

ADHD and the Justice System

Is ADHD Real?

The general public continues to have questions concerning Attention Deficit Hyperactivity Disorder (ADHD) as a legitimate diagnosis; however medical and mental health experts in many countries have reviewed scientific data over the past 25 years and strongly concur that ADHD is a neurodevelopmental disability which is present at birth, directly related to different from usual chemical signaling in the nervous system and can be passed on from parent to child and may be negatively impacted throughout life by brain trauma and injury. Phil Anderton, PhD¹, a British police inspector and author of The Tipping Points, stated, "ADHD is real, it is not caused by poor parenting, colored sweets or poor diet. ADHD is a recognized mental health disorder and as such, professionals should be better informed, act appropriately and deliver services to young people with ADHD to the best of their abilities. To that end, leave your misconceptions at the door and enter a whole new world, a world where ADHD can and does destroy people's lives." (1)

Is there a greater incidence of those with ADHD arrested/incarcerated?

The generally quoted incidence of ADHD in the child/adolescent population is 5%. Review of the incidence of ADHD in the incarcerated population by Robert Eme and Patrick Hurley (2) in their book, Spinning Out of Control, suggested the incidence of ADHD in the adult offender population to be 25%. (Range from the studies of 20% to greater than 50 %.)

Brain Chemistry Has Direct Affect on Behavior

The person challenged with ADHD primarily has impairment in executive function and this impairment may directly affect behavior. Having ADHD is not an excuse for the behavior; however it is an explanation for behavior. People challenged with untreated ADHD frequently cascade into the criminal justice system and unfortunately stay there due to:

- 1). Impulsive, non-thinking, thrill seeking behaviors, impatient, difficulty in delaying gratification, insatiable
- 2). Failure to start, procrastination
- 3). Inability to focus including disorganization, inability to complete complex tasks, horrific money management skills with constitutional inability to save, impulsive buying
- 4). Failure to sustain effort, follow through, complete tasks
- 5). Overreaction, poor emotional regulation, low frustration tolerance, explosive temper, irritability, suggestibility
- 6). Memory dysfunction with failure to appreciate gravity of situation and poor time management, planning for the future

Russ Barkley's (3) research of US youth matched for socioeconomic settings and followed for 10 years is astounding-20% of his control group without ADHD were arrested compared to 48% of the ADHD group. Furthermore, the control group was arrested on average 2.1 times compared to 6.4 times for the ADHD group.

Are Persons Entering the Justice System and Jail Screened for Developmental and Learning Disabilities which includes ADHD and some Learning Disabilities?

"Early identification of intellectual and developmental disabilities in persons in the criminal justice system is essential to protect their rights during arrest and trial, ensure safety when incarcerated, and maximize the opportunities to receive services while incarcerated and post release." (4) Findings from several rare studies of screening services have found very few courts or jails include intellectual, learning and developmental disability screens as part of their

screening process even though ADHD and learning disabilities are the most common disabilities challenging arrestees and offenders. (5)

What treatment works?

It is known that 60% of adults with ADHD will require treatment including medication, counseling, mental health therapy as adults. Because ADHD is a chemical imbalance in the brain affecting behavior, medication is the mainstay of treatment but should be coupled with counseling/coaching and habitation of skill deficits (learning disabilities, other co-occurring developmental and mental health issues) for the best outcome.

Barriers to Appropriate Care in the Justice System

Offenders coming into the justice system are currently not screened for ADHD and may be placed on probation which requires abstinence from street drugs used for self medication. The offender starts a pattern of re-offending with escalation of offenses due to the behaviors highlighted previously. Several studies indicate that intervention and treatment of offenders with ADHD at this point significantly decreases the offender's return to the justice system.(6) In fact, a report to the British Parliament by the Health Service Home Office recommended screening of all arrestees for ADHD followed by supervised treatment. Unfortunately, this recommendation has not yet been acted on by Parliament.

Within correctional settings, juvenile correction facilities are much more likely to allow the prescription of medications for treatment of ADHD than adult facilities. The vast majority of adult facilities do not screen for ADHD and, if an inmate is being treated for ADHD prior to incarceration, medication is routinely stopped due to the facilities' concerns of misuse/sharing of medication. (7) Offenders challenged by ADHD and not fully treated make up the majority of offenders who cycle back through the criminal justice revolving door.

Legal Consideration - Does the deliberate with-holding of pharmacologic treatment for a neurological disability such as AD/HD constitute a violation of the Americans With Disabilities Act requirement of providing Reasonable Modification for program access?

1. Phil Anderton, PhD., The Tipping Points. What professionals should recognize as the social impact of ADHD. (1st Edition) 2007. ADD Information Services Ltd. P 1
2. Robert Eme, PhD and Patrick Hurley, Spinning Out of Control, 2009 (2nd Edition),
3. Russell A. Barkley, PhD et al. ADHD in Adults, What Science Says. 2008 (4th Edition), Guilford Press p. 205
4. Scheyett, A.; Vaughn, A.; Taylor, M.; Parish, S. (February 2009) Are We There Yet? Screening Processes for Intellectual and Developmental Disabilities in Jail Settings. *Intellectual and Developmental Disabilities Vol. 47, Number 1, 13-23*
5. Cox, J.; Eme, R.; Kramer, J. Presentation at the National Commission on Correctional Healthcare Conference, Las Vegas, NV. October 12, 2010 entitled Evidence-Based Diagnosis and Treatment for ADHD in the Correctional Setting.
6. David S. Admire. Forum on Public Policy(2006) Learning Disabilities and Attention Deficit Disorder: A New Approach for the Criminal Justice System
7. Lindsay, W., & Taylor, J. (2005) A selective review of research on offenders with developmental disabilities: Assessment and treatment. *Clinical Psychology and Psychotherapy, 12, 201-214*

For More Information:

Attention Deficit Disorder Association (ADDA) www.add.org
Children and Families with ADHD (CHADD) www.chadd.org