heavily constrained. However, we also found examples of resiliency: determination and the ability to find new opportunities and make new choices.

**How do Young People Navigate their Options?**

**The Relevance of Social Capital**

In youth research the ideas about social capital have been applied to young people’s friendship and socialising networks formed in their neighbourhoods, schools, leisure and interest groups, as a way of considering whether these are helpful in enabling young people to move on in their lives and access jobs, training and education, or whether they act to hold them back and deter them from trying new things (Holland, 2005; Boeck et al, 2006; Weller, 2007). A key theme within these studies has been the ‘extent to which young people access and/or generate social capital and exhibit agency in its acquisition and deployment’ (Holland, 2005 p2). Our research was located within a social justice and social inclusion perspective embedded in ideologies of democratic empowerment and change that are sensitive to young people’s rights and civil liberties (Chawla and Malone, 2002 p129). Our approach was rooted in a critical awareness of the systems and institutions that promote or hinder progress toward social equality and respect for human dignity (Noguera, 2005).
Methodology
The research was an ESRC funded 4 year study of pathways into and out of crime for young people. The main purpose of the study was to investigate the relationship between social capital and young people’s navigation of risk, and the role social capital may play in young people’s risk decision making and their resilience to risky pathways (Kemshall, Fleming and Boeck, 2003). The project used a staged methodology utilising combined qualitative and quantitative methods comprising: a pilot of a social capital framework through in-depth interviews and focus groups; pilot of a risk interview schedule; 24 in-depth interviews and 17 focus groups with 77 young people. Following initial analysis of this data (using NUDIST QR 6) a survey covering risk and social capital was completed with 500 young people and analysed using both NUDIST and SPSS. Detailed analysis of the whole data set followed, and key findings were re-examined with a small sample (n=12) of serious and persistent young offenders through in-depth interviews. The young people all came from the Midlands area, were in the age range 11-19, and comprised one hundred and thirty one young people accessed largely through young offender teams (YOTs), and those labelled as “at risk” accessed largely through youth inclusion projects (YIPs) which include both known offenders or those deemed to be “at risk” of offending. Four hundred and fifty eight young people were accessed through local schools and youth groups and may well contain some young people who have offended, total sample n=589. It is recognised that the distinction between offender and non-offender is somewhat artificial, although those contacted through YOTs were known offenders within the criminal justice system and where possible persistent or high-risk offenders were targeted. For ethical reasons young people in other settings were not asked to disclose themselves as offenders.

What is Social Capital?
Most definitions of social capital revolve around the notion of “social networks, the reciprocities that arise from them, and the value of these for achieving mutual goals” (Baron, Field and Schuller, 2001:1); as such social capital is seen as a set of relationships and interactions that have the potential to be transformative (Weller, 2007). Thus social capital is seen as a social resource that not only contributes to the wellbeing of people and communities but also can give access to opportunities, education and the labour market.

Young people engage with others through a variety of associations forming many different types of networks. Sometimes each of these networks has different sets of norms, trust and reciprocity. Social networks are not only important in terms of emotional support but also crucial in giving people more opportunities, choice and power (Boeck et al, 2006). However there can be significant differences between the types of networks people have, not only in quantity but also in quality. The concept of social capital can encapsulate these differences. In our work we define social capital as:

...a resource that stems from the bulk of social interactions, networks and network opportunities that either people or communities have within a specific environment. This environment is characterised by a commonality of mutual trust and reciprocity and informed by specific norms and values (Boeck et al, 2006b p1).

Social Capital and Risk Navigation
As already argued above, actions and choices are not completely free and individual social capital both supports and constrains people’s actions (Raffo and Reeves, 2000). Individual social capital can be understood as the system of social relations that surrounds the young person, and which provides a significant social, material and cultural resource to young people as they navigate the individualised risks of post-modernity (Boundie, 1986; Coleman, 1998). In effect, this social capital forms the ‘habitus’ within which young people generate their routine practices and behaviours. Central to this individualised social capital are the networks young people are part.

