

Indications for Psychiatric Safety Measures: A Retrospective Study

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ABSTRACT

The aim of this article has been designed to investigate the influence of particular diagnostic categories on recommendations for safety measures, and to investigate the impact of constellatory factors, as the states of acute alcoholism, acute intoxication by psychoactive drugs and intense affect, on the recommendations for safety measures. The sample consisted of 120 examinees forensically expertised at the Center for Forensic Psychiatry of the Psychiatric Hospital Vrapče in the period from January 1, 1998 to December 31, 1999, and evaluated as less responsible according to the new Penal Code. All the examinees had the same legal presumptions for safety measures (decreased responsibility). The sample was divided into two groups: a group of examinees for whom a safety measure had been recommended and a group without such recommendations. The basic methodological instrument was a specially designed questionnaire with 137 items. Regarding socio-demographic characteristics, no statistically significant differences existed between the two groups taking into account age, gender, level of education and marital status. The diagnosis of personality disorder, as the first one, did not influence recommendations for safety measures. Alcohol and drug abuse were statistically significantly present in the group with recommended measures as second diagnoses, and besides influencing responsibility, had an impact on the recommendation of safety measures. An intense affect influenced the reduction of responsibility, but not the suggestion of safety measure, while alcohol and drug intoxications, besides affecting responsibility, had an impact on the suggestion of safety measure. The decisive impact of dependence influenced the recommendation for safety measures.

Key words: safety measure, decreased responsibility, personality disorder, constellatory factors, evaluation of danger

Introduction

On January 1, 1998 in the Republic of Croatia started the application of a whole package of new penal legislature – the Penal Law, the Law on Legal Procedures, and the Law on Juvenile Courts^{1,2,3}. Particularly important is the Law on