
Ask the Expert with Scott Modell FAQ Sheet

Q: Why do so many people refer to “brain of a 3-year old?” Where did this term come from? When did it become recognized that it should not be used?

A: The terms “brain of a 3-year old” and “functions like a 5-year old have been widely used. It is a generic way of speaking to a person’s overall ability. The problem with that is that it presupposes all 3-year olds or 5-year olds function the same and we have the same shared mental model. But, it means different things to different people. The term sets up expectations that their brain doesn’t work or they won’t be able to talk to them. It’s just not helpful information. Five year olds can report information reliably, they can articulate information. It means nothing to say, “functions like a 5-year old”. If we say motor skills are at a 5-year old level, great, then operationally define that. But other than that, it really sets up for the person to interpret what they think that means.

Q: Are there any other terms that should be removed from vocabulary?

A: “Nonverbal” and “functions like a 5-year old” We want to be sensitive to and thoughtful of. For child welfare folks, you would never refer to someone’s house as “filthy” if you did a home visit because this term has multiple meanings. There is no shared mental model of what “nonverbal” or “functioning like a 5-year old” is. It sets people up to have lower expectations. I think being sensitive to these terms “low-functioning” or “high Functioning”, because this might mean functioning problems, speech problems, etc. It really leaves it up to the individual to interpret.

Q: What are some ways that we can educate other professionals we work with about not using non-verbal in their reports? Are there resources we can give them?

A: In the webinar, I mentioned not labeling someone as nonverbal. Instead, we would want to prompt with the series of prompts from the video recording. We want to describe somebody’s expressive and receptive communication and not just label it as nonverbal. The danger of “nonverbal” is that it decreases the likelihood that somebody is going to talk to that child. Educate people and talk to them. To some people, nonverbal might mean someone doesn’t speak, or that they have limited speech, or that they have limited communication. It doesn’t speak to a person’s ability to perceive or understand or gesture or their ability to use augmentative communication.

Q: How are diverse populations who are crime victims that are disabled supported during an interview?

A: Based on the individual, all humans fall on a spectrum of needs. If you are good at interviewing and rapport building, all those skills transfer. When in doubt do what you would normally do with an individual of that age, regardless of his/her disability. Gather information on the front end about sensory needs. Information can be gathered by investigation, asking caregivers, or through family members. For example, children with autism have sensitivity to

smells, so if you're a smoker you're going to not want to smoke before you go in the room, don't wear perfume or cologne. If they're sensitive to lights, you want to pay attention to the lighting in the room. Minimize distractions during interviews. Support them like you would support any other child, although there will be nuances based on the disability of the individual. They need different levels of support and dependence across the spectrum. There is no blanket definition for autism. They have broad needs.

Q: What are some suggestions if someone suspects that there are victims of abuse, but we cannot confirm with the suspected victims themselves?

A: I would say outside of collecting collateral information both through collateral witnesses and other evidence, it would depend on the individual. When we say the individual isn't able to tell you, what does that mean? Can the individual communicate in any way? Do they use any augmentative communication? Do they communicate with gestures, if so, which ones? How reliable is their communication? I think the idea is to push the boundary on moving away from assuming somebody can't testify and really going to ascertaining, are there ways they can communicate? There's case law. There was a supreme court case in Massachusetts that ruled that it violated this woman, Ruby McDonna's rights when they said that she couldn't testify because she could only answer yes/no questions. The supreme court was overruled. The lower court says that people with disabilities have a right to full and equal participation in criminal justice proceedings. More and more, we should be pushing the envelope to access information from individuals who are limited in their communication. It will vary significantly based on age and overall abilities, but really ascertaining how much that individual can communicate.

Q: Who usually reports the crimes against people with disabilities if they are unable to do it themselves?

A: This is going to vary significantly. I think historically we see school-based personnel reporting information, or caregivers if they have seen something. We have recently had several cases where school members that are involved in transportation reported what they saw on a bus that didn't seem right. So, generally family members or school based personnel. It certainly can come from any source. And you want to ask, do they use any alternative communication? Push the boundary, don't assume someone can't testify. Ascertain are there ways in which someone can communicate? The supreme court of Massachusetts case disproves the idea that people with disabilities can't testify. It may be limited based on age and abilities, but collateral information is important.

Q: What credible sites do you use to look up disabilities?

A: There are definitely credible sites, it's just value of information. Center for Disease Control I would suggest follow good practice in terms of searching. Some medical sites can be less helpful. Homegrown sites can give really valuable information. Read from a variety of sites. Wikipedia is a starting point to see how information is connected to other sights. PHP (Parents Helping Parents) that can have a lot of information on it. If we are going disability specific, Autism Speaks website for autism information. For intellectual disabilities, the American Association for Intellectual and Developmental Disabilities.

Q: I investigated a crime where a student with a disability who doesn't speak was sexually assaulted at a county school for special needs students. Although she couldn't use sign language, the mother could interpret, and it's believed the suspect was an adult male special needs student from the same school. But, based on how the information was obtained, it wouldn't hold up in court. Do you have any recommendations for interviewing these types of victims?

A: It is unclear how the information was obtained. Without that, it is hard to speak to this case specifically. There are ways to validate the caregiver's interpretation. Not in every case. When we say the individual doesn't speak, I would want to know more about receptive language, do they use gestures? Do they use augmentative communication?

