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Collaboration between Criminal Justice System and Mental Health System to Address Challenges in Individuals with Combined Criminal Act and Mental Illness

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ABSTRACT

The objectives of this paper are (1) to recognize the current issues of national mental health crisis, the increased legal entanglement of mentally ill patients, the increased surge of criminal activity and the erosion of public trust amongst police officers (2) to present legal concepts such as insanity defense and the overview of criminal process. (3) to present 4 case scenarios for purposes of discussion (4) to realize the necessity for collaboration of the legal system and mental health system to address challenges in individuals with combined criminal act and mental illness. The method involves presentation for 4 case scenarios chosen from career practice as a psychiatrist and from breaking news that happened at the time. Discussion is employed to bring to light the 4 case scenarios integrating the concepts of mental health system and legal system. Conclusion affirms the necessity of collaboration of legal system and mental health system as part of solutions to improve existing challenges and current issues of national mental health crisis, lack of access to mental health care, increased criminal activity and erosion of public trust, and efficacy of public service providers.

Keywords

Mental health crisis, Forensic psychiatry, Insanity defense, Criminal justice, Police–mental health collaboration, Mental health care access.

Introduction

Collaboration between Criminal Justice System and Mental Health System is much needed nowadays for several reasons. These two systems are very different but concepts from these systems can be integrated in a complementary manner, and the service providers may collaborate earnestly to have good outcomes in providing their services for the well-being of each citizen and for the common good of the whole community.

There is currently National Mental Health crisis due to lack of access to mental healthcare [1]. Several statutes were proposed especially the existing disparity of mentally ill patients that has something to do with health care insurance plans and health care delivery in timely fashion [2]. Primary prevention [3] of psychiatric illness would have been a good focus for attention, especially that the barrier to entry to formal psychiatric treatment is very extensively difficult for patients to traverse. As a result, an adolescent patient, for example, who may have significant struggles of anger control management, impacts his family, younger siblings, his future due to legal entanglement [4] before entry to psychiatric treatment, thus the delay of psychiatric treatment. To specify, primary prevention of the disease is reducing exposure to disease-causing agents, and prevention of risk factor exposure. It denotes an intervention before a disease has developed, also called primordial prevention. Secondary prevention is detecting disease at an earlier stage than usual, such as screening, takes place during the preclinical phase of an illness after the disease has developed but before clinical sign and symptoms have occurred. Tertiary Prevention is treating clinically ill individuals to prevent complications of the illness including death of the patient [3]. There is currently a surge in the numbers of criminal activities, and there is also the erosion

of public trust amongst police officers [5]. Police officers are faced with increased prevalence of emergence of new cases of mentally ill, and untreated mentally ill. The police officers who are moral agents [1], are put to difficult decision making that each split second can be a lifesaving or may result to huge injuries or early demise. Criminal acts such as murder committed by the suspected criminal offender can instill fear, to the police officers and the bystanders in the community. This fear, if not dealt with appropriately, can result to bad decisions as a fearful service man tends to make fearful decisions. The American Criminal Law drew heavily on the English Common Law. In 1798 case in England, a jurist Lord Kenyon wrote that it is a principle of natural justice and of our law, the, "Intent" and the "Act," must both concur to constitute the crime. There are 52 jurisdictions in the United States. These include the fifty State Governments (50), one Federal Government, and the one U.S. Military. Historically a crime has been understood to require both the act itself, "Actus reus" and the awareness that the act was wrong, "Mens rea." [6]. Currently, there are four major insanity tests that protect the criminal defendant from prosecution such that if criteria are met, these would mitigate legal consequences of the criminal defendant. The four major insanity tests developed through the years until there is now the standard insanity defense test utilized in our contemporary times. (1) McNaghten Rule was the first insanity defense rule that originated in 1843 in England during the case against Daniel McNaghten who shot and killed the secretary to the Prime Minister. Edward Drummond. At trial, insanity defense was employed by McNaghten's counsel and expert testimony was offered. The jury's verdict was that McNaghten was not guilty because of insanity and the judge ordered McNaghten to spend the rest of his life in a mental institution. All criminal defendants are presumed to be sane unless proven otherwise that their impaired mental state that caused the to do the act. (2) Durham test is used in some jurisdictions to evaluate whether the defendant is entitled to an insanity defense, referring to the case *Durham v United States.* It asks if illegal conduct is the product of mental disease or defect but does not consider whether the defendant knew that their actions were wrong. (3) The standard American Law Institute (ALI) Model Penal Code (MPC) insanity defense completely or in a modified format. This replaced the Durham test which was discarded in 1972. MPC states that a person is not responsible for criminal conduct if he lacks substantial capacity to appreciate the criminality (wrongfulness) of his conduct. The mental disease is not included if the abnormality is manifested only by repeated criminal conduct. (4) Irresistible impulse test is a legal doctrine stating that a defendant is found guilty by reason of insanity when a mental illness of defect made it impossible to resist the impulse to commit a crime. The decision rests with the judge or jury [7].

