The Mental Health Factor in Juvenile Rehabilitation

Benjamin F. Manwaring
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Few programs effectively seek to rehabilitate minors and provide them with the psychological assistance they need. Those that are effective, focus on the needs of the individual juvenile.

In Oregon fifteen-year-old Kipland Kinkel killed both of his parents and then went to his high school where he opened fire killing two and wounding twenty-five. Four independent psychiatrists concluded that Kinkel had a psychotic disorder. Despite his mental illness, Kinkel was tried as an adult and became the first juvenile in Oregon to be sentenced to life in prison.

Kinkel is part of a larger problem of juvenile violence. In order to combat this problem many states are reacting with tougher measures: trying juveniles as adults and sentencing them to long periods in prison. Additionally, these states provide “for the automatic waiver of minors into adult court for certain violent offenses, thereby rendering the juveniles eligible for lengthy criminal sentencing.” In Texas a state legislator proposed the adoption of the death penalty for children as young as eleven for certain criminal offenses. Other states have responded by lowering the age at which a juvenile can stand trial in adult court to as low as ten years old, and Florida provides no age limit despite the concurrence among many that young children cannot establish mens rea. Like Kinkel many of the perpetrators suffer from

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2 Ibid., 1081.


mental illness. As states deal with juvenile violence, they must not overlook the needs of the mentally ill. Instead, they should seek to rehabilitate these troubled youth.

**Prevalence of Mental Illness and the Public's Perception**

In seeking to prevent and prosecute school violence and other juvenile crimes, our legal system often overlooks one serious cause of the violence: the mental health of juvenile offenders. The National Mental Health Association states that while mental health issues affect as many as twenty percent of youth at a time, two-thirds of these youth are not receiving help. In the juvenile justice system, as many as seventy-five percent of the youth have a mental disorder. One study done in the state of Florida classified twenty-nine percent of juvenile criminals as “emotionally disturbed” and another twenty percent of young delinquents as having a “serious mental illness.” Certainly mental and emotional illnesses are an important factor in analyzing juvenile crimes. Unfortunately many states do not carefully consider the influence of mental diseases in trying and sentencing youth.

It is important to understand the role mental illness can play in juvenile violence, the public’s view of insanity, and the insanity defense. Understanding these issues allows for a proper evaluation of the retributive focus of the legal system, the effectiveness of prison treatment, and possibilities for rehabilitation. Rather than exclusively punishing mentally ill juveniles, courts and state legislatures should seek rehabilitation.

Many youth currently suffer from mental health problems. John Cornwell in an article in the *Houston Law Review* entitled “Preventing Kids from Killing” wrote, “The commitment of minors [to mental health institutions] has increased dramatically over the last two decades.” A few examples represent the problem as it relates to juvenile killers. In 1997, fifteen-year-old Sam Manzie raped and killed an eleven-year-old boy who was selling candy.
door-to-door. Prior to the murder, Manzie’s parents had sought to have their son legally committed for psychiatric care, but the judge hearing the case concluded that Manzie was not mentally disturbed. Only after his violent act did prosecutors learn that he suffered from a mental illness. 8

Kipland Kinkel committed his offenses in Oregon the following year. In the Oregon Law Review, Elisa Swanson explores Kinkel’s case and several issues surrounding it. She quotes in her article four independent psychiatrists who concluded that Kinkel had a psychotic disorder. In addition, Dr. Richard Konkol conducted an analysis of Kinkel’s brain that revealed “numerous abnormalities in a wide range of areas.” 9 Based on professional examination by mental health experts, both young men suffered from mental illness. Their illnesses likely played a major role in the crimes they committed and could have easily caused them to lose control of rational reasoning and actions, leading them to kill.

Unfortunately the public generally misunderstands mental illness in criminals and the insanity defense. Many nonprofessionals believe that when people are found not guilty by reason of insanity, or NGRI, they will be released. Many people also believe that defense attorneys often use the insanity defense for their clients even if their clients do not suffer from insanity. The public views the insanity plea as a loophole for criminals to escape punishment. None of these assumptions, however, is true. As Kathleen Heide writes in her book Young Killers, “Despite the attention that the insanity defense receives, it rarely is used and seldom is successful.” 10 A recent study states, “The public’s estimate of insanity acquittals is eighty-one times the actual number.” 11 In addition, criminals found NGRI are rarely released upon acquittal. 12 The low number of times insanity is used as a plea compared with the public’s view of how insanity defenses are used shows how far the public perception is from the truth.

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8 Ibid., 67-69.
9 Swanson, 1105-6.
11 Swanson, 1096–97.
12 Ibid., 1098; Heide, 62.
Twelve states now have a defense titled “guilty but mentally ill,” or GBMI. Under these statutes the court can find that a defendant possessed the necessary mens rea, but when sentenced will receive appropriate psychiatric treatment. Despite a big difference in the plea and outcome of cases defended these ways, the media lumps NGRI and GBMI defenses into one category, “the insanity defense,” making no distinction between the two. Those who plead GBMI admit their guilt and are seeking psychiatric help, while those who plead NGRI maintain their innocence. By representing both of these defenses as the same, the media spreads misinformation and makes no attempt to correct the misconception that those found GBMI “get off.”

