



Family Violence & Family Law Brief

Traumatic Brain Injury and Intimate
Partner Violence: Challenges for
Survivors Involved in the Family
Court System

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This brief is based on the presentation of Dr. Michael Ellis & Ashley Stewart “Traumatic Brain Injury and Intimate Partner Violence: Challenges for Survivors Involved in the Family Court System” held on April 3, 2023, hosted by RESOLVE Manitoba. The webinar can be retrieved from:
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Traumatic Brain Injury and Intimate Partner Violence: Challenges for Survivors Involved in the Family Court System

Introduction

Intimate partner violence (IPV) is a leading cause of non-fatal injury to women worldwide (ABI Research Lab, 2023). Survivors of IPV commonly sustain physical injuries such as cuts, bruises, fractures, dislocations or broken bones. However, a common but often overlooked injury sustained by survivors is traumatic brain injury (TBI), which is an injury that affects how the brain works (Centers for Disease Control and Prevention, 2022). A TBI can be caused by a bump, blow, or jolt to the head, or a penetrating head wound, such as a gunshot wound (Centers for Disease Control and Prevention, 2022). TBI is a leading cause of disability worldwide and is commonly observed amongst those who experience falls, motor vehicle accidents, and sport-related injuries (Haag et al., 2019). However, the prevalence of TBI amongst IPV survivors remains underrecognized, which results in these injuries being underdiagnosed and uncared for among this population.

Experiencing TBI can present a myriad of challenges for IPV survivors. An area that can be particularly challenging is the family court system, where the short- and long-term physical, emotional, cognitive, and behavioural impacts of brain injury can make involvement in court proceedings exceedingly difficult. In addition to this added complexity in the court system, emerging research suggests that a brain injury diagnosis may even harm survivor's chances of success in custody and access proceedings, as opposing counsel is likely to utilize a brain injury diagnosis to undermine a survivor's ability to parent.

About this Brief

This short brief explores the issue of TBI amongst survivors of IPV, and the subsequent challenges these injuries may present for survivors in the family court system. The information in this brief is based on the webinar: *Traumatic Brain Injury and Intimate Partner Violence: Challenges for Survivors Involved in the Family Court System*, featuring Dr. Michael Ellis (Medical Director, Pan Am Concussion Program) and Ashley Stewart (Coordinator, Sexual Assault Nurse Examiner Program, Health Sciences Centre). This brief specifically provides information on the intersection of IPV and TBI, the role of front-line service providers in recognizing and responding to IPV-related head trauma, and challenges for survivors with TBI in the family court system.

Intimate Partner Violence and Traumatic Brain Injury

According to the World Health Organization (2021), IPV is the most prevalent form of violence against women, with an estimated one in three women being subjected to physical and/or sexual IPV or non-partner sexual violence in their lifetime. Although IPV can occur in any setting, certain risk factors increase the risk of IPV victimization among women including younger age, lower socioeconomic status, lower education, and previous exposure to child abuse or IPV (Abramsky et al., 2011; Capaldi et al., 2012). It is important to note that marginalized groups,

such as Indigenous populations, those with physical or cognitive disabilities, 2SLGBTQ+ communities, the vulnerably housed, and those that work in the sex trade can also experience IPV and unique barriers to accessing care or services.

In Canada, IPV accounts for over one-quarter of all police-reported violent crime (Conroy, 2021). Some of the highest rates of IPV are found in the Prairie provinces, with Saskatchewan recording the highest rates of IPV provincially, followed by Manitoba (Conroy, 2021). Disparities between rates of IPV *within* these provinces have also been noted, with IPV being more prevalent in rural, remote, or Northern areas in the Prairies compared to urban centres (Conroy, 2021). Although these areas are home to some of the highest rates of IPV in the country, current statistics do not truly reflect the pervasive nature of the issue—as a great deal of IPV is never reported to the police (Statistics Canada, 2021).

Survivors of IPV most commonly sustain physical injuries to the head, neck, and face, with approximately 92% of survivors enduring trauma to these areas (Jackson et al., 2002; Sheridan & Nash, 2007; Wu et al., 2010). As a result of this increased trauma, survivors are disproportionately impacted by TBI—with researchers estimating that up to 75% of survivors sustain TBIs, and that a significant portion experience *multiple* TBIs (Haag et al., 2019; Valera & Berenbaum, 2003). A TBI can be classified as mild, moderate, or severe, with different symptoms indicating the level of severity.

