



NATIONAL ASSOCIATION OF STATE HEAD INJURY ADMINISTRATORS

January 7, 2021

President-Elect Joseph Biden
Vice President-Elect Kamala Harris
Presidential Transition Team
1401 Constitution Ave. NW
Washington, DC 20230

Recommendations to Address U.S. Department of Justice Programs that Impact People with Brain Injury

Submitted to the Biden-Harris Transition Team January 2021

Dear President-Elect Biden and Vice President-Elect Harris:

On behalf of the undersigned organizations, thank you for this opportunity to submit recommendations for purposes of improving outcomes for persons with brain injury who encounter the justice system by way of state and local law enforcement agencies, juvenile justice programs and correctional facilities or due to domestic violence. Our organizations represent individuals with brain injury and their families, as well as state government brain injury programs. Collectively these organizations offer a range of services and supports funded by state revenue; dedicated funding known as trust fund programs, usually from revenue generated from traffic related fines; and federal sources of funding, including Medicaid. In addition, state brain injury programs may benefit from the federal TBI State Partnership Programs grants, administered by the U.S. Department of Health and Human Services' (HHS) Administration for Community Living (ACL), which are offered on a competitive basis to improve access to service delivery as called for by the Traumatic Brain Injury (TBI) Act Reauthorization Act of 2018.

Each year, a substantial number of Americans are injured causing cognitive, emotional, physical, and sensory problems, which may contribute to the person dropping out of school, unemployment and loss income; homelessness; and incarceration often due to lack of rehabilitation, interventions, crisis management and community alternatives. After a brain injury, individuals may exhibit inappropriate behavior, be sexually aggressive, demonstrate poor judgement and awareness, experience poor impulse control and be susceptible to other influences that may result in poor outcomes. Co-occurring mental health and substance abuse are common among persons who sustain a TBI. Between 30-50% of people with TBI are injured while they intoxicated by alcohol and about one-third were under the influence of other drugs. Depression, anxiety, substance abuse, chronic pain, and psychosocial conditions are contributing factors to relationship problems with family, often resulting in burn out by family, employers and friends.

Training to Support Law Enforcement Agencies

Similar to the work conducted by the Department of Justice (DOJ) that launched the “Police-Mental Health Collaboration Toolkit,” Congressman Bill Pascrell, Jr. (D-NJ) introduced H.R. 6008, the Traumatic Brain Injury and Post-Traumatic Stress Disorder Law Enforcement Training Act” or the “TBI and PTSD Law Enforcement Training Act” during the 116th Congress. The stated purpose is to develop crisis intervention training tools for use by first responders interacting with persons who have a TBI or another form of acquired brain injury, or post-traumatic stress disorder (PTSD). The proposed legislation calls for the Director of the Bureau of Justice Assistance, in consultation with the Director of the Centers for Disease Control and Prevention and the Assistant Secretary for Mental Health and Substance Use to solicit best practices regarding techniques to interact with persons who have a TBI, acquired brain injury, or post-traumatic stress disorder from first responder, brain injury, veteran, and mental health organizations, health care and mental health providers, hospital emergency departments, and other relevant stakeholders, to develop crisis intervention training tools for use by first responders. **We ask that you support this initiative and assist with your expertise as we pursue this legislation.**

Youth with Brain Injury in Juvenile Justice Systems

In a recently conducted systematic review of published studies on prevalence of TBI in juvenile justice systems (JJS) in the U.S. and elsewhere conducted by the Mount Sinai Injury Control Research Center (MS-ICRC), funded by the Centers for Disease Control and Prevention (CDC), the project did not find a simple answer other than the average prevalence of TBI to be 44% across the many studies reviewed. TBI was found more often in the JJS-involved youth sample in each study in which they were compared to a similar non-JJS-involved sample; for the latter, the average prevalence of TBI was 26%.

As a part of the MS-ICRC project, the National Conference of State Legislatures produced a report to educate state legislators on TBI issues among juvenile justice populations and highlighted state activities as the result of the HHS’ ACL TBI State Grant Partnership Program which enabled a few states to begin working with their state and/or local juvenile justice programs (<https://www.ncsl.org/research/civil-and-criminal-justice/traumatic-brain-injuries-report.aspx>). Through these grants, states provided information and training to better identify individuals with brain injury; strategies for addressing their related disabilities; and provided resources, including case management, to assist youth with TBI to access programs that will help to avert further encounters with justice programs. These efforts have been piecemeal in states, as the HHS grants are time-limited and limited in funding. **We believe that the Office of Juvenile Justice and Delinquency Prevention should provide leadership and promote awareness of TBI in these state juvenile justice systems through the DOJ grant funding opportunities.**