The study found two distinct groups of young people: those with a tightly bonded network based upon their immediate locale of the street, local park and home; and those with a more diverse network centred on school/college. The locality based networks were often small, static in nature and the young people engaged in a restricted range of activities (e.g. ‘hanging about the street’, ‘visiting friends’ houses’):

... we like to go out and have a good time together...We know the same people, we hang around the same area, we like the same things, we like the same clothes. I don’t know, some people I can trust, some people I can’t (Young Woman FG10).

The more diverse networks based on school/college were more dynamic, and young people engaged in more ‘after school activities’ and a diverse array of leisure activities. These networks also had greater opportunity to connect with other networks beyond their immediate locale and to form a more ‘dynamic social capital’ (Boeck et al, 2006). The tightly bonded networks can be characterised as having strong ties but weak opportunities, and the diverse networks as having weaker ties but strong opportunities (Granovetter, 1973). These opportunities are varied, but include the opportunity to engage in social learning (Raffo and Reeves, 2000), develop a wider radius of trust (Boeck et al, 2006), and provide important structural opportunities for change (Aguilera, 2002). The tightly bonded networks are more prevalent amongst participants contacted through the YIPS and YOTs (60%), with a contrasting 91% of young people contacted through schools/colleges represented in diverse networks.

What are the implications of these differing networks? Membership of a tightly bonded network provides access to a restricted social capital, with consequently diminished opportunity to make changes or to exercise choice. Nan Lin (2001 pp46–54) posits differences between “homophilous” and “heterophilous” interactions (also termed...
Cost-benefit calculations are better informed, and the range of possible choices and possible futures is extended, as the following discussion in a focus group illustrates:

…the consequences, if you take a risk which you know you shouldn’t take but you go over the top, at that moment in time as you are doing it, it feels good but then you get into trouble and then its really not worth it.

…I act stupid and my friends think I am silly but I get on alright at school. I am not one of the top pupils though but my aim is to do the best I can at school and try hard. As soon as school is finished it is up to you what you do, but if you want to do a job where it doesn’t include A levels if you get them A levels it is always handy if you change your mind.

So education is important you, for you also and for you. How come education is important for you?
Because if you know you want to succeed you need qualifications

We see how people live and we see what is on TV and what people have in life and the situations they are in and I feel if you get the right education, get the right job and you have enough money to live a decent life, to have what you want in life without being greedy but you have got what you want and need.

If you don’t have education where are you going to be…?
(Young men FG 9).

Outlook on Life and Risk Taking

Much research on the life-course and criminality has shown that desistance from crime is associated with successful transition to adult roles, a positive conception of self, and a belief in one’s self-efficacy (Maruna, 2001; Uggen et al, 2004). Crucial to this is the
individual's perception of their own future, their outlook in life and whether they adopt an active or fatalistic approach to risk. Interestingly in our study the young people recruited via the YOTs/YIPs expressed a pessimistic and often hopeless outlook on life. This was evidenced in their passivity about their futures and their perception that their own actions would have little impact on their life course. Their future aspirations were unrelated to present skills and competences and, in answer to a question about what they would be doing in five years time, responses (73%) varied from being "a footballer", to "being a millionaire" to "being in jail":

What do you think you'll be doing in a year's time?  
Fuck knows.

Next week?  
Dunno... Slopping out...  
(Young man FG 11).

Interestingly, this group were the least likely to involve anyone else in the resolution of problems in their life or in assisting them with crucial moments in the life course, again underlining their potential isolation and more limited radius of trust. Young people contacted through the YOTs/YIPs quite often had views of the future which seemed to relate to apathy, a sense of boredom and, at other times, to hopelessness and frustration. Raffo and Reeves contend that some individual systems of social capital are more helpful in achieving aspirations than others, because they facilitate learning and the development of 'competence, self-confidence, self-esteem and identity' (2000 p151). Elder (1985) in a seminal work on life transitions, argues that all change entails a potential loss of control. How risk is perceived and managed depends on past experiences, perceptions of self-efficacy and the imagined future possibilities (see also Evans, 2002; Evans and Heintz, 1994; Evans et al, 2001).