Now, it is not just primary prevention and secondary prevention, that matters. Tertiary prevention is essential too that it is vital to place importance as well. Consider a previous psychiatric patient who encountered a forensic psychiatrist nine years prior, came back to the picture after all those years and gunned down the forensic psychiatrist at his office parking lot. Where is the missing piece of treatment here? Was he not monitored after the forensic encounter nine years ago? The loss of one forensic psychiatrist is monumental.

The overview of criminal process has to be understood as well. Here it is necessary to trust the process if all phases in progress are well taken care of with meticulous and diligent attention to follow traditional rules and at the same time update their system to adapt to the change of landscape of our human ecosystem. The police officer is a fact witness. The treating psychiatrist is a fact witness. The forensic psychiatrist is an Expert Witness [8]. Court trials may be assisted by utilization of Fact witness and Expert witness. The treating psychiatric physician may be asked by the plaintiff attorney to testify to causally link the alleged emotional injuries with allegations. A treating psychiatric physician should limit his testimony to the medical record information alone, be a neutral party, and offer no opinion as to whether the allegations are causally related to the alleged damages. The treating psychiatrist may request for a subpoena or court order prior to agreeing to testify. A Forensic Psychiatrist serves as an Expert witness to attempt to causally link the allegations in the lawsuit with the alleged damages. Forensic psychiatrists as expert witnesses do not typically meet the psychiatric patient who is a criminal defendant. His client is the lawyer who hired him. Dual role being the treating psychiatrist and assuming the role of expert witness, is highly discouraged because the treating psychiatrist has obligation to maintain therapeutic alliance, trust, and confidentiality of his patient. It is a significant ethical issue being paid by the patient and being paid by the plaintiff attorney. Consequently, credibility and reputation of the physician is sacrificed, with the underlying unjust motivation of financial gain [8].

There is the public defender as the counsel and the opposing plaintiff lawyer and the Review Officer or the Judge. The criminal justice system involves three key players: 1) Criminal justice 2) Lawyers; and 3) Spectators. Usually, the spectators, the culture, the "angry mob" do not favor excuses but favor accountability. "You do the crime. You do the time" [9]. As an overview of criminal process, the table below depicts the sequence of events in criminal justice system [10]. What is the sequence of events in the criminal justice system? The flow chart diagram or figure in the original article is simplified by tabulation for ease conceptualization. Definitions of legal terms:

Indictment – The formal written accusation of a crime, made by a grand jury and presented to the court for prosecution against the accused person. The act or process of preparing or bringing forward such a formal written accusation.

Grand jury – A body of people who are chosen to sit permanently for at least a month, and sometimes a year, and who in ex parte proceedings decide whether to issue indictments. Also termed as *accusing jury*; *presenting jury*; *jury of indictment*

Adjudication – the process or action of judging. The act of assignment by a judge, a judicial decision. The legal process of resolving a dispute. The process of judicially deciding a case.

Arraignment – The initial step in criminal prosecution whereby the defendant is brought before the court to hear the charges and

to enter a plea

Sentencing – A criminal procedure, A judicial determination f the penalty for a crime

Sanctions - To approve, to authorize or support. To penalize by imposing a sanction.

Probation – A criminal procedure. The release of convicted offender under conditions imposed by the court for a specified period with routinely checking in with a probation officer over a specified period.

Prison – a building or complex where people are kept in long-term confinement as punishment for a crime, or in short term detention while waiting to go to court as criminal defendants.

