

BRAIN INJURY AND SEXUAL ASSAULT: SPECIAL CONSIDERATIONS & RECOMMENDATIONS FOR ADVOCATES (PART 2)

A brain injury must be considered when an advocate observes cognitive, behavioral, emotional and/or physical irregularities in an individual who has experienced a sexual assault. These irregularities may indicate the need for professional care, for accommodations by the advocate, and/or for special attention to testimony, legal representation and court appearances.

Understanding Traumatic Brain injury (TBI)

Recent Injury: If a brain injury occurred recently, immediate and follow-up medical attention may be

needed to rule out or treat problems such as a fractured skull, bleeding inside the skull, or the swelling of the brain. In addition, when the symptoms of a new brain injury are present, there may be undetected damage to the structure of the neck that could require medical attention.

“Second Hit”: If a recent brain injury occurred before a prior brain injury was resolved, this “second hit” brings a much greater risk of death or long term disability. In these cases, medical attention is required. The “second hit” can have a greater impact because the brain is already using all its resources to stabilize after the first injury. Recent studies have determined that each concussion or sub-concussion disturbs the biochemistry of the brain for three months. This is the reason an athlete should not return to play until cleared by a medical professional.

Prior brain injury: If there is a prior history of brain injury, previous symptoms may be aggravated due to the intense emotions experienced during the sexual assault, and may result in extreme exhaustion, confusion, and fright.

Professional help from a neuropsychologist, counselor or social worker with experience working with individuals with brain injury will be needed to help the individual in moving forward after this new event. Reassurance, increased rest and protection from further intense emotions will help the brain recuperate faster.

Other medical events: With or without a traumatic brain injury, cognitive, behavioral, emotional and physical irregularities in brain function may also be caused by a non-force event that occurred prior to, during or after the sexual assault. Medical attention is required to answer this question and provide any necessary treatment. A family doctor may have a complete medical history revealing a prior non-force event. If a



complete medical history and physical is done during an emergency room visit, the information may be revealed then. Cognitive functioning might be greatly impaired and rehabilitation and recovery will become more complex with numerous brain injuries.

HOW CAN A SEXUAL ASSAULT ADVOCATE SUPPORT A VICTIM WITH A BRAIN INJURY?

It is important to be aware of common problems following a brain injury – being able to recognize signs and symptoms will help in providing resources and communicating with victims of sexual assault.

When working with a survivor, keep in mind that a brain injury could have occurred recently or in the past. It is important to be aware of signs of brain injury, and to know the appropriate referrals.

- Ask about events (force and non-force) that may have caused a brain injury.
- Ask about and watch for any sign of cognitive, behavioral, emotional or physical irregularities that may have been caused by a brain injury.
- Be aware of the common irregularities in cognitive, behavioral, emotional and physical functioning. If the survivor is receiving care for TBI, note any recommendations that were provided and determine how you might use these recommendations.

Here are some things to consider when working with a survivor who may have a brain injury:

- If the individual thinks slowly, speak more slowly.
- If speech is difficult, avoid questions with multiple parts or multiple questions within one statement, and offer communication devices (such as using symbols, typing/ writing, etc.)
- If the mind tires easily, reduce stimulation.
- If the body tires easily, arrange frequent rest breaks.
- If decisions are difficult, offer simple choices.
- If noise overwhelms, minimize noise.
- If the individual is confused in a group, remain close by and stay at the edge of the group.
- If the individual is unable to understand, change the subject and defer that topic for a later time.
- If the individual holds strong views, realize this may block comprehension and new learning.
- If the individual is easily upset, remain calm.
- If the individual is easily confused, simplify the situation.
- If there is limited memory of recent events, suggest using a memory book.
- If there is confusion about appointments, suggest using an appointment book or programming appointments in a personal communication device.
- If the individual forgets familiar people, objects or faces, use pictures, tags or verbal reminders.
- Provide written materials, cards, pictures, phone calls, planning books, memory books or whatever assistive technology is necessary to promote competence.

WHAT ARE THE SPECIAL CHALLENGES INVOLVING TESTIMONY?

- When giving testimony, the victim of an assault is expected to remember the assault, recognize the offender, know the date and time of the event, explain what they were doing before and after the event, and follow the directions of the court. All of this may be impossible for the individual with a brain injury, regardless of whether the injury is old or new, and regardless of whether it was caused by a

force or non-force event. Some other examples of difficulties in a court proceeding include:

- The individual may remember the assault but be unable to respond to questions due to receptive (hears but can't determine the meaning) or expressive (can't recall the word needed) aphasia.
- Under cross examination, the individual may not be coherent or may be easily confused.

WHAT ARE THE SPECIAL CONCERNS SURROUNDING LEGAL REPRESENTATION?

- The legal representative should understand brain injury or be willing to learn.
- The legal representative should understand the problems created by the specific cognitive, behavioral, emotional and physical irregularities of the client.
- The legal representative should communicate with the client at the client's level of understanding.
- The legal representative should assure that any evaluation to be done by a psychiatrist must be done by a neuropsychiatrist who is trained in and specializes in working with people with brain injury.
- The legal representative should assure that any evaluation conducted by a psychologist be done by a neuropsychologist who is trained in and specializes in working with people with brain injury.
- The legal representative may need to prepare plans for rehabilitation in some situations.

WHAT ARE THE SPECIAL CONCERNS INVOLVING THE COURT?

- The individual may not remember appointments, court dates or other deadlines.
- The individual may not remember appointment times or locations or what to bring to an appointment.
- The individual may be unable to assemble or bring requested items to an appointment.
- The individual may not understand the directions of the court.
- The individual may understand but not be able to remember the directions of the court.
- The individual may appear incompetent.
- The individual may appear uncooperative.
- The individual may appear to be mentally ill, intellectually disabled or under the influence of drugs.
- The individual may be required to submit to an evaluation by a psychiatrist or psychologist with no experience in brain injury.
- Under pressure, the individual may experience a catastrophic stress reaction, become silent, weep or become agitated.
- Court accommodations may be required such as minimizing distractions by clearing spectators, allowing dark glasses, proceeding slowly, explaining carefully, providing directions in writing, providing a continuance if the individual becomes overwhelmed, etc.

WHAT FURTHER HELP MAY BE AVAILABLE TO SOMEONE LIVING WITH A BRAIN INJURY?

Due to the high cost and years of rehabilitation required after a brain injury, each of the following options for income and expenses should be explored to assist individuals who have had a brain injury (regardless of the cause or date) and/or other disabilities following a sexual assault:

- Act 150 Attendant Care or the Attendant Care Waiver (any disability)
- Auto medical benefits (traumatic brain injury)
- COMMCARE Medicaid Waiver (traumatic brain injury)
- Health insurance, Medicare, Medicaid, Veterans' Administration Benefits (any disability)
- Independence Medicaid Waiver (any disability)
- Office of Vocational Rehabilitation (any disability)
- Pennsylvania Head Injury Program (traumatic brain injury)
- Social security disability, SSI, long term disability benefits (any disability)
- Victims' Compensation (traumatic brain injury)
- Workers' Compensation (injury while on the job)

CONCLUDING THOUGHTS

Brain injuries are unique because the brain controls everything that we are, do, think, say, feel, plan, dream and remember. Brain injuries may make a world that seemed familiar appear confusing or foreign. As an advocate, you cannot imagine the value of your patience, kindness, respect, encouragement and belief in the future, while accepting the limitations of the present without comment. Hope is the engine that powers recovery. Stubbornness and determination are crucial. The person who refuses to give up will prevail in the end, though that may be many years away. Recovery can continue decades or years later, through the plasticity of the brain, as long as the individual keeps active and refuses to be embarrassed by their limitations.

PCAR would like to acknowledge Barbara A. Dively, Executive Director, Acquired Brain Injury Network of Pennsylvania (ABIN-PA) for creating this Technical Assistance Bulletin. For more information on ABIN-PA's work, visit their website: <http://www.abin-pa.org/>.

Resources

Acquired Brain Injury Network of Pennsylvania - www.abin-pa.org.

Brain Injury Association of America - www.biausa.org.

Centers for Disease Control and Prevention - www.cdc.gov - search on "brain injury".
 "Domestic Violence and Traumatic Brain Injury". November 2008. Host: Gerry Brooks, MA, CCC, CBIST. Guest: Sarah M. DeWard, MS, New York State Coalition Against Domestic Violence. Time: 26:56. www.northeastcenter.com/podcast-traumatic-brain-injury-025.htm

Gordon, Wayne, Ph.D., Mount Sinai Medical Center - www.brainline.org for video interviews.

HELPS Brain Injury Screening Tool - www.hnfs.com/va/static/rmh/4_helps_tbi.pdf.

"The Brain That Changes Itself" Norman Doidge, M.D. 2007. Penguin Books (amazon.com).

"Sexual Assault", 2007 Hot Topics 56. http://www.legalanswers.sl.nsw.gov.au/hot_topics/pdf/sexual_assault_56.pdf

"Victimization of Persons with Traumatic Brain Injury or Other Disabilities", www.cdc.gov/traumaticbraininjury/pdf/VictimizationTBI_Fact%20Sheet4Pros-a.pdf