



SUPPORTING INDIVIDUALS' RIGHT TO SEXUAL KNOWLEDGE

Presented By: Mary Rita Weller, Ph.D., LSW

Assistant Professor at Kutztown University, PA

Sexuality and Disability: Rights for Sexual Health

Like everyone else, individuals with disabilities are sexual beings

They have sexual feelings, attitudes, and engage in sexual behavior

They are entitled to the same rights for basic and fundamental sexual health

Exercise on Sexual Abuse: A Friend's Dilemma

Your friend Chris is spending the afternoon with you, & you begin to talk about dating & falling in love. All of a sudden, Chris gets serious & tells you that his/her father's best friend has been coming to the house when no one else is home. Chris says this person has been touching him/her in ways that are very uncomfortable. Chris doesn't know what to do & makes you promise not to tell anyone.

Should you keep the secret? Why or why not?



What things could you do to be helpful to Chris?

Defining Sexuality

“Sexuality is the lens of being a male or female through which a person views and responds to the world”

(American Association of Intellectual and Developmental Disability, 2009)



United States Surgeon General's Call to Action:

“We must understand that sexuality encompasses more than sexual behavior, that the many aspects of sexuality include not only the physical, but the mental and spiritual as well, and that sexuality is a core component of personality”

(David Satcher, M.D., Ph.D., 2001)

The US Surgeon General Says:

“Sexuality is a fundamental part of human life”

(David Satcher, M.D., Ph.D., 2001)



Photo of Dr. David Satcher

Ethical Dilemmas

Professionals and families are constantly struggling with issues regarding sexuality, especially in regards to individuals that have cognitive disabilities, such as intellectual disability.

Ethical Standards



Regarding sexuality and persons who have a developmental disability, there are no set standards of practice

Each situation is treated differently, depending on who is in the position to make decisions

Sexual Attitudes

Limited information is available, but individuals who have developmental disabilities, the data that are available indicate that they are poorly informed and hold largely negative attitudes toward the expression of their sexuality

(McCabe, 1999; McCabe & Cummins, 1996; McCabe & Schreck, 1992; Szollos & McCabe, 1995)

Sexual Knowledge

Study conducted by Szollos & McCabe (1995) found that sexual knowledge of individuals who have developmental disabilities is often partial, inaccurate, & inconsistent





Lack of Education & Opportunities

Result in confusion and uncertainty about what is acceptable behavior by the individual & other people

(Carmody, 1991; Sobsey, 1994; Sobsey & Varnhagen, 1991)

Informed Consent

1. A duty to disclose information

AND

2. Right to make decisions

(Berg, 2012)



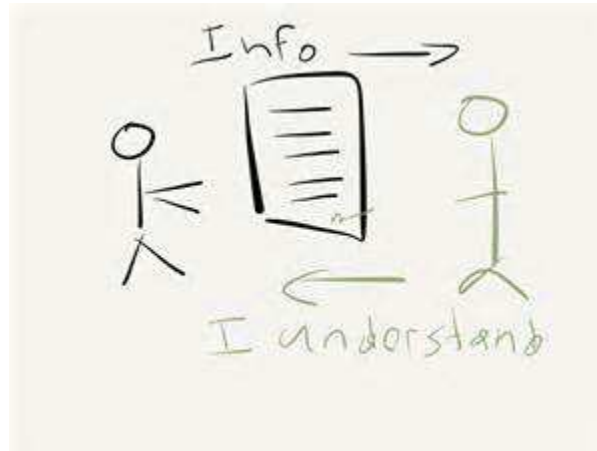


Meet Information Requirement

Physician's must disclose basic information about diagnosis and treatment options along with risks, benefits, and alternatives

Right to Make Decisions

Asked to consent or refuse treatment



Voluntary Consent

Essential



Person involved should have legal capacity to give consent



Specific Situations Consent Requirements are Altered or Avoided

Incompetence

Waiver

Emergencies

Therapeutic Privilege

Indiana Legal Age of Consent

- 16 years old – lowest age of consent in any state
- “A person at least 18 years of age who performs or submits to sexual intercourse or deviate sexual misconduct commits sexual misconduct with a minor between 14 and 16 years of age, is guilty of a Class C felony. However, the offense is raised to a Class B felony if it is committed by a person at least 21 years of age” (<http://www.ageofconsent.net/laws>, 2015)



Indiana: No “Romeo and Juliet Laws”

There are no set close-in-age exemptions

- Anyone who engages in sexual activity with someone under the age of consent (16) is liable for prosecution – including people only a few years older & even two individuals that are both ≤ 16



Indiana Code – Chapter 4: SEX CRIMES

- Rape
- Criminal deviate conduct
- Child molesting
- Vicarious sexual gratification; sexual conduct in presence of a minor
- Child solicitation
- Child seduction
- Sexual battery
- Sexual misconduct with a minor
- Unlawful employment near children
- Sex offender residency restrictions
- Sex offender internet offense
- Inappropriate communication with a child