Case Scenarios

Two concrete examples of very honorable men [11,12] have dark and very challenging past with previous encounter with the legal system and mental health system. As a teenager, His Excellency Evelio Manjivar-Ayala made three attempts to enter the United States illegally. In 1990, he and his brother were smuggled in a trunk of a car and crossed over the border of San Diego, CA. He successfully obtained his GED, entered the seminary and achieved the ranks of his priestly ministry. Information of his personal encounter with the legal system and the mental health system is not available in this article. The transcultural psychiatry [13] posits that migrants carry substantial burdens prior to actual immigration, during immigration, and after immigration. Fr. Donald Calloway, a prominent Marian Catholic priest was a troubled youth, grew up with mother and stepfather who brought the family to Japan for military assignment. In Japan Fr. Calloway engaged in runaway behaviors, Yakuza, and his parents returned to the US without him. Collaboration of legal system of Japan and the US has successfully returned him to the US with psychiatric admission upon arrival. During the course at several settings, he had changed, transformed, and became a Catholic Marian Priest, a great speaker, author, and preacher. Currently, they overcame challenges, and they have become moral agents themselves. It is our hope that their stories provide inspiration for the public service providers, the supporting communities, and everyone involved to fortify the values, mission, and purpose, individually and collectively.

Below are 4 worst case scenarios worth mentioning that can be stimuli for discussion purposes. Legal, ethical, moral, and mental health concepts may be integrated to bring light related to these cases.

Case 1: A 16 y/o male with anger outbursts has not had psychiatric treatment initiated. He had initial encounter with the local Police Officers as his parents had to seek recourse to call the police because of destruction to properties, disruptive behavior, instilling fear in his younger siblings, and his inability to be pacified and consoled by parents. Case 1 scenario is obtained from clinical child & adolescent psychiatric practice. His case is not in public realm, and so patient identifying information is protected for patient confidentiality reasons and privacy rights.

Case 2|: A 16 y/o male [14] killed a classmate rival and classmate's parents by stabbing, who intentionally engaged a house intrusion in the middle of the night. He managed to be admitted to a psychiatric acute inpatient unit claiming to be hearing voices, but as the treatment process unfolded, he had disclosed his homicide act. He was then surrendered to the police custody quietly, unknown from his fellow patients in the inpatient unit. He was imprisoned, and this ended in a suicide at age 25 by hanging in his cell. Case 2 scenario is about a 16 y/o male, Alec Kreider, Camp Hill, PA. His tragic experience caused a ripple effect to his immediate family that his father authored a very challenging poignant book not reviewed in writing this article. The sole survivor who is the sister of his murdered classmate and parents, has painful memories that she may still harbor. The community itself is also sorely affected by this tragic incident.

Table 1: The criminal law process.

CRIME	Entry into System	Presentation to Pretrial Services	Adjudication	Sentencing Sanctions	Corrections
	Interview	Charges filed	Arraignment	Sentencing	Probation
	Investigations	Appearances	Trial	Sanctions	Prisons
	Arrest	Preliminary hearings	Guilty plea		
	Complaints	Bail or defendant hearing	Conviction		
		Grand Jury			
		Indictment			

Case 3: An Army psychiatrist [15,16] opened fire at a military base killing 13 soldiers and injuring over 32 soldiers. He declined to be assisted by military counsel and preferred a civil counsel. He is going to be scheduled to be executed, since his court hearings are non-viable, adding to confusion, and significantly a waste of time. *Hasan v United States.* Major Nidal Hasan, MD an Army Psychiatrist opened fire on Nov 2009 in Fort Hood, Texas. Investigations indicated that the appellant carefully planned and prepared his attack and walked into crowded Soldier Readiness processing. The casualties were 13 soldiers who died and 32 soldiers who were injured. The appellant was due to be deployed to Afghanistan and may have been emotionally conflicted to fight against his Moslem brothers in that country. He was reportedly consumed with his religious passion. The appellant was paralyzed from waist down as he was shot during the mass shooting at Fort Hood, TX. The verdict is death sentencing.