The neo-liberal policy drive towards responsibilisation has emphasised the 'active and prudent citizen' (Kelly, 2001), in which prudentialism requires the active citizen (including young people) to adopt a calculating attitude towards all decisions and to self-manage the life course (O'Malley, 2004). However, prudentialism presumes high levels of self-efficacy and a strong belief in the power of primary control - a belief that citizens can 'make themselves up', constantly re-train, re-adapt and rise above negative personal circumstances (Rose, 2000). Our research found a different reality, particularly for young offenders who were characterised by their lack of prudentialism and a fatalistic approach to the future. Young offenders considered that being prudent about the future was pointless, and lives were lived almost exclusively in the present:

'I think it is better to just take each day as it is and see what happens'.

'It is hard to aim here, I am not thinking about it anymore because when I get back to reality it really pisses me off'  
(Young men FG 11).

Perceptions of self-efficacy amongst the offender group were low and, as a consequence, their capacity to act prudentially is limited. It is difficult to act prudentially if one perceives one's actions will have limited impact on future outcomes. The implications of this can be severe, with offenders blamed for not changing, for taking risks, and an increased social exclusion and stigma for those who are perceived as not willing to change. Blame for the lack of a calculative attitude has not been confined to young offenders, but has extended to all young people seen as potentially vulnerable or risky (Kelly, 2003). For offenders in particular, the inability to self-risk manage has become the focus of corrective programmes and compulsory treatment (Goldson, 2000, 2002).

However, strong networks with a high degree of trust, being trusted and a positive attitude to the future combined to create resiliency to risk. In essence, respondents perceived that there was too much to lose and this reframed any calculative approach to risk decisions. The potential losses attached to changing networks, loss of trust and future career perspectives were seen as high:

It depends what you like doing, a couple of years ago me and another lad we skived half a day off school and came back to his house. At the time it was a laugh because you think 'I should be at school'. Because you are so used to being there, you think 'I should be at school but I am not' and it is that exciting feeling. I got found out and I lost respect of my mum and dad, I lost trust of mum and dad which had to be rebuilt. I lost trust and respect off the teachers as well because if you do something stupid like that you always leave yourself in the black really and you have to start all over again, so you always learn  
(Young man FG 7).

Yes, it's different, if somebody is doing a sport they want to get somewhere with it don't they? Doing a hobby they want to get somewhere doing the hobby so they are not exactly going to do something bad which is going to ruin the chance for them to do whatever. My friend is in football he has got a scholarship for when he leaves school this year and I am on probation now and he is not 'cos he has got his own mind and his football stopped him from doing whatever I was doing, like 'ah no my football if the police catch me I cant play', do you get me? But if it wasn't for the football he would probably be here cos there was nothing stopping him  
(Young man FG 4).
In addition, social networks, including those offering a position of trust and care are also crucial to desistance (see Maruna 2001) and can heighten the perceived sense of loss if risks are taken. For example:

The risk isn’t for me going back to prison, I don’t care about that, send me there for as long as you like. But it’s my little sister, I like being with her and not seeing at Christmas and my mum . . . My little brother’s in prison at the minute and she gets all upset of that.

Right, ok. So, if I asked you that question, what would prevent you from taking a risk?
If I was going to lose something that I don’t want to lose.

And what would those things be?
Like my freedom, my family, and my friends. Things like that. Like if I took a risk to rob a bank - I wouldn’t rob a bank, cause I’d think ‘Look, I could go to prison, I could lose my friends, my family, lose my house and lose my freedom’, so it would be pretty pointless
(Young man INT 8).