Q: What type of laws exist to help support people with disabilities who have been crime victims?

A: Individual states have different laws. Colorado passed a law about hearsay exceptions. Federally, there's the Americans with Disabilities Act, which really supports accommodations. It includes criminal and civil justice proceedings. There's VAWA (Violence Against Women Act). There's so many different pieces of legislation. There is lots of legislation for funding for training.

Q: How can we limit biases and assumptions made about people with disabilities?

A: When we see someone who looks different, it is normal human behavior to make assumptions, especially when someone's impaired in their speaking- we assume that they're slow or have an intellectual disability or some version of that. If someone looks physically different, we assume speech is impaired. Be intentional about assuming normal intelligence, about assuming they can understand you, until you have multiple data points to tell you something different. Recognize bias exists and you must be very intentional and thoughtful when you see somebody, because again the natural first response is thinking someone is slow based on the way they look or speak or don't speak. Assume normal intelligence. We need multiple different sources of information to determine intellectual delay.

Q: Do you have any suggestions for how professionals working in schools can lessen the divide between children with disabilities and children without disabilities to reduce the rates of violent victimization?

A: It's a complex question. We know that some protective factors can be peer groups. Kids with disabilities get along well in primary elementary grades, but when they reach middle school/high school and puberty sets in, you see a divide. I suggest furthering the efforts that schools are engaging in now and supporting kids and acceptance of all individuals. Higher grades create more of a divide sometimes. I suggest furthering efforts to create inclusion. Introducing the idea to schools of seeing children with disabilities as not having problems, but seeing their problems as needs and supporting those needs. We need support for teachers. Some kids may benefit from being in peer groups, so not isolating kids when they may be successful with their peers.

Q: Besides removing certain terms from our vocabulary, do you have any other suggestions about how we can increase the perception of credibility?

A: We have research that tells us individuals with intellectual disabilities are seen as less credible. We spoke about removing the term nonverbal and low functioning/high functioning. Use a tone that is commiserate with their age. Often, we infantilize older children and adolescents with disabilities. That can decrease credibility. When we see someone talking to somebody like an infant we don't generally see 2, 3, 4-year olds as being reliable reporters of information. When we talk to an older person combined with using the term "brain of a 3-year old" that sets people up for having low expectations for credibility. Terms that are not helpful play into this stereotype. Older Children need to be spoken to in an age appropriate manner.

Q: Can you explain the difference between high functioning and low functioning?

A: There is no such thing. It presupposes that we agree on what low or high functioning is. Better questions to ask are, what are their support needs? What's their level of independence? Describe specific skills that they have or specific needs that they have. It is up to the individual to decide what low functioning or high functioning means, so it doesn't help. To some people, low functioning means behavior problems, but to others it means doesn't speak. People are all over the map on it.

Q: What types of therapy exist to help those who have been victims cope with their trauma?

A: TFCBT (Trauma Focused Cognitive Behavioral Therapy). TFCBT works well with kids in the mild to moderate range of disability. While for individuals with more moderate to severe disabilities, there are not as many resources. Moderate to severe means support needs are much higher, independence is much less, language/conversation capacity is less, and engagement is less. For example, for a child with autism on that level TFCBT would not work. For kids with mild intellectual disabilities or kids with physical disabilities but no intellectual disabilities TFCBT would work. TFCBT is the gold standard for these individuals. In terms of high support needs children, I don't know of any resources in this area. That's not saying they're not there, I just don't know of any.

Q: Do you have suggestions or guidelines for preparing victims with special needs for the forensic medical exam?

A: I would say use the same standard for any child. A couple different nuances though; if the child has an intellectual disability, depending on how old and the severity, the complexity of the instructions would go down. Be thoughtful about that. For court, follow the same standard but the nuance is we know from research and practice that children with autism have difficulty with transitioning; they hyper focus. It is a specific need based idea and is not across the board. Make the transitions predictable. For most children you have a predictable routine, "five more minutes," "brush your teeth," "read a book". This should be the same for children with autism. When in doubt, do what you would do for any other child.

Q: If we don't use the terms you described, then what alternatives should we use to effectively communicate the general level of functioning of a person?

A: Be descriptive. Say, “this is Tyrell. Tyrell has three words that he uses. Has a sign for no and a sign for yes. He uses a communication board”. Be very descriptive; say, “Tyrell can understand two step instructions but has a difficult time with three step instruction. He can understand most of what you’re saying”. Also say, “he can dress himself and go to the bathroom himself but does need help not playing in water, or he’s not safe to cross the street by himself”. Be very deliberate and specific when talking about needs and skills and abilities. Conversely if someone says, “this is Tyrell, he’s low functioning,” you ask, “what does that mean?” Use your forensic interviewing technique and say tell me more about that.

Q: Won’t I place the victim at Increased risk if I file a report?

A: I don’t know how that would be different for any child. In general, we would suggest that we would want to report and suggest we aren’t necessarily putting kids at risk. I’m trying to infer what the question means. Does this mean at risk if no one believes them, they might be abused more? If we agree there’s a risk I don’t think it changes for kids with disabilities. If we perceive the individual to be less credible or are less likely to talk to them, then I guess the risk could increase a little bit, but I wouldn’t see it much different for children without disabilities.

Q: Is there a statute of limitations for reporting cases of suspected abuse and neglect to the Disabled Persons Protection Commission?

A: This is a state by state issue.