Case 4: A Forensic Psychiatrist [17] was gunned down at his office parking lot by a former patient 9 years prior, who had marital dispute at that time. This was a killing spree by the suspected criminal offender who murdered two paralegals and a psychologist, and he then completed suicide by self-inflicted gunshot at his hotel. A prominent forensic psychiatrist Steven Pitt, DO, 59 y/o, was fatally shot on May 31, 2018, by former patient Dwight Lamon Jones who was disgruntled from contentious divorce with custody battle over his son. Dr. Pitt conducted court ordered mental health evaluation on Jones in 2009. The suspected criminal offender Jones also killed two paralegal and a psychologist linked to this homicide incident. The spree killer from May 31, 2018, to June 4, 2018 killed 6 persons and committed suicide on June 4, 2018, by gunshot at his hotel room as the police closed in.

Discussions

Legal System and medical system have substantial differences. When a person gets to encounter with legal system, this person is considered INNOCENT until proven GUILTY otherwise. Related to this is the legal protections of Miranda rights, the U.S constitutional rights granted to suspected individuals before any interrogation.

In Medical System, when a person comes to contact medical providers, the person is considered GUILTY until proven INNOCENT otherwise. This is not to confuse the reader, but GUILTY in the sense that medical provider have to consider the person has a medical condition, a disease, an ailment, to be considered first before the person is proven INNOCENT, or medically cleared after exhaustive medical examination and investigative procedures prove that he has no medical condition, disease, or ailment.

Right off the bat, this is a difference of the goals and its processes that law enforcement and the medical provider utilize. The public have differences of reactions to these. Some people prefer to be identified with the legal system rather than the mental health system. To these persons, they probably want to avoid the stigma of being labeled with mental illness. They want freedom from taking psychotropic medications, and they want to avoid the prejudices of how the public anecdotally considers mentally ill to be "weak", "dependent", "unworthy", pervasively untreatable and hopeless. On some other people, they prefer to be identified with the mental health system and even take efforts to the extent of feigning or malingering their symptoms for secondary gain, to avoid the legal consequences of their criminal actions. Subsequently, they are relieved of their burdens and responsibilities as they assume a "patient role" in an in-patient psychiatric state hospital, provided medical care.

These can be confusing to both the Law enforcement personnels and the medical providers, and that is why, it is necessary to collaborate, exchange professional body of knowledge, open access for consultation and partnership, because precious life is at stake. One life lost is a loss of the whole community.

As for case 1, what contributes to delayed psychiatric treatment is the patient's biological, psychological and social factors. Biologically, he was endowed with high IQ, that he even has a dream to go to medical school. However, psychologically he was home schooled for many years. He has not learned adequate life skills to contain and tolerate frustration or manage disappointments. Socially, the barrier of entry to mental health system may be hard to overcome due to stigma, mental healthcare disparity, shortage of psychiatrists, and the cost of psychiatric treatment is unaffordable to parents. When this patient had another disruptive behavior at home, with anger outburst and destruction to properties, the police officers became the first line of encounter for the intervention of patient's vicious cycle of anger outburst. The police officers then referred the patient for an outpatient psychiatric treatment. Here, the police officers became cycle breaker of patients repeated anger outbursts, and the patient was managed appropriately with medications and individual and family psychotherapy. What are the legal implications of this? Had the patient been an adult and continued these angry and disruptive behavior, this could be so damaging to the community and to the patient himself. The parents' judgment to call the police was urgently necessary. The parents may have hesitation as to what will be the consequence in patient's wellbeing as the police filed a police record. What will be his future as a young adult? How will the patient react to see police officer in their police vestments, baton, or even being armed and the presence of handcuffs? If a charge of criminal act was pressed, how can this patient be protected from prosecution? An insanity defense may be utilized, called the irresistible impulse test. He would be identified in the legal system, and the defendant will not be guilty by reason of insanity due to his irresistible impulse to commit the crime. This would be further supported when he responds to psychiatric treatment, a proof that he suffered from mental illness at the time of the act and responded to psychiatric treatment intervention.