Those young people in more diverse networks expressed a more positive outlook on life, reflected in higher levels of self-efficacy, and a focused and active outlook. They expressed a more positive attitude to their futures and greater self-efficacy about risk decisions (Laub and Sampson, 2001, 2003). These young people are better able to ‘navigate risks’ (Boeck et al, 2006c), manage life transitions, and take the risks associated with ‘moving on’ and leaving problematic situations: important aspects to enhance resilience to re-offending. Even where risks had ‘gone wrong’, or mistakes had been made, participants remained optimistic about future risks and life changes:
‘I don’t think that I’ve got to a point where everything is closed off and the end of the line, there are end of line signs written all over the place. I think there are things that are closed now that weren’t before, but it’s not terminal, it doesn’t stop quite as much, the sidings on some of the lines don’t work whereas they would have done before, now they don’t so you’ve got less options but still a big range, there’s still a lot of them. It’s not like there’s only one option and that’s it’
(Young man INT 6).

In our conversations with young people they often referred to key adults in their lives who had supported them through difficult and confusing times. In several tightly bonded groups young people have identified one outsider (in example below, ‘J’, who is a worker from a YIP whom they trust and who is not part of their immediate peer group and family). This is an example of a ‘significant adult’ whom they have met and who has gained their trust. These adults were key people who supported young people in weighing up choices, making informed individual strategic decisions about life transitions and getting access to resources –material and social, which helped them to firstly ‘set sail’ but ultimately to navigate the complexities of life. These are illustrated by the focus group discussion below:

Can I ask a question, who do you trust?
Not many…
Mum and dad, ’J’ (YIP worker), you two and that’s it and each other.
Each other and family.
If I needed to tell someone something that I had done I wouldn’t be able to tell my mum, I would tell ’J’.

What is the difference?
Depends what it was…
Life…. if we did crime or something we would tell ’J’ but if we punched someone we would tell ’J’ and our parents.
It depends what the situation is…

Social ties, reciprocity and trust in and from significant adults seem to enhance the development of a positive conception of self and perceptions of self-efficacy. In order for these relationships with adults to be meaningful they should not be based on providing only information or advice. Advice from individuals, who are seen as part of an external system, with few, if any, authentic links to the lives of young people, carries little or no importance for these young people (Walther et al, 2005). Boeck, Fleming and Kemshall (2006b), have explored this in a short publication for practitioners with suggestions for ways of working with young people that might enhance their social capital (http://www.dmu.ac.uk/Images/ESRC %20practitioners%20leaflet%20final%20-%20pdf_tcm6-10497.pdf).

This publication makes a number of suggestions (created with youth work practitioners) as to what practitioners can do to enable young people to ‘navigate life transitions’ by developing more dynamic social capital. These include working to increase the diversification of networks, enlarging their circle of trust, encouraging a more focused outlook on life and a sense of belonging as well as generalising reciprocity.

Conclusion
Maryah Stella Fram (2004) asserts that social networks are important not only in terms of who is there, but also in terms of who is missing, particularly for those individuals at the economic and social margins. A social capital analysis illuminates the absence of advantaged social ties, and that absence becomes more than simple personal preference or happenstance. It takes on political dimensions, as processes of inclusion and exclusion are seen to sustain class boundaries by constraining access to opportunities and resources for mobility. This reflects and reinforces Farrall’s description of desistance: “…as not just an individual decision but as a set of processes mediated by significant social institutions,
such as employment, educational institutions, the family, political engagement and peer relations... also emphasizes the importance of understanding how these institutions operate and how they might be harnessed to assist desistance" (Farrall, 2007, p93).

As such desistance, from a social capital perspective, means the ability to navigate complex social situations and being able, not only to avoid risks but also to take and negotiate important social risks, such as forming new networks and expanding the radius of trust, that allow young people to enhance their choice and outlook in life. A focus on social capital as a resource and as the social context in which people negotiate every day life would involve paying attention to locale, peers, networks, and the social resources to which people have access. Work with 'at risk' young people would need to strengthen desistance by enabling people to enhance 'dynamic' and 'extended' social capital.