Rape

- a. A person who knowingly or intentionally has sexual intercourse with a *member of the opposite sex* when:
 1. The other person is compelled by force or imminent threat of force;
 2. The other person is unaware that the sexual intercourse is occurring; or
 3. The other person is so ***mentally disabled or deficient*** that consent to sexual intercourse cannot be given; commits rape as a Class B felony

Rape (continued)

- b. An offense described in subsection (a) is a Class A felony if:
 1. It is committed by using or threatening the use of deadly force;
 2. It is committed while armed with a deadly weapon;
 3. It results in serious bodily injury to a person other than a defendant; or
 4. The commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug or controlled substance or knowing that the victim was furnished with the drug without the victim's knowledge

NY State Penal Code 130 Sex Offenses (July 2003)



A sex offense occurs when a person does not consent to sexual conduct; a weapon, physical force or threats are used; **a person is mentally disabled, mentally incapacitated or physically helpless**; is committed to the care and custody of the state correctional system or hospital; or is under the age of seventeen

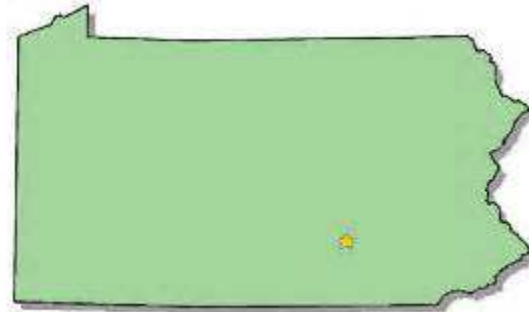
Lack of Consent

Includes circumstances when the victim clearly expressed they did not consent to the act of intercourse or by means of age, **mental disability, mental incapacitation** or being physically helpless and a reasonable person in the defendant's situation would have understood the victim's words, actions or condition

(NY State Penal Code 130 – July 2003)

Pennsylvania Crimes and Offenses - Rape

By forcible compulsion.



By threat of forcible compulsion that would prevent resistance by a person of reasonable resolution.

Who is unconscious or where the person knows that the complainant is unaware that the sexual intercourse is occurring.

Continued: Pennsylvania Crimes and Offenses - Rape

Where the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance.



Continued: Pennsylvania Crimes and Offenses - Rape

Who suffers from a mental disability which renders the complainant incapable of consent.

Who is less than 13 years of age.

New Jersey Statutes: Sexual Assault

- a. An actor is guilty of aggravated sexual assault if he commits an act of sexual penetration with another person under any one of the following circumstances regardless of whether the victim consented to the act:
 - 1) The victim is less than 13 years old
 - 2) The victim is at least 13 but less than 16 years old;
and
 - a. The actor is related to the victim by blood or affinity to the third degree
 - b. The actor has supervisory or disciplinary power over the victim by virtue of the actor's legal, professional, or occupational status, or
 - c. The actor is a resource family parent, a guardian, or stands in loco parentis within the household;

Continued: New Jersey Statutes: Sexual Assault

- b. An actor is guilty of aggravated sexual assault if the actor commits an act of sexual penetration with another person, if a reasonable person would not have believed the act authorized by the victim, under any one of the following circumstances:
- 1) The act is committed during the commission, or attempted commission, whether alone or with one or more persons, of robbery, kidnapping, homicide, aggravated assault on another, burglary, arson or criminal escape;
 - 2) The actor is armed with a weapon or any object fashioned in such a manner as to lead the victim to reasonably believe it to be a weapon and threatens by word or gesture to use the weapon or object;
 - 3) The actor is aided or abetted by one or more persons;
 - 4) Severe personal injury is sustained by the victim;

Continued: New Jersey Statutes: Sexual Assault

- c. An actor is guilty of aggravated sexual assault if the actor commits an act of sexual penetration with a person the actor knew or should have known had an intellectual or developmental disability that rendered the victim;
- 1) Incapable of understanding the right to refuse the act, including the ability to resist and exercise the right to refuse; or
 - 2) Incapable of understanding the nature of the sexual conduct; or
 - 3) Incapable of the exercising the capacity to consent when the sexual conduct occurred.

This provision shall not be interpreted to deprive a person with an intellectual or developmental disability from engaging in consensual sexual activity.

Now What???

Laws of Consent throughout United States do not support the rights for individuals with cognitive disabilities to actively engage in sexual expressive behaviors

These laws were enacted to protect individuals with any type of cognitive impairment

Legal Jargon

For adults with IDD, their understanding of legal aspects of sexual relationships is extremely limited (O'Callaghan & Murphy, 2007)

- Laws are complex and piecemeal – in U.S. – states have different age of consent and language/meanings



Can you do another draft of this? There's still a couple of sentences people might actually understand...