Survivors with mild TBI can experience a variety of physical, emotional, cognitive, and sleep-related symptoms, including (Centers for Disease Control and Prevention, 2023):

- **Physical:** headache, nausea, dizziness or imbalance, blurred vision, and sensitivity to light or sound
- **Emotional:** anxiety, sadness, irritability, and feeling more emotional
- **Cognitive:** difficulty concentrating or remembering, fogginess, and troubling thinking clearly
- **Sleep:** trouble falling asleep and sleeping more or less than usual

Survivors with moderate to severe TBI can also experience symptoms related to thinking, learning, motor skills, hearing, vision, and behaviour (Centers for Disease Control and Prevention, 2023):

- **Thinking and learning:** difficulty understanding or thinking clearly and trouble communicating or learning skills
- **Motor skills, hearing, and vision:** weakness in arms and legs, problems with coordination and balance, problems with hearing and vision, and changes in sensory perception
- **Behaviour:** trouble controlling behaviour, personality changes, and impulsivity

Those with IPV-related head trauma can also sustain other injuries to the face, eyes, and neck. Trauma to the face can result in contusions, lacerations, facial fractures, and dental injuries, which can cause localized pain, bruising, swelling or deformity, and deficits in sensory or motor

functioning. Trauma to the orbit (space within the skull that contains the eye, including its nerves, muscles, and glands) can cause periorbital contusion, sub-conjunctival hemorrhage, corneal abrasion, retinal detachment, orbital fractures, injuries to the muscles that control the eye, and rupture of the globe (eyeball), which can result in localized pain and swelling, blurred vision, double vision, visual field defects, and complete vision loss.

Brain injuries can also occur as a result of non-fatal strangulation, known as hypoxic-ischemic brain injury (HIBI) (Monahan et al., 2020). Attempted strangulation has been reported in up to 68% of women in abusive relationships and serves as an important risk factor for intimate partner homicide (Glass et al., 2008; Wilbur et al., 2001). Non-fatal strangulation can also cause injuries to the cervical spine, airway, esophagus, blood vessels, and soft tissue structures such as lymph nodes, which can result in hoarseness or voice changes, difficulty swallowing or talking, and stroke or stroke-like symptoms.

In addition to the signs of physical injury, it is important to acknowledge other factors that can impact survivor functioning, including the presence of mental health conditions, substance use, and previous TBI. This is particularly significant since emerging research suggests that female populations with TBI may be more likely to experience mental health challenges as a result of their injuries (Karakurt et al., 2021). Research has also found an association between substance use and IPV-related TBI, as survivors with IPV-related TBI were found to have significant levels of alcoholic cirrhosis, alcoholic fatty liver, and drug-induced cirrhosis (Liu et al., 2020).

The Role of Front-Line Service Providers in Recognizing and Responding to IPV-Related Head Trauma

There are several steps that front-line service providers can take to adequately assist survivors with suspected brain injuries. For instance, service providers can become educated on the signs and symptoms of IPV-related brain injuries, understand the intersecting factors that lead to IPV and impact the lives of survivors, and develop procedures that direct clients to appropriate medical and support services in their area. Additionally, it can be useful for service providers to understand the various ways in which survivors with IPV-related head trauma present in acute care settings, as well as how to utilize questions to help recognize or screen for IPV-related brain injuries.

In acute care settings, patients may present with a vague history of being assaulted, have limited recollection of the events surrounding the assault, or report a loss of consciousness. In these instances, it can be good practice to have a high index of suspicion for brain injuries—especially if visible injuries to the head, neck, or face are present. Conversely, patients may describe a history of trauma to the head, neck, or face, or may even disclose an act of physical abuse such as strangulation. It is important to note that survivors who have experienced strangulation may not recall losing consciousness and may not exhibit immediate symptoms of strangulation after the incident. Significant strangulation injuries can also occur without clear external signs of trauma.

There are several questions that service providers can ask patients in acute care settings to assess for IPV-related brain injuries, including:

- Was the patient struck in the head or strangled?
- What were they struck with? Did they fall and hit their head? Was their head banged against an object? Struck with a weapon? And if so, what?
- When did it occur?
- Did they lose consciousness, experience any visual changes or seizures?
- Did they experience a loss of bladder or bowel control?
- What symptoms are they currently experiencing, or have they experienced since the assault?

