Providing Forensic Services in Community Mental Health Agencies: Forensic Training Needs of Community Mental Health Counselors

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Presentation Overview

It is estimated that between eight and sixteen percent of all individuals booked into United States jails have a mental illness (Vogel, Noether, & Steadman, 2007). Declining bed availability at state mental health hospitals has triggered criminal justice institutions to become temporary or long-term housing and treatment facilities for persons with mental illness (Vogel et al., 2007). Those individuals booked into county jails for petty crimes (e.g. criminal trespassing, simple assaults, and criminal mischief), or serious offenses that do not warrant state jail or prison time will be released to the community (Hatcher, 2007; Mire, Forsyth, & Hanser, 2007; Steadman & Naples, 2005). Thus, there are several programs that have been established to treat offenders with mental illness, divert them from the criminal justice system, and provide long-term linkage to community mental health care. Jail Diversion, Forensic Assertive Community Treatment, and Outpatient Competency Restoration are a few programs that have been established to address the treatment of these individuals. Many of these programs are established in community mental health agencies; thus, there are implications for training community mental health counselors who will provide forensic services as to avoid ethical and legal violations that can occur (Barros-Bailey et al., 2009; Bourgeois, Decoeau, & King, 2011). Additionally, during pre-service and in-service there are several areas in which the forensic practice of community

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mental health counselors could be expanded and/or addressed: ethical codes of conduct for counselors, academic curriculum, and supervision and consultation. As the number of individuals identified to have a mental illness and involved in the criminal justice system steadily increases, it will be important to build counselor awareness of the diverse components to providing forensic services.
References


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Definitions

- **Forensic Patients** -- Those individuals diagnosed with a mental illness currently incarcerated in jail or prison institutions, or, state mental health facilities (e.g. state hospital institutions).

- **Local Mental Health Authority (LMHA)** -- an entity to which the board delegates its authority and responsibility within a specified region for planning, policy development, coordination, including coordination with criminal justice entities, and resource development and allocation and for supervising and ensuring the provision of mental health services to persons with mental illness in the most appropriate and available setting to meet individual needs in one or more local service areas (i.e. the term board means the Texas Department of State Health Services [DSHS]).

- **Jail** -- County jail institutions operated by local government (i.e. the Sheriff’s Department).

- **Prison** -- State jail or prison institutions operated by the Texas Department of Corrections (TDCJ).

- **Parole** -- The release of a prisoner temporarily (for a special purpose) or permanently before the completion of a sentence, on the promise of good behavior (i.e. involves release from state jail or prison).

- **Probation** -- The act of suspending the sentence of a person convicted of a criminal offense and granting that person provisional freedom on the promise of good behavior.
Forensic Mental Health Services: General Information

- **Forensic services**
  - Generally associated with psychiatry or psychology
    - Extensive history of promoting training and certifications for assessment and treatment
  - **American Board of Professional Psychology**
    - Oversee the credentialing of the American Board of Forensic Psychology
      - Establish criteria related to the definition, and requirements for education, training, competencies, and examination, which leads to board certification in Forensic Psychology
  - **Texas Statutes**
    - Texas Code of Criminal Procedure (TCCP)
      - Supports the provision of forensic services provided by psychiatrists or psychologists with specialized training in forensics
Forensic Mental Health Services: General Information

- Forensic services: Certification for counselors
  - Largely do not exist for counselors
  - Few graduate programs in counseling with forensics as a specialization (e.g. George Washington and Argosy Universities)
  - The American College of Certified Forensic Counselors
    - The certification commission of the National Association of forensic counselors
      - The sole organization that provides national certification as a forensic counselor
Disparities in Addressing Forensic Populations

- Review of counseling literature excluding counseling psychology
  - Few articles addressed working with forensic populations
    - None covered certification or licensing opportunities
    - Topics covered:
      - Collaborative efforts of mental health and criminal justice agencies to ensure treatment post discharge from an institution
      - Ethical considerations, specifically, as a rehabilitative counselor
      - Utilizing mock trials to teach forensic competencies to marriage and family therapists
        ▪ Generally, authors only address one component of forensic work: expert testimony
        ▪ Service delivery is not generally addressed
Disparities in Addressing Forensic Populations

• *Journal of Addictions and Offender Counseling*
  - Publishes the bulk of counseling literature addressing forensic populations
  - Review of literature 1990-2013
    - No articles addressing ethical considerations for work with forensic populations
    - Two articles: Addressed reducing malpractice suits and ethical/legal issues when serving clients with chemical dependency needs
      - A wealth of information working with people with chemical dependency needs
      - Having a chemical dependency and involvement in the criminal justice system: Not mutually exclusive
Community Mental Health Agencies: Forensic Programs