Case 2 is a 16 y/o male [13] who committed a horrendous crime, and this ended to his sad fate of suicide at age 25 y/o. There are many things we do not know here firsthand. He is also a very intelligent adolescent, with stunning organized thoughts,

organized behaviors except his complaint that he hears voices, but with discrepancy as he does not appear to respond to inner stimuli. A question is raised whether he was malingering. His crime was very intentional, nothing irresistible about this because there must be some element of pre-meditated planning. He chose the nighttime when his victims would be most vulnerable. He planned his transportation and house intrusion. Opposite from above case1 scenario, this patient has initial encounter with the mental health system instead of the legal system. Due to the gravity of his crime, and the acuteness of the untoward event in May 2007, he was surrendered to the police authorities. Prisons are crucibles for transformation of felons, but in his case, he chose to commit suicide by the time his age at 25 y/o. Did we miss anything here? Is suicide related to psychosis or to depression since the sentence might have been for lifetime imprisonment or was he suffering from harassment by fellow inmates in prison system? Was there psychiatric treatment provided to him in Prison? Model Penal Code insanity defense might have been utilized in his case. He must have failed the insanity defense if at the time of such conduct he does not lack substantial capacity to appreciate the criminality (wrongfulness) of his conduct. Of note, this patient pleaded guilty in year 2008. Confession of the criminal defendant is a big piece of evidence such that trial is no longer needed, and the criminal defendant is accepted as guilty [9].

Case 3 is an army psychiatrist [15] who opened fire to his fellow soldiers. He had planned this especially as he prepared his equipment, his firearm, his ammunitions, and deliberately employed his plan with highest number of targets who were most vulnerable and caused vast casualties. The Model Penal code insanity defense must have failed the criteria, but this was not really supported because for many years the patient refused to be assisted by a military counsel/defender. Was he suffering from some element of grandiosity that he can defend himself on his own during trial. Was he suffering from paranoia that he cannot trust a military counsel? The criminal process was very unproductive as there was no defense counsel assisting the patient, and it added to confusion as well as being a waste of time. He is approved for pending execution by firing squad. A loss of one is a loss of all. We would like to find out if he is significantly deteriorating in his mental health functioning during the court martial. Did he receive psychiatric treatment while under custody? Lack of capacity to consent for treatment, or for legal cooperation with a legal counsel is a strong indication of mental illness, whether it be based on symptoms of paranoia, grandiosity, or religious delusions. This will be a sad outcome for a particular soul, but he stood for his belief. Be a witness, not a judge.

Case 4 highlighted a Forensic psychiatrist [17] who was gunned down and victimized by a former patient with their last doctor-patient encounter 5 years ago. The tertiary prevention is very essential to continue to monitor patients who have legal history. There is no available solid information to discuss here but the criminal is very intentional, planned his target, planned the time of his victim's departure from his office, and prepared his equipment or firearm. Besides he had a shooting spree, killed two paralegals and a psychologist. How can the legal system and mental health system collaborate here to secure safety? The criminal offender is not meeting the model penal code insanity defense as he is responsible for his criminal conduct and does not lack substantial capacity to appreciate the criminality and wrongfulness of his conduct.

These are the 4 case scenarios presented here that are thought provoking. It is hoped that this will promote the interest to recognize the necessity of collaboration between the legal system and the mental health system.

Conclusion

This paper has presented the need for legal system and mental health system to collaborate to have better outcome of their services rendered. Loss of one is loss of all. One soul transformed into a good moral citizen is worth striving for as this can have significant impact on countless other citizens in the community. Safety is a profound need for each human being. Without safety it can deleteriously affect one's health and the immediate milieu or community. The four cases portrayed the need for legal system and mental system to collaborate and complement each other as cases such as these have frequent occurrence in our society. The mental health providers and the police/security/legal providers must work hand in hand as they can have the ease of referring to psychiatric treatment and to proper correctional interventions and vice versa. Familiarity of mental health concepts and criminal justice concepts will really benefit both the mental health providers and police/security/legal providers for better decision-making. Safety and well-being of the service providers need protection from the ill effects of the hazards inherent in their jobs. These will ensure retention, increased recruitment, and healthy outcomes that are devoid of burnout, demoralized attitudes, moral injury, compassion fatigue, physical injuries and trauma. It is hoped that overall, a fruitful outcome is manifested in the community with healthy, peaceful, and orderly society from effective collaboration of the mental health system and criminal justice system.

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The author offers tribute to remember the poor souls involved especially in the case scenarios presented in this paper.

"I do not desire the death of the sinner, but that he be converted and live." [Ezekiel 18:23].

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