Where People with Cognitive Disabilities Learn About Sex



From “Other” Sources rather than family, friends, common recreational events

Popular Media – TV, Music, Movies

Lack of the “SEX Talk”

May convey negative sexual messages to people with disabilities about their own sexuality





Barriers to Realizing Sexual Rights

Primary Barrier Being Insufficient
Efforts by Professionals to Address
Sexuality

(McCabe, 1999)

Other Barriers to Realizing Sexual Rights

Negative perceptions that others have of individuals with disabilities

Research demonstrates that displays of affection & sexual behaviors expressed by individuals with intellectual disability are seen as less acceptable than same behavior shown by persons without disabilities

(Cuskelly & Gilmore, 2007)

Good News!



Cuskelly & Gilmore (2007) study conducted in Australia found the following results:

- Community attitudes towards sexual rights of people with ID are generally quite positive!
 - With exception of 60+ year olds
- Community views about parenting by people with ID were more cautious – nevertheless – respondents generally held positive views

Why Pursue Sexual Rights for People with Disabilities?

They are entitled to the same rights for basic and fundamental sexual health

Additional Benefits

Necessary for preventing unplanned pregnancies & STIs

Foster Behaviors that Meet Societal Standards:
Increase appropriate expression of needs
Improve social behaviors

Increase awareness around sexual abuse

Sexual Abuse Estimates

68 – 83% of women with developmental disabilities will be sexually assaulted in their lifetimes, as contrasted to an estimated 18% of women generally

(Tyiska, 1998)

One study found that children with intellectual disabilities were at twice the risk of physical and sexual abuse compared to children without disabilities

(Crosse, Elyse, & Ratnofsky, 1993)

Lack of Training & Experiences

Unrealistic sexual expectations, especially in area of partner selection

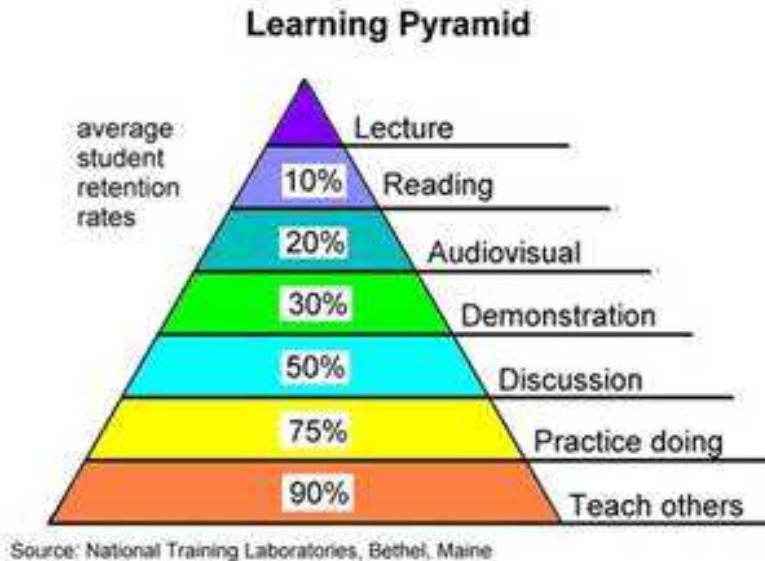
Sexually inappropriate behavior and deficits in socio-sexual skills

It is likely that that education about the law for people with IDD is relatively *uncommon* (O'Callaghan & Murphy, 2007)

Training Modalities

- Behavioral training methods
- Role play
- Decision-making training
- Discussion Groups

Need open access to training repeatedly through their lives



Caregivers Need Support Too!



Should validate concerns:

- Ethical implications
- Understand needs of people to support individuals with IDD
- Ways support can be provided

Importance of Socio-Sexual Skills

Without these culturally valued skills, unlikely to develop meaningful and successful relationships

Decreased ability to protect oneself from sexual harm

Decreased ability to identify appropriate safe authority persons with appropriate language to communicate if they are sexually harmed

Resources to Guide Discussion

Sexuality Information and Education
Council of the United States

<http://www.siecus.org>

ETR Associates: Advancing Science-
Reducing Risks-Improving Lives

[http://www.etr.org/training-technical-
assistance](http://www.etr.org/training-technical-assistance)

Assessment Tools

Socio-Sexual Knowledge and Attitudes
Assessment Tool – Revised (SSKAAT-R) (Griffiths
& Lunsy, 2003)

<http://www.stoeltingco.com/stoelting/productlist>

Verbal Informed Sexual Consent Assessment Tool
(VISCAT) (DeMarco & Taverner, 2006)

Taverner@ptd.net

Teaching Tools

Life Cycle (Ivy Mount School, 2005)

<http://www.ivymount.org/>

The Sexuality Series [Relationship Series Video] (YAI, 1993)

<http://www.yai.org/resources/trainingstore>

Anatomical Dolls at Teach A Bodies

<https://www.teach-a-bodies.com/>

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