- Over 2 million individuals are currently incarcerated in United States (U.S.) jails and prisons.
- Estimated that 900,000 individuals are booked into U.S. jails with a diagnosable mental illness or co-occurring disorder.
- Approximately 7 million individuals are released from local correctional facilities annually.
  - An additional 670,000 are released from state prison systems.
- 4.9 million adult men and women are on probation or parole.
Community Mental Health Agencies: Forensic Programs

• Institutional Release
  ▫ Some may be released to the community on bond with no legal supervision
  ▫ Some may be released to the community on various types of probation, or, parole
  ▫ Some may be released to the community with or without linkage to mental health services

• Linkage to Mental Health Services: Issue
  ▫ Failure to appear for the initial appointment
    • Often results in re-arrest and/or no receipt of mental health services

• Wrap-around Services
  ▫ Involves collaboration between community mental health centers and criminal justice agencies to provide inter-disciplinary treatment to offenders with mental illness
    • May include probation, parole, housing, substance abuse, employment, social security administration, etc.
Community Mental Health Agencies: Forensic Programs

- According to the Texas Correctional Office of Offenders With Medical or Mental Impairments (TCOOMMI):
  - As of 2009, there were a total of 665,940 individuals who had a previous encounter with a Local Mental Health Authority (LMHA) or Local Behavioral Health Authority (LBHA) (i.e. Mental Health and Mental Retardation (MHMR) Centers).
    - 37,865 of these individuals had a diagnosis of Bipolar Disorder, Schizophrenia, or, Major Depressive Disorder
    - This figure included individuals on probation, parole, and detained in correctional institutional divisions
  - In 2010, the total number of individuals who had a previous encounter with an LMHA or LBHA decreased to 660,820
    - However, there was an increase in the number of individuals identified to have a *core* mental illness to include Schizophrenia, Bipolar Disorder, and Major Depressive Disorder to 40,232

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<th>Probation</th>
<th>Parole</th>
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<td>2011</td>
<td>156,197</td>
<td>409,960</td>
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<td>151,191</td>
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Community Mental Health Agencies: Forensic Programs

• U.S.
  ▫ Two primary forensic programs offered in community mental health agencies
    • Jail diversion programs and Forensic Assertive Community Treatment
  ▫ Outpatient Competency Restoration (OCR)
    • Implementation roughly begin in 2005
    • Available in over 16 states
Community Mental Health Agencies: Forensic Programs

• Jail Diversion Program
  ▫ Established in response to the increased number of offenders with mental health or co-occurring diagnosis
    • Particularly, those charged with petty offenses
  ▫ Two strategies: Pre-booking and post-booking
    • Pre-booking Strategies
      • Designed to provide intervention at time of arrest as to avoid booking
        ▫ Collaborating with Crisis Intervention Trained officers
        ▫ Encouraging officers to take the offender to the mental health center for evaluation and possible placement in a crisis facility vs. jail
    • Post-booking Strategies
      • Promotes the identification of individuals with mental illness who are currently in jail
      • Promotes linkage to community resources post release
  ▫ Benefits
    • Reducing recidivism prior to enhancement to a felony offense
    • Can promote long-term linkage to mental health treatment
Community Mental Health Agencies: Forensic Programs

• Forensic Assertive Community Treatment
  ▫ Essentially Assertive Community Treatment (ACT) with a focus on forensic clients (e.g., extensive arrest hx., chronic symptoms of mental illness, and hx. of multiple hospitalizations)
    • ACT begin in the 1970s to target those individuals with Schizophrenia with a history of hospitalizations
    • Interdisciplinary model of treatment
      • Social workers, psychiatrists, and nursing staff
    • Caseworkers have smaller caseloads
      • Intensity of services varies based on state mental health practices
  • Texas ACT
    • Most intensive level of care
    • Caseloads of no more than 10
    • Each individual is seen an average of 10 hours each month
Community Mental Health Agencies: Forensic Programs