Interventions with young people (both offenders and non-offenders) in the social policy and crime arenas have become key sites for self-actualisation programmes, emphasizing 'active citizenship' (Rose, 2000), educational transitions, and integration into the labour market (see Kemshall, 2008 for a full review). Interventions are framed within a 'corrective agenda', targeted at individual behaviours and choices, with little reference to social context or structural issues (see Kemshall, 2002). As Farrall (2004) has argued, community sentences for offenders have tended to emphasize human capital (for example skill acquisition, correct thinking) with limited impact on desistance; interventions with young offenders have tended to follow suit (Kemshall, 2007). At its most basic, this can result in skill acquisition for employment but no access to the networks or opportunities that promote or maintain access to the labour market.

The role of social capital in intersecting with, and helping to create, turning points in the life course of young people should be a key focus for the enhancement of resilience. This would require workers to focus on 'enhancing the social capital' of offenders (Farrall, 2004). This should include: enhancing the range and diversity of groups to which the young person belongs; the range and diversity of trusted adults the young person has contact, which may include strengthening family bonds (Farrall, 2004); retention in education, training or employment; and the use of mentoring schemes. This would build the important 'dynamic' social capital necessary to 'getting on' and 'getting out' (Boeck et al, 2006a). In essence, dynamic social capital enables people to access new contacts and relationships, information and options without destroying important bonding social capital.

In the context of difficult transitions, for example into the labour market, bridges to other milieus and social spheres are necessary to gain experience, support, and opportunities. For young people with key choices to make, widespread network relationships contribute to processes of self-assurance, personal development and, in turn, resilience and desistance. Accordingly, in practice, interventions with young people need to turn the spotlight from young people as problems in themselves on to the problems they encounter, enabling them to see, and engage with, opportunities to develop a much wider range of options for action and change (Ward, 2000 p56) and, in the process, networks and relationships.

The acquisition of personal self-efficacy and competence in decision making, with which this is bound up, is more likely to occur through 'doing' rather than by mere information giving; the provision of facilities or experiences, or corrective thinking programmes (Walther et al, 2005). It requires policy initiatives, especially those that are directed towards development and support of young people, to connect with the intended beneficiaries. This is also more likely to occur when young people and workers work in partnership, engaging actively together on issues which the young people can see as relevant to their lives (Shildrick and MacDonald, 2008). For people looking to so engage with young people, it means creating circumstances for young people to develop active listening, critical thinking, and problem posing skills; it also involves starting with young people's perceptions of their world, identifying issues that are meaningful and relevant to them, and facilitating their participation and ownership of decisions and actions they take (Arches and Fleming, 2007 p43).

Such a perspective challenges the assumption that the structural aspects of the problems young people face are less accessible (Barry, 2004) and are, therefore, 'off-limits'. Such a perspective leads to practices which focus on the individual as the locus for change while the worker acts as the conduit to social capital (McNeill, 2006). Ward (2008 p402) expresses a concern that such disaggregation of the development of human and social capital, of the personal from the social, inevitably carries "a subtle hint of ‘responsibilisation’ (Kemshall, 2002)" however warm, empathetic and supportive the context and beneficent the purpose.

With this in mind, the processes for the enhancement of both social and human capital, represented in young people who are competent ‘agentic individuals’ possessing skills of ‘reflexivity’ and for ‘risk navigation’, are to be viewed as interacting and inextricably entwined. This requires, on the one hand, a distancing from ‘deficit’ and ‘blaming the victim’ perspectives, however subtle, and, certainly, from crude neo-liberal approaches and, on the other hand, a positive commitment to young people having the right to be heard, to have an active part in setting the agenda for action and, importantly, a right to take action on their own behalf.
References


CANADA’S ABORIGINAL PEOPLE, FETAL ALCOHOL SYNDROME & THE CRIMINAL JUSTICE SYSTEM

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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) 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