Adults with Brain injury in State and Federal Correctional Facilities

A collaborative initiative involving the University of and the State of Colorado reported that pilot data from the Denver County Jail Mental Health Transition Unit suggests that up to 96% of those inmates had a history of at least one complicated TBI. In 2014, MINDSOURCE Brain Injury Network, Colorado’s state brain injury program, partnered with University of Denver (DU), the Brain Injury Alliance of Colorado, county jails, the Colorado Judicial Branch and other stakeholders to develop and implement a screening, identification, a support and referral protocol for adults and juveniles involved in the criminal justice system, a project activity under their

HHS ACL TBI State Partnership Grant. Similarly, the Pennsylvania Department of Health's brain injury program has also partnered with their Department of Corrections and the Brain Injury Association of Pennsylvania in demonstrating the problem of brain injury in prisons. Both of these projects were designed to identify inmates with TBI-related cognitive and behavioral issues in order to address these issues within these settings and to assist with successful re-entry into the community. **We believe the Bureau of Prisons should provide leadership and promote awareness of TBI in these state and federal correctional facilities in order to manage TBI-related disabilities and to identify resources to assist with community re-entry.**

Brain Injury and Individuals who Experience Intimate Partner or Domestic Violence

A 2017 retrospective study of 115 patient files, reviewed by the Barrow Neurological Institute, and reported in the *Journal of Neurotrauma*, indicated that 88% of individuals who experience domestic violence self-reported more than one injury and 81% reported a history of loss of consciousness associated with their injuries as the result of domestic violence. Only 21% sought medical help at the time of injury. Cognitive and other problems resulting from a brain injury can make it harder for a victim of domestic violence to:

- Assess danger and defend oneself against assaults.
- Make and remember safety plans.
- Leave an abusive partner due to such reasons, as the need for financial support and assistance with activities of daily living.
- Access services.
- Retain custody of his/her children.

“Sheltering in place” rules relating to the novel coronavirus (COVID-19) placed many individuals who were at risk for violence to be alone with their spouse or significant other, who may be an abuser, yet were separated from families and friends who would normally be around to check on the individual. In many cities and towns, children ended the 2020 school year with remote learning and some students continued online learning when school resumed also placing children at risk. Separated by their school friends, teachers, social workers and the safe space and services that schools provide, children may go unrecognized as being subject to abuse.

Many state brain injury programs and state domestic violence coalitions urge domestic violence providers to screen for a brain injury to help understand behaviors and cognitive issues that may be contributing to poor social and communication skills; inappropriate behavior; personality problems; lack of initiation and organization; and poor judgment. Recognizing the cause of these symptoms will help with obtaining appropriate treatment, accommodations and management of symptoms. We recommend that the:

Office on Violence Against Women (OVW) provide:

- Training to better identify individuals who experience intimate partner or domestic violence with a brain injury and to provide accommodations and strategies to address identified symptoms.
- Collaboration and coordination among domestic violence providers and organizations and brain injury programs with regard to reporting and resources relating to brain injury.

- Public education regarding domestic violence and brain injury-related injuries, symptoms, treatment and resources.
- Education and training among healthcare providers, physicians, and educators to identify, treat, and provide needed accommodations to assist with education and activities of daily living.

In closing, a new Administration offers an opportunity to assess how agencies may improve outcomes related to their programs. We believe that addressing issues related to brain injury within DOJ programs will help to ensure positive outcomes.

Thank you for this opportunity. We look forward to working with you. Please do not hesitate to contact us if we may be of further assistance.

Sincerely,

National Association of State Head Injury Administrators (NASHIA)
 Brain Injury Association of America (BIAA)
 Friends of TBI Model System
 United State Brain Injury Alliance (USBIA)

Alabama Head Injury Foundation
 Brain Injury Alliance Colorado
 Brain Injury Alliance of Iowa
 Brain Injury Alliance of Nebraska
 Brain Injury Alliance of New Jersey
 Brain Injury Alliance of Utah
 Brain Injury Alliance of Wisconsin
 Brain Injury Alliance of Wyoming
 Brain Injury Association of America-Kentucky Chapter
 Brain Injury Association of Delaware
 Brain Injury Association of Kansas
 Brain Injury Association of Louisiana
 Brain Injury Association of North Carolina
 Brain Injury Association of Massachusetts
 Brain Injury Association of Michigan
 Brain Injury Association of Missouri
 Brain Injury Association of New York State
 Brain Injury Association of Ohio
 Brain Injury Association of Pennsylvania
 Brain Injury Association of Virginia
 Brain Injury Association of Vermont
 Nebraska Injured Brain Network
 Texas Brain Injury Alliance