

Assignment due Dec 10

Box at crim department – where the department office is (bottom right corner slot) or office

Will be posted tonight (link to video)

Similar to second

Smaller video on mental health courts

Mental Health Courts (MHCs): Decriminalizing the Mentally Ill

Nov 29

History of MHCs

70s & 80s: deinstitutionalization – people with severe mental disorders treated in community

Mass closure of mental health care facilities in favor of community-based tx

More humane/cost effective

Advent of psychotropic meds: led to belief that they could be treated in the community and didn't need to be admitted

Stricter criteria for involuntary commitment: Ontario Mental Health Act – the only real criteria prior to presence of mental disorder allowed involuntary commitment

Now must prove risk to health and others as well to admit

Money not reinvested as promised (no access to adequate mental health tx)

In streets and now more visible to cops and committing petty crimes

Cops = “gate keepers” – who gets diverted to mental health system and who goes to cjs

They have a lot of discretion

“**Transinstitutionalization**” (*Prins, 2011*) mentally ill individuals who were once held in mental health care are now being held in cj institutions

“**Criminalizations**”: behaviors that were once viewed as symptoms of a mental illness are now criminal behavior

The behaviors haven't changed but the way society deals with them has

Scope of the prob:

Schneider: rate of mentally dx'd accused entering the cjs has inc'd by more than 10% per year over the past 12 yrs

CSC: rates of mental illness among both M and F offenders have inc'd by approx 85% since 97

“One in 7 prisoners in W countries have

Mentally ill offenders serve longer sentences, put in segregation more

Can have further detrimental effects on their mental health

Psych tx not as available inside

They cycle in and out of cjs = **revolving door**”

Develop of MHC

Based largely on the Drug Tx Courts (80s)

Based on fact that criminal justice sentences are not effective for drug issues

First MHC: Broward County, FL in 97

Response to the criminalization of the mentally ill and inc'ing #s of mentally ill accused in the cjs

250+ mental health courts across North AM and around the world

Expanding

Characs of MHC

Difficulty – there is not definition of MHC – large diffs exist

1. Some courts only accept minor offences that are easily divertable and others accept all
2. Some require a guilty plea – CAN mental health courts don't tend to have this; diversion occurs prior to plea

Common goal of diverting mentally ill individuals away from the cjs and back towards the mental health care system

Other common objectives:

Making the court system more “user friendly” for mentally ill individuals

Court support workers in the courtroom to explain process to the offender

Tx of the accused's mental illness: punishment is not primary goal

Why the individual has come in contact with the law and more often than not it is their illness

Slowing of the “revolving door phenomenon”: finding out what the root of the prob is before individual leaves system just to come back in

Specialty criminal court dockets devoted exclusively to mentally ill defendants

Participants identified through screening and assessment

Depends on the MHC – in Otown there's a psychiatrist who gets list of who has been deemed a concern of mental illness – sit down with these people to see if they're a good candidate for MHC

Voluntary process

Participate in a “tx plan” in lieu of traditional cj sentence

Mental health tx, medication, compliance, substance abuse, tx, etc

MHC Team

Everyone's working together for the best interests of the individual

Crown: in otown one crown for all otown

Judges: certain judges

Defence: can have any they want but there are 2 provided

Psychiatrists

Mental Health Nurses

Social Workers

Members of Community Orgs: Elizabeth Fry, John Howard, etc

MHC Process

Progress monitored through regular status hearings before a judge

Success often rewarded with a dismissal/resduction in charges

If charges are too severe to be withdrawn, participants can still benefit by becoming connected with mental health tx/support

Philosophy

Basic belief that criminal charges faced by mentally ill individuals are often more a result of their illness than of any “inherent criminality” (Miller & Perelman 2009)

Traditional cj sanctions are ineffective and inappropriate for these individuals

Therapeutic jurisprudence: law should be administered and applied in a way that incorporates therapeutic goals (Schneider et al 2007)

The cjs should be used in a manner that addresses the underlying issues that lead an individual to come into contact with the law

Treat root cause of the behavior (including substance abuse, etc)

These are not people who are found NCR

Found NCR go through separate process than MHC – these people have been found legally responsible for their crimes

Criticisms

“Queue-jumping”: idea that MHC allow mentally ill offenders to jump the court process

Unintentionally creating a system where you have to break the law to see a mental health professional

Ex. if you press charges the person has more chance of getting tx (more complicated than this)