- **Outpatient Competency Restoration (OCR) Program**
  - Provide outpatient competency restoration treatment for offenders deemed incompetent to stand trial (IST)
    - A person is incompetent to stand trial if the person does not have:
      - sufficient present ability to consult with the person's lawyer with a reasonable degree of rational understanding; or
      - a rational as well as factual understanding of the proceedings against the person
    - Once determined IST, all court proceedings must be discontinued until competency is regained
  - Clients are served in the least restrictive setting, provided intense case-management, and taught competency education
    - As of 2009 17 states have OCR programs
  - Length of commitment varies by state in accordance to statutes
    - **Texas**: TCCP Chapter 46B – Incompetency to Stand Trial
      - Misdemeanor -- Initial commitment period is 60-days
      - Felony – Initial commitment period is 120-days
    - **Wisconsin**:
      - Does not delineate a difference in # of commitment days for misdemeanors and felonies
      - Committed for a period of 12-months, or, the maximum sentence specified for the most serious offense with which the defendant is charged, whichever is less
Forensic Services: Ethical Concerns

• Castellano (2011)
  ▫ Generally, masters-level professionals are providing services in forensic programs (e.g. daily assessments, initial diagnosis, and counseling)
  ▫ Likely have never had formal training in working with forensic populations
  ▫ Implementation of forensic programing in community mental health agencies in a novelty
    • May be ambiguity in the following areas:
      • Confidentiality of client information
      • Awareness of mental health laws
      • Inadequate collaboration in program design and implementation
      • Lack of understanding concerning the functions of judicial and mental health organizations
Forensic Services: Ethical Concerns

- **Client identification**
  - The practitioner may have as a client
    - the individual,
    - the custodian of the individual, or
    - the court
  - Castellano (2011)
    - When providing court-ordered treatment, the service provider acts as an agent of the court and must uphold the conditions of the order
    - If the client does not comply with program conditions
      - The practitioner is contractually bound to inform the courts, placing the client at risk of being jailed
        - Possibly compromises the therapeutic relationship
Forensic Services: Ethical Concerns

- **Role ambiguity**
  - Funding can limit the ability to hire individuals to perform each duty of the contract
    - Practitioner may operate:
      - the evaluator, the program administrator, case-manager, and, counselor
  - American Counseling Association (ACA) [2014] E. 13.c
    - “Counselors do not evaluate current or former clients, clients’ romantic partners, or clients’ family members for forensic purposes. Counselors do not counsel individuals they are evaluating.”
  - Execution of these multiple roles potentially violates ACA standards of conduct for general and forensic practice
Forensic Services: Ethical Concerns

- **Confidentiality and disclosure of information**
  - When providing court-ordered services
    - Absence of confidentiality regarding disclosing various results to the court (i.e. the judge, prosecuting attorney, defense attorney, etc.).
  - Practitioners
    - Remain obligated to inform their client of the absence of confidentiality with regards to the court,
    - Parties to which assessments and other facets of treatment will be shared, and
    - Potential consequences of the information included in the reports
  - There is great opportunity for error in inappropriate disclosure of information to parties unaffiliated with the judiciary system
Forensic Services: Ethical Concerns

- **Supervisor expertise**
  - Literature addressing the importance of supervision primarily covers pre-service activity
    - A review of counseling literature yielded four articles addressing supervision in forensic specialties
    - Bourgeois, Decoteau, and King (2011)
      - Asserted there are no existing models of supervision or consultation for forensic rehabilitative counselors
      - Also do not exist for community mental health counselors (according to a review of counseling literature)
    - Deficiency in addressing supervision and consultation in-service
Addressing the Training, Supervision, and Ethical Guidance Needs: Forensic Practitioners

- **Ethical codes of conduct**
  - May be beneficial for the counseling profession to consider infusing ethical standards for forensic practice in other areas of the code of ethics (e.g. the counseling relationship and confidentiality, privileged communication, and privacy)
  - The American Mental Health Counselors Association
    - Addresses forensic practice only in the area of assessment and diagnosis
  - The lack of inclusion of forensic practice in counseling code of ethics:
    - May be representative of a lack of awareness of the increased engagement of mental health counselors in forensic programming
Addressing the Training, Supervision, and Ethical Guidance Needs: Forensic Practitioners

- **Supervision and consultation**
  - Practitioners should be encouraged to find an administrative supervisor with similar credentials, and
  - Experience working with forensic populations
    - When these conditions are unable to be met:
      - Practitioners should engage in consultation with a professional who has expertise providing forensic services

- **Incorporating forensics in academic curriculum**
  - May be beneficial to infuse forensic practices into training curriculum
    - Several courses where it could be conducive
      - Addictions, mental health counseling, ethics, and assessment and diagnosis
References

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