

Exploring the Connection Between Brain Injuries and Criminal Behavior

by Christopher Zoukis

THANKS IN LARGE PART TO RECENT well-publicized incidents involving the National Football League, the impact of brain injuries has become a topic of interest to the general public. When highly-paid professional athletes who participate in contact sports engage in bizarre, criminal or suicidal behavior, people want to know why.

Traditionally, the American public has been less interested in the relationship between brain injuries and crimes that do not involve athletes. However, a growing body of scientific evidence linking brain trauma and criminal behavior is beginning to alter such apathy.

In 2013, Kim Gorgens, a neuropsychologist and clinical associate professor at the University of Denver, began to study possible links between brain injuries and criminal behavior. In collaboration with Judy Dettmer, clinical director of the Colorado Brain Injury Program, and Jennifer Gafford, staff psychologist for the Denver County Sheriff's Office, Gorgens assessed 80 prisoners at the Van Cise-Simonet Detention Center in Denver over a two-year period.

The findings from that study were dramatic and have led to much more in-depth

research: fully 96 percent of the assessed prisoners were found to have suffered moderate or severe brain trauma. [See: *PLN*, Nov. 2013, p.18].

Gorgens' data corresponded with previous related research. A 2007 study of federal prisoners found a brain injury rate of 87 percent; a 2006 review of 200 prisoners in Australia reported an 82 percent rate; and a 2008 examination of 990 Minnesota prisoners revealed a rate of 80 percent.

Contrasted with an estimated six percent of the general population that suffers from brain injuries, such findings suggest some level of correlation between brain trauma and criminal behavior.

Among professional athletes, repeated blows to the head have been shown to lead to chronic traumatic encephalopathy, or CTE – a progressive brain disease that is associated with anger, depression, impaired judgment and poor impulse control.

A 2009 study of brain injuries in Maryland found that 28 percent of patients who experienced head trauma became aggressive within three months of the injury.

The anger and aggression often associated with traumatic brain injury (TBI) may lead to behavior that results in criminal charges and thus incarceration. A 2009 analysis in the journal *Brain Injury* found that adults with a history of TBI tend to enter prison at a younger age.

The Australian study determined that the presence of brain injuries correlated with criminal conviction rates twice as

high as in the general population. Among males, the rate for the general population was 10 percent, jumping to 19 percent for those with brain injuries; for females the rate more than doubled from 4 to 9 percent.

A February 2017 study, "Traumatic Brain Injury and Recidivism Among Returning Inmates," published in the journal *Criminal Justice and Behavior*, examined rearrest rates among released Indiana prisoners who were evaluated using the Ohio State University Traumatic Brain Injury Identification instrument. The report found that offenders with TBI had higher rates of recidivism.

Yet while science has established a link between brain injuries and criminal behavior, it has not been able to establish direct causation. Regardless, courts are starting to take evidence of TBI into consideration in criminal cases. Between 2005 and 2012, at least 1,500 prosecutions involved defenses that included neuroscience.

There is currently no standard of evidence available in the U.S. legal system to measure the impact of brain trauma on criminal culpability, however. Juries and judges must make such determinations with input from experts, but with no clear foundational criteria.

The culpability of a particular defendant is not the only aspect of the criminal justice system where brain injuries are relevant. Researchers are also encouraging corrections officials to take TBI into account when designing and implementing rehabilitation programs.

"The presence of traumatic brain injuries should affect the way we treat incarcerated offenders," stated Adam Kolber, a professor at Brooklyn Law School who specializes in neurolaw and bioethics.

Not everyone agrees that brain injuries should be considered when weighing offenders' culpability. Prof. Gorgens recalled receiving angry phone calls and emails chiding her for sympathizing with criminals. One person said he "wanted to squeeze my head until shit came out of my ears, so that I would get some sense," she said. "They thought our agenda was to try to overturn convictions, like we were going to excuse

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the criminal behavior with a magic wand.”

Amy Blackman, a former prison guard, once dismissed considerations of why a given person engages in criminal behavior.

“I spent a lot of time not caring about the brain,” Blackman remarked, referring to her years in corrections. “It was very black and white. Overall, the philosophy was ‘nail ‘em and jail ‘em.’”

But when she began working as a case manager at the Denver Sheriff’s Health Services unit, counseling prisoners caused her to change her perspective. Instead of “trying to put the hammer down and hope they change,” she began “looking at the deeper reasons why they act the way they act and thinking about how we can help them.”

Researchers suggest that at the very least, findings related to a link between TBI and criminal behavior highlight potential benefits from routine screening for brain injuries, as well as for developing programs tailored to the particular challenges that such injuries present. ■

Sources: www.newsweek.com, www.crimetraveller.org, <http://journals.sagepub.com>, www.salford.ac.uk

New York Prisoner Attempts to Retire from His Prison Job

FRANKLIN CORRECTIONAL FACILITY prisoner ibn Kenyatta, serving time for the 1974 murder of a police officer, has long professed his innocence and refused to attend parole hearings despite being eligible since 1989. The elderly prisoner has no desire to be released. “If I wanted to get out, I’d go to the parole hearings,” Kenyatta, 71, stated. “Parole is for the guilty.”


For over 40 years Kenyatta has worked in various jobs inside New York state prisons. From 2006 to 2015, he served as a library clerk at the Franklin Correctional Facility, but his tenure ended with a new directive instituted by the Department of Corrections and Community Supervision (DOCCS) following the highly-publicized escape of Richard Matt and David Sweat from the Clinton Correctional Facility in June 2015. [See: *PLN*, Jan. 2017, p.26; June 2016, p.63]. Under the new policy, prisoners can no longer work in job positions beyond one year to discourage close personal relationships with civilian employees.

As a result of the policy change, Kenyatta was assigned as a porter – a physically demanding job that required him to perform janitorial duties, clean floors and shovel snow on occasion. After a short time on the job he made an unusual request: due to his age, he asked to retire. Prison officials denied his request, citing DOCCS Directive 4803, which states, “All program and work assignments shall be made without regard to an inmate’s age, race, religion, national origin, sex, sexual orientation, disability, marital status, veteran’s status, or nonviolent political views.”

According to a November 25, 2016 news report in the *Malone Telegram*. Kenyatta is appealing the denial of his retirement request with the DOCCS administration. For non-prisoners, the retirement age for Social Security purposes is usually 65 to 67. ■

Source: www.mymalonetelegram.com

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