LEGAL DISREGARD OF MENTAL ILLNESS IN THE CASE OF KIP KINKEL

Not only does the public misunderstand the NGRI and GBMI defenses, the Kinkel case reveals that prosecutors and judges often misunderstand insanity. Regarding Kinkel’s case The Oregonian quoted Assistant District Attorney Kent Mortimore as saying, “Everybody in this courtroom knows who committed these crimes. It’s not a whodunit.” Prosecutors often assume that if the killer is known, then mental illness should not be an issue. They are looking only at the physical act and ignoring other issues such as mens rea that are brought into question by insanity.

In addition, judges and juries may refuse to accept that a defendant may be insane because he or she does not conform to popular images of “craziness.” In the Kinkel case, after professional testimony from four psychiatrists substantiated Kinkel’s mental illness, Mortimore argued that Kinkel made conscious choices and that in true insanity “one would expect lashing out at people. . . . One would expect to have seen his victims be part of his delusions. And yet that wasn’t true [in Kinkel’s case].” Mortimore represented the stereotypical idea of insanity and expected that Kinkel would “act

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13 Swanson, 1099; Heide, 62.
14 Swanson, 1101.
15 Ibid.
16 Ibid., 1103.
17 Ibid., 1101.
18 Ibid., 1109.
"crazy" in the way many people believe insane people act. Although the prosecution offered no testimony to substantiate its claim that Kinkel’s "acts were volitional," the sentencing judge, Judge Mattison sentenced Kinkel to over one hundred unconditional years in prison.19

Unfortunately, because he was not found GBM I, Kinkel was denied appropriate psychiatric treatment in a mental facility. Kinkel’s lack of mental rehabilitation is, however, common among juveniles. Many states take a retributive and punitive approach to sentencing juveniles rather than a rehabilitative one. By trying juveniles in adult courts the legal system diminishes the possibility of their receiving rehabilitation. In cases where mental illness plays a role, the juvenile more acutely needs treatment. When judges and prosecutors ignore mental health issues, defendants suffer. Juvenile offenders continue to wrestle with their mental and emotional well-being and are kept from participating normally in society.

RETRIBUTIVE FOCUS OF CRIMINAL JUSTICE SYSTEM AND PRISON CONDITIONS

Mental health aside, courts have begun treating youths more harshly. In Texas the phrase "adult crime adult time" has become a popular slogan used by lawmakers in legislating the trial and sentencing of juveniles.20 Irene Rosenberger notes in her article in the Houston Law Review that "many jurisdictions . . . have amended the ‘purposes’ sections of their juvenile codes to incorporate the notion that youths who commit crimes should be punished and incarcerated, de-emphasizing rehabilitation as a goal."21 In Oregon, where Kinkel lives, a voter initiative passed that changed the wording of Article I, Section fifteen of the Oregon Constitution from "laws for the punishment of crime shall be founded on the principles of reformation, and not of vindictive justice," to "laws for the punishment of crime shall be founded on these principles: protection of society, personal responsibility, accountability for one’s actions and reformation."22 This change emphasizes

19 Ibid., 1110.
20 Rosenberger, 76.
21 Ibid., 85.
22 Swanson, 1115–16.
the primary goal as punishment rather than reformation. The desire for reformation has taken a backseat in the minds of many. More states are trying juveniles as adults and sentencing them to adult prison terms in punitive versus rehabilitative conditions.

Conditions faced by juvenile offenders in prison diminish hope for their rehabilitation. Heide discusses "the conditions of confinement" with five youths incarcerated in various centers around the country. She writes that the youths' accounts coincide with the research literature available indicating widespread abuses and little rehabilitation of prisoners. These five youths noted the presence of alcohol and marijuana in their confinement centers, often provided by correction officers. Violence and theft are also ever-present concerns in prison. In addition, homosexual rape threatens young prisoners. All five of the young men felt prison did not lead to rehabilitation, leaving them with no work skills or significant schooling. These conditions engender fear in juveniles further undermining their mental health.

In Kinkel's case he will serve the first part of his sentence in a correctional facility whose mission statement is "to protect the public by holding youth offenders accountable for their actions and providing opportunities for reformation." Interviews with Patrick Kirby, the treatment coordinator for violent offenders at Kinkel's facility, suggest that while Kinkel may receive some psychiatric treatment it is certainly not the focus of their corrective program. The jail environment and lack of attention to mental health issues makes rehabilitation for Kinkel unlikely.

important considerations for treatment programs

Treatment efforts for mentally ill juvenile offenders are effective, but can be very complex and must be applied over a long period of time. In addition many different treatments are available. In an article in the Houston Law Review, John Cornwell discusses outpatient interventions. He notes that

24 Heide, 222.
26 Swanson, iii6–17.
“multi-systemic family therapy and anger management programs are beneficial” to violent youth, “but their availability is limited.”\textsuperscript{27} These programs are successful because they provide a wide range of services and focus on psychological intervention and support.

