Criminalization of Mental Illness in the Era of Mass Incarceration

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Education Objectives
1. Review historical factors contributing to the criminalization of mental illness.
2. Consider the criminalization of mental illness through a social-ecological lens.
3. Discuss the importance of collaborative alignment between health and criminal justice to address the impacts of mass incarceration on the incarcerated person, the family, the community and society at large.

Faculty Disclosure
I do not have any relevant financial relationships with any commercial interests.

My Personal Goal…
• To challenge you to think about:
  – What you do; and
  – What you believe in.

So Let’s Begin…
• Criminalization of mental illness (and the criminalization of persons experiencing mental illness) is a complex health and social issue requiring a complex health and social response.
• A response that is evidenced based, holistic, multidisciplinary, collaborative, and compassionate.

Historically
• Until the 19th century, persons with mental illness were primarily cared by their families
• Legal guardians boarded them with other families for a fee (poor relief system)
• Severely or acutely ill persons (danger to self or others) were often incarcerated in prisons or poor houses
  (Boschma & Groening, 2019)
Social Change and Mental Health Treatment

- Depends on community’s views and fears
- Periods of social stability
  - Less fear, more tolerance for diverse behaviors
  - Easier and safer for people with mental illness
- Periods of rapid change
  - Anxiety and fear toward mental illness
  - Often treated inhumanely

(Boschma & Goering, 2019)

A Revolutionary Idea: Humane Treatment

- Moral Treatment
  - 18th Century
    - Philippe Pinel (1745-1826) -- Removed chains at Bicêtre (France)
    - William Tuke (1732-1822) – Established the York Retreat (England)
  - 19th Century
    - Quaker Friends Asylum – kind toward patients
    - Care of individuals with mental illness became a public responsibility in the United States and Canada

(Boschma & Goering, 2019)

Dorothea Dix (1802 – 1887) Social reformer

- Was responsible for mental health reform in the U.S., Canada and Great Britain
- Introduced the idea of state hospitals – her solution to improving mental health care

(Boschma & Goering, 2019)

The Era of Asylum Building

- For nearly a century, state psychiatric hospitals were the primary institutions for treating persons with mental health problems
- Up until the mid-20th century involuntary confinement and institutionalized care became the dominant treatment modality for mentally ill
  - Replacing the older forms of familial care, jail and poorhouse approaches

(Boschma & Goering, 2019)

Mental Hospital, North Battleford, SK 1911

(Taken shortly after completion. This is now one of the most beautiful places in the Province. Main purpose frame both and all kinds of diseases; 600 rooms in the frame and 1000 rooms under construction; all making on ideal home for the infirmate)
Realities of Institutional Life

• Rather than places of sanctuary and treatment, some became places to warehouse people with mental illness.
  (Chaimowitz, 2012)
• Major concern – management of large number of people who were forced to live together
• Living conditions were deplorable
• Women could be institutionalized at the whim of their husbands or fathers
• Men and women were often abused
• Evolved into self contained communities
• Custodial Care prevailed – despite good intentions
• Once admitted, many had little hope of returning to society
  (Huelsman & Smorg, 2018)

Psychiatric Revolutions

The first great psychiatric revolution and the beginning of contemporary psychiatric mental health nursing, occurred when patients were moved from jails to asylums, and from asylums to hospitals...
(Peplau, 1994)

The Era of Deinstitutionalization

• Coincided with the advances in psychotropic medications (1950s and 1960s), stronger due-process protections against civil commitment, growing influence of community psychiatry, and Medicaid in 1965 in the 1950s and 1960s
• Patients were released from hospitals to be treated in the community
• The wave of deinstitutionalization gathered steam and many psychiatric hospitals rapidly emptied and in some cases closed
• And although the philosophical underpinnings of deinstitutionalization were admirable, critics have declared that the “deinstitutionalization of seriously mentally ill individuals has been the largest failed social experiment in twentieth century America” (Torrey, 1995, p. 1612).

Deinstitutionalization and Criminalization of Mental Illness

• Sadly, correctional facilities have become “front-line mental health providers” (Human Rights Watch, 2003, p. 16), representing the “mental health institutions of the 21st century” (White & Whiteford, 2006, p. 302).
• The Mental Health Commission of Canada (MHCC) (2012) concluded that prisons have become the “asylums of the 21st century” (p. 60).
• “Guilty of mental illness” (Kanapaux, 2004)
• Regardless of the scenario, they find themselves being bounced between courts, jails, and prisons – a process known as transinstitutionalization (Slovenko, 2003).

Penrose’s Hypothesis (1939)

Penrose found an inverse relationship between prison and mental hospital populations
• He theorized that if one of these forms of confinement is reduced, the other will increase.
• His work is still relevant today!

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(Vera Institute of Justice, 2014)
A Socio-Ecological Lens: Criminalization of Mental Illness and the Burden of Incarceration

Individual Factors

Relationship Factors

A Mother’s Perspective...

... incarcerating mentally ill people in jails and prisons is cruel, unjust, and ineffective. Prisons do not have adequate or appropriate facility resources or medical care to deal with the mentally ill. Poorly trained staff is unable to handle the difficulties of mental illness. The mentally ill suffer from illogical thinking, delusions, auditory hallucinations, paranoia, and severe mood swings. They do not always comprehend the rules of jails and prisons. They are highly vulnerable and prone to bizarre behavior that prison staff must deal with and inmates must tolerate.

(Standing Committee on Social Affairs, Science and Technology, 2006, p. 300)
Community Factors

• Incarceration and release have enduring health effects on the community as well as the individual

Societal Factors

Alternatives to Arrest, Prosecution and Incarceration

• Correctional systems have a profound and complex effect on the health of communities, and effective partnerships can have a significant public health impact.
• Public health nurses together with like minded colleagues should advocate for the following actions:
  – Improve health and social services for incarcerated persons
  – Emphasize community reintegration for those who are released
  – Support research and evaluation
  – Support alternatives to incarceration

(Agenda for Action)

Another way of looking at this critical contemporary health care issue

Confucius was hired to run the jails in his home province of China. The legend says that within 2 years he managed to empty the jails. When asked how he did it, he explained that those in jail were the poor, or the children of the poor; or the ignorant or the children of the ignorant. He went on to explain that he took the next logical step and educated the ignorant and provided the poor with the skills to earn a living (Strauss, 1994, p. 14)

Collaborative Alignment

Corrections

Public Health

Public Safety

Community Health
CLOSING THOUGHTS

• Since time immemorial, criminal law systems have considered the simple idea that an accused person should not be convicted when their illegal behaviour stemmed from a disease of the mind. A truly safe society does not change that established principle by incarcerating people with mental disorders – or by further stigmatizing them – but, rather, ensures that procedures are in place to protect both the individual and the public.

(Baille, 2015, p. 94)

In the Final Analysis...

Addressing the comprehensive needs of individuals who find themselves enmeshed within the criminal justice system requires the collaborative efforts of specialists and specialized agencies working together, but also the enduring conviction that caring for individuals who are vulnerable is the appropriate and decent thing to do.

(Peternelj-Taylor, 2003)

Questions, Comments, Concerns?

Last Word

• While you may not agree with everything I have said today, I do hope I have challenged you to think about what you do and what you believe in.
• Moreover, I hope I have inspired you to think about individuals experiencing mental illness in a more humane and compassionate way.

Selected References


