Attorney's Guide To Expert Witnesses

A Guide For Post - traumatic Stress Disorder

By Michael K. Spodak, M.D.

With the enormous increase in psychiatric involvement with civil and criminal cases there is a great deal of misunderstanding about what constitutes an appropriate evaluation and how to arrive at an appropriate diagnosis. This has been both clarified and complicated by the attempts to use the DSM-III, Diagnostic and Statistical Manual Third Edition, American Psychiatric Association, 1980. There is no area that causes greater confusion than that of post-traumatic stress disorder.

A Change In Name

Historically, post-traumatic stress disorder was originally called "shell shock," after a soldier during World War I was found dazed and confused wandering behind enemy lines after an incoming shell had blown up a fellow soldier in close proximity. The condition became relabeled post-traumatic neurosis in the 1950's, 60's and 70's and most recently has come to be called post-traumatic stress disorder. The precipitating event which leads to the condition is generally a traumatic experience which is outside the range of usual human experience. Most often it is considered to be one of overwhelming proportions such as torture, rape or a seriously life-threatening accident. In the more recent forensic psychiatric cases the trauma has been identified as something which might otherwise be felt to be either within the range of usual human experience or fairly trivial, such as being treated rudely in a store or having been falsely accused of shoplifting.

Symptoms Of Stress Disorder

Traditionally, the post-traumatic stress disorder syndrome described an individual who became essentially nonfunctional after a serious traumatic incident. The initial indication of lack of function was noted with an individual who might be sitting dazed, disoriented and confused almost immediately after the traumatic incident. Over the next several days or weeks, the individual might experience intrusive recollections of the trauma, having ruminating thoughts and be almost totally preoccupied with the event, have terrifying nightmares which would awaken the person, go into a severe depression characterized by hopelessness, lethargy, decreased appetite, weight loss and crying spells. Flashbacks would often be a prominent feature of the condition and typically these would be described as reliving the experience with an individual who describes actually reexperiencing all of the sensory and emotional difficulties initially experienced.

It would be apparent to almost anyone observing the individual that something dramatic had changed and the person was clearly different both functionally and emotionally than he was prior to the incident. What has evolved more recently is an individual who is essentially the same as he was prior to the traumatic incident but who now complains of a little disturbance with sleep, some minor changes in appetite and a few pound weight loss, an occasional crying spell, and feeling a little depressed but with no substantive change in function. Avoidant behavior is considered a major component of PTSD and this usually involves complete avoidance of any activity which might remotely remind the individual of the traumatic incident. In an automobile accident trauma, the avoidant behavior is usually that of driving or being a passenger in a car, not simply avoiding the intersection where the accident occurred.

The difference, for example, is if one is falsely accused of shoplifting and avoids going into any stores or merely into the one store where one was falsely accused. Ordinarily, the individual with a full blown case of PTSD is so significantly disturbed that he seeks or is referred for psychiatric care almost immediately. In a case where the individual finally seeks mental health care one or two years after an incident, one has to wonder how substantial the psychiatric condition is.

The Manual For Attorneys And Doctors

Many astute attorneys have obtained copies of the DSM-III-R[2] (Diagnostic and Statistical Manual of Mental Disorders Third Edition - Revised) replacing the DSM-III. That book is a compendium of psychiatric and neurological disorders. It is intended as a reference guide which contains a disclaimer in the front indicating its general lack of applicability to litigation settings. Notwithstanding that, attempts are made to case psychiatrists in the role of scribes recording a list of the patient's symptoms, then going to the DSM-III-R and matching up the most appropriate diagnosis and writing that as the clinical impression.

Clearly, if that is all there is, there is no need for a psychiatrist to do that, as that can almost be a clerical function. What is important is for the psychiatrist to listen to the presentation of symptoms, to make relevant observations which constitute the mental status examination, review available collateral information and arrive at a clinical judgment as to the nature of any psychopathology. With that in hand, the clinician can use the DSM-III-R as a reference guide to apply the most applicable label to the clinical condition and be fairly certain that practitioners around the country will have a fairly good understanding of the underlying psychopathology by consulting the same guide.

Psychiatric Evaluation

In approaching the forensic psychiatric evaluation, threshold consideration should be whether there is serious psychopathology present or in the past from which the individual has recovered. Once that has been decided, attention can be paid to the exact diagnostic category as well as any causality issues. Later one can attempt to assess what damages may or may not be present. This is a clinical issue which requires a thorough evaluation and clinical judgment. This applies whether one is in the role of a "plaintiff evaluator" or a "defense evaluator."

Although there is an enormous amount of misinformation and perhaps misuse of the various diagnostic labels in psychiatry particularly, post traumatic stress disorder it is clear that there is a population of individuals who have legitimate psychiatric difficulties following a traumatic event. It is important that those individuals be delineated separate and apart from the "worried well" or those seeking a monetary recovery for a condition which is essentially unchanged from how they were prior to a particular event. The forensic psychiatric evaluation can be enormously helpful in delineating those various populations.

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