Lack of avail mental health services in the community: MHC have nowhere to refer them to

Problematic in smaller communities

Lack of voluntariness

Stigmatization: idea that having a separate system stigmatizes them

Longer sentencing requirements: sometimes an individual with mental illness that goes through this can go through longer and more restrictive sentence than someone that didn't go through it

Ex. have to follow up with psychiatrist, etc

Coercion to plead guilty: some MHC require the plea – may coerce someone to plead guilty to get mental health tx

MHC Research

Cj outcomes:

MHC participants had a re-arrest rate of roughly half that of a comparison group of mentally ill individs who proceeded through the traditional CJS (Moor and Hiday 2006)

Participants who dropped out or were “terminated” from the MHC were 3.7 times more likely to recidivate than those who successfully “graduate” from the program (Herinckx et al 2005)

Hard to say if it's the MHC that led to these benefits

Mental Health outcomes:

Participation in a MHC inc'd defendants' access to mental health services (Boothroyd et al 2003)

Ties back to queue jumping

MHC participants had significantly more case management outpatient service days and med monitoring following enrollment in the court (Herinckx et al 2005)

When they talk about access to mental health court services – talks about follow-up as well

Long after sentence they cont tx

Her Research

Voluntary MHC participation:

Widespread agreement regarding the importance of voluntary MHC participation

Is MHC participation truly voluntary?

Schneider et al “*choice to avoid prison*” – are people rilly choosing to participate or choosing not to go to prison

Participants must be able to weigh the scope/duration of a traditional sentence against participation in a MHC (Stafford & Wygant 2005)
MHC often a defendant's only opportunity for immediate release (Seltzer, 2005)

Would you rather sit in a jail cell or participate in the MHC
Some may have severe mental illnesses and not as capable of making the decision

Research Question: *how do mentally ill individuals perceive the voluntariness of their involvement in the Ottawa Adult Mental Health Court?*

Participants: 10 former participants of Ottawa Adult MHC

Outpatients of the Integrated Forensics Program at the Royal Ottawa Mental Health Centre (ROMHC)
22-59; avg 44

Method: convenience sampling – non random sampling they're easily accessible to sample

Didn't need to generalize

Semi-structured interviews:

Royal Ottawa Mental Health Centre

Analysis: thematic content analysis: qualitative – segments of the data (interview transcripts) made up her data

Break it down into meaningful themes

Results: 4 main themes:

1. *Lack of knowledge and info:* some people didn't even know they had been through the mental health court

Didn't control for symptoms of mental illness but they remembered details of their court and just weren't aware of the system they were in

2. *Choice and agency:* believed they didn't choose – often feel it was their lawyer who decided

Many mentioned that they were just notified by their lawyer and didn't know they had a choice

Lack of agency in the process

3. *Influence of mental health symptoms on decision making:* they didn't have a choice but maybe they wouldn't have been in the position to make an appropriate decision anyway

Some were in psychotic state and don't remember or think they're state of mind was competent

Dangerous because they're relying on someone else to make the decision

4. *Positive outcomes:* ways the MHC had helped them

Got mental health help out of the MHC – got them the doc and the meds

Despite the lack of info and it wasn't their choice everyone was super grateful of having been through the court system and it helped them immensely

Huge factor was housing

Many thought it was very fair and thought that their needs should be considered and that was done well

**** How can you reconcile these 4 themes??** Institutionalization and docile bodies – encouraged to be passive – comes with the stigma

Does taking care of you rather than does taking care of you – need professionals to make decisions for and take care of you because you can't

ASSIGNMENT – frameworks in class to make sense of the process

Way to limit the damage – discrepancy; hard to reconcile

Findings and Implications

Many individuals did not perceive their involvement to be voluntary

Discrepancy btw “official discourse” and participants' MHC experiences

Disconnect

Despite lack of knowledge and voluntariness, offenders reported many positive outcomes

Importance of including the offender's voice in convos regarding voluntary MHC participation

Should ask the people involved

Case Study

Christian: Depression and brain injury – Ottawa takes them with brain injury and don't need mental illness

Obvious link btw his depression and drinking and therefore driving

Link btw behavior and mental illness was obvious (sometimes it's not)

MHC; tx plan

Help to get people that are homeless or don't have health care to get tx

Hospital said they couldn't admit him because he wasn't a risk – MHC was how

he got tx

Discussion

Criticism: these folks who commit an offence and happen to have mental dx = it's like they have an additional card they can play to avoid