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EVIDENCE OF SEXUAL VIOLATION



By Pamela J. Hall, Ph.D., Q.M.E. April 13, 2018

Sexual violation against women and men, whether in the workplace or in the private sector, has a long history of debate in the public forum that has led to established definitions in civil and criminal court. Public sentiment has now thrown its weight behind the women and men who have been violated in private, giving these survivors the strength and courage to speak out publicly.

Social justice demands that perpetrators of sexual violation be brought to accountability, regardless of their social or economic status. **Due process regarding the truthfulness of accusations demands rigorous investigation to provide evidence that clearly and unmistakably eliminates the problem of "He said; She said".**

How, then, will courts determine the credibility of allegations of sexual violation?

At FMG, our forensic psychologists have spent decades working with thousands of women and men who have been sexually violated. Our expertise stems from witnessing first hand, with countless survivors, the patterned psychological, behavioral, and medical reactions that follow a sexual violation. Our rigor in forensic psychological assessment delivers expert testimony, often at the level of reasonable medical certainty, as to whether or not an allegation is truthful, whether or not a survivor is to be believed in civil and criminal court.

BELIEVABILITY

Over the years of conducting assessments and providing treatment to survivors of sexual violation, I have witnessed first hand a certain flicker in the eyes of a genuine survivor that communicates volumes to me that something has occurred that has resulted in shame and powerlessness. When I see this flicker, my heart tells me to believe the story. Believing the survivor invites her or him to have the courage to push past the shame and powerfully step forward to provide details as to what occurred.

Psychotherapy proceeds on the basis of believability. In the forensic context, it is good bedside manner to assess for and communicate believability to the woman or man who is reporting sexual violation. **However, believability is not sufficient to meet the demands of due process.**

EVIDENCE OF CREDIBILITY

Forensic psychological examination delivers a finding of credibility thorough analysis of an individual's allegations and self-reported mental status against the evidence of clinical interview, standardized psychological test results and relevant, contemporaneous records. A rigorous clinical interview examines an individual's current mental status, changes in mental status over time, and relevant personal and occupational history. A retelling of alleged sexual violations is analyzed for emotional congruency and consistency with known facts.



The Minnesota Multiphasic Personality Inventory-2 and the Millon Clinical Multiaxial Inventory-III provide objective evidence regarding inconsistencies, defensiveness, and over- or under-reporting. Self-report measures of depression, anxiety, post trauma symptoms, substance use, and physical complaints result in standardized outcomes that are analyzed against more objective clinical scales derived from valid MMPI-2 and MCMI-III results. Cognitive screening devices establish objective evidence of subjective cognitive complaints. Legal reports, medical records, personnel records, investigations, and collateral statements are researched for corroborating and/or contradicting information. A thorough analysis of these factors by a forensic psychologist establishes a finding regarding credibility that is defensible in the legal process.

PSYCHOLOGICAL EVIDENCE

Sexual violation is a violation of the psyche that can be observed in a sudden or insidious onset of anxiety and/or depression. Anxiety symptoms may include heightened vigilance,

startle response, excessive worry, rumination, irritability, concentration problems, and/or sleep disturbance. There may be heightened reckless or risky behavior such as increased sexual behavior, fast driving, excessive spending, or other impulsive behaviors. Depressive symptoms may include changes in appetite, libido, interest, and/or motivation. **An individual may become less able to enjoy the ordinary activities of life.** When a sexual violation induces a post trauma response, there will be disturbing dreams, intrusive memories, and avoidance of reminders of the violation.



BEHAVIORAL EVIDENCE

A sexual violation cannot be hidden from the view of family members, friends, coworkers, and employers. No matter how hard survivors try to hide what happened, self-protective behaviors emerge that cannot be hidden. Social withdrawal is common. Heightened interpersonal antagonism is often witnessed by others. **Work performance is hindered by cognitive pre-occupation with the violation.** Family and social interactions change, and not for the better. Ordinary stressors may become less manageable, or even unmanageable. Behavioral evidence of a sexual violation can often be found in performance evaluations and relationship statements from collaterals.

MEDICAL EVIDENCE

Sexual assault and harassment is a violation of the boundaries of the body. The body

changes in reaction to the violation. The forensic psychologist investigates the medical record for evidence. There may be evidence of sexually transmitted disease testing, pregnancy, or other injury following a sexual violation. There may be a sudden or insidious onset of headaches, gastrointestinal complaints, muscle pain, and/or fatigue. Depending on the severity or frequency of the sexual violation, more complex bodily changes may occur such as hypertension, diabetes, and/or autoimmune system problems. Bodily changes in a context where medical experts determine there are no physical findings benefit from the findings of a forensic psychologist as to whether there are psychological factors contributing to medical conditions.

Our forensic psychologists are experts in the investigation of evidence of the biopsychosocial impact of sexual violation. We deliver opinions based on reasonable medical certainty as to truthfulness of an allegation of sexual harassment and/or assault.