Families are also important in rehabilitating juveniles. In the \textit{New England Law Review}, Susan L. Brooks discusses an approach known as family systems theory. “This type of therapy focuses on the child in the context of the family.” Family systems theory recognizes that youth “do not live in a vacuum.”\textsuperscript{28} Reviewing this theory Brooks suggests that we are too punitive in our legal approach and that rehabilitation of adolescents is possible within the family structure. Brooks also mentions other programs that provide emotional and psychological support within the family context to prevent and reform juvenile offenders.\textsuperscript{29} In the \textit{New England Law Review}, Judge Martha P. Grace, chief justice, Juvenile Court Department, Massachusetts Trial Court writes, “We deal with the juveniles we see by rehabilitation. . . One-on-one mentoring is the most successful program we have. Parents need to take back their responsibilities as parents.”\textsuperscript{30} Again, she emphasizes the important role that families, especially parents, play in rehabilitation. Kevin M. Burke, District Attorney of Essex County in Massachusetts, also agrees that prevention programs require the “involvement of parents. It requires an occasional restitution, and very often, counseling.”\textsuperscript{31} Families play a crucial role in both preventing and dealing with juvenile crime.

Programs focusing on the individual, like the Capital Offender Program (COP) in Texas, have also been successful in treating mentally ill juveniles. This program is a rehabilitative effort designed for youth convicted of homicide. COP participants work in a group of eight juveniles and at least two staff members. Each group meets six hours per week for sixteen weeks with a specially trained psychologist. The youth also receive individual

\textsuperscript{27} Cornwell, 69.
\textsuperscript{29} Ibid., 618–21.
\textsuperscript{30} Grace, 647–49.
counseling as needed. Recidivism rates show that compared to untreated capital offenders, youth treated in the COP program are seventy percent less likely to return to prison within one year and forty-three percent less likely to be reimprisoned within three years. These figures suggest that juvenile killers are more positively affected by rehabilitation efforts than typical prison sentencing.

Heide focuses on the need for differential, or individualized, treatment and emphasizes that not all juveniles and adult offenders are alike. Positive outcomes are more likely to occur when individuals are assigned treatment programs appropriate to their needs. She mentions several options for treatment including psychotherapy, psychiatric hospitalization, and institutional placement but ultimately concludes that small group programs such as COP prove most effective.

Heide also lists psychologist Vicki Agee's eleven components of effective intervention. Of these eleven, three stand out as particularly important. Agee first mentions "effective and extensive assessment" of the juvenile's condition. The degree of aggression, frequency of violence, compulsive behaviors, victimization, and previous treatment all need to be evaluated. If treatment personnel are to conduct an effective treatment program, they must have as much knowledge as possible about the offender.

Secondly, treatment programs should include educational and vocational programs, and other activities that develop pro-social skills. Because they do not receive them in prison, many juvenile offenders lack education and job skills. Unable to work upon reentering the real world, they may fall back into crime. Providing delinquents with positive social training paves the way for them to enter society's mainstream. Noted criminologist Travis Hirschi describes their involvement in normal society implying that as juveniles contribute to civilization by building relationships, working in the community and participating civilly, it is harder for them to return back to

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32 Heide, 238.
33 Ibid., 229–36.
Finally, successful treatment plans include "intensive and extended aftercare." The problems juveniles face are not overcome quickly. While they may learn important skills in treatment programs, they need continued support after their release. In a report to the Department of Justice, Altschuler and Armstrong discuss a model community care program for high-risk juveniles, that involves support from family, friends, schools, and employers. These people help the youth stay away from crime by keeping them involved in positive activities as well as modeling effective ways of handling problems. These suggestions comprise only a fraction of what administrators and legislators should consider when designing effective treatment programs for youth.

CONCLUSION

As states enact tougher measures to prevent and prosecute juvenile violence, the needs of mentally ill delinquents cannot be overlooked. Situations such as Manzie and Kinkel illustrate two of many cases where the psychological needs of youth are not being met. In the legal system, this stems partially from a misperception and lack of knowledge regarding insanity. By overlooking the juveniles' mental health issues, our courts diminish their chances for rehabilitation. Many states take a retributive approach when prosecuting minors by placing them in prison facilities not favorable to reformation and with insufficient services to address mental and emotional concerns. Few programs effectively seek to rehabilitate minors and provide them with the psychological assistance they need. Those that are effective focus on the needs of the individual juvenile.

In treating these individuals the root causes of this violence must not be overlooked. Policy-makers must pay more attention to the key areas over which they have the power to exercise positive, constructive influence. They should take risks in designing and implementing programs to reform

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37 Heide, 235.
young killers. Juveniles face problems largely not of their own making, and for which they lack the understanding to address and overcome. Courts would act unfairly and counterproductively if they sought only punishment. Therefore, as we look for solutions to the problem of juvenile violence, we must make every effort to understand its underlying causes and cures. We should seek reformation of the individual for the betterment of society, not retribution.