It can also be helpful to ask patients about a history of previous IPV or head trauma, including:

- Is there a past history of IPV? If so, have they been hit in the head or strangled before?
- Have they experienced any symptoms since previous head injuries?
- Did they seek medical attention for any previous instances of suspected IPV-related TBI?

There are also several other important points to consider when caring for survivors with IPV-related head trauma:

- Patients may not seek medical attention or attend follow-up appointments due to their visible injuries. If this is a concern, providers can book appointments for several days after the incident when injuries are less noticeable; book appointments during “slow” times at the clinic; or offer to meet patients at the entrance and escort them in.
- Patients can face barriers related to transportation, childcare, work, and safety that can prevent them from attending medical appointments. It can be beneficial to ask patients if they experience these challenges and work on ways to address them together.
- Patients may not be able to give a clear history of their assault or recall their symptoms when in an acute care setting due to the immediate impacts of TBI and trauma but may be able to give a much more detailed history at follow-up appointments.
- Patients may disclose a history of being hit in the head or strangled but will often not disclose who injured them unless asked. It can be beneficial for healthcare providers to ask patients *who* hit them in the head to ensure that patients receive the care and services they need. If a patient discloses IPV, it is essential to maintain confidentiality and privacy in the clinic or hospital setting.
- Patients commonly report histories of increasing headaches, poor concentration, visual difficulties, and increases in mental health symptoms due to repeated injuries to the head.

It is important to note that while IPV is a prevalent issue, many survivors do not seek the medical care, legal resources, or services that they need. There are several reasons why survivors do not seek support, such as not thinking their injuries are severe enough, various barriers to accessing services, or their abuser preventing them from accessing services. Conversely, survivors who *do* seek medical care or supports may not be comfortable disclosing the cause of their injuries due

to guilt, shame, fear of future abuse, or the impact that reporting would have on their children; while others may *want* to disclose the cause of their injuries but may not feel comfortable to do so in these settings.

Challenges for Survivors in the Family Court System

Survivors with IPV-related brain injuries can experience the following challenges in the family court system:

- **Memory impairment:** survivors may not be able to recall the details of their assault due to the impacts of their brain injury on cognitive functioning.
- **Impacts relating to the neurobiology of trauma and the inability to sequence events:** survivors can have fragmented or incomplete memories of a traumatic assault and may not be able to recall events in a chronological or linear manner.
- **Lack of documentation and medical records:** survivors can experience one or more brain injuries but lack the documentation or medical records to substantiate their claims.
- **Lack of police reports or involvement:** survivors may not seek police assistance for IPV or may not seek assistance until after a number of violent incidents have occurred.
- **Impacts to the survivor's statement:** several factors (including the ones mentioned above) can impact a survivor's statement regarding their experiences of IPV.

Additionally, emerging research conducted by Boyle and colleagues (2022) found that a brain injury diagnosis can undermine a survivor's chances of success during custody and access disputes. In these disputes, the *capacity to parent* is often scrutinized, which can involve information about a parent's health status (Boyle et al., 2022). Consequently, a brain injury diagnosis may be disclosed against a survivor's will, as current legislation enables medical information to be shared in court despite physician-patient confidentiality (Boyle et al., 2022). Lawyers in the study stated that their strategy as opposing counsel in these cases would involve using a survivor's brain injury diagnosis against them to argue that they are an unfit parent, despite acknowledging that this strategy was immoral or unethical (Boyle et al., 2022).

More Information

Additional information and resources on IPV and TBI can be found here:

- **Concussion Awareness Training Tool:** <https://cattonline.com/>
- **Abused and Brain Injured Toolkit:** <https://www.abitoolkit.ca/>
- **SOAR (Supporting Survivors of Abuse and Brain Injury through Research):** <https://soarproject.ca/>
- **Pauktuutit Inuit Women of Canada:** <https://pauktuutit.ca/abuse-prevention-justice/gender-based-violence/intimate-partner-violence-traumatic-brain-injury/>
- **Manitoba Association of Women's Shelters Training:** <https://maws.mb.ca/courses/mental-health-and-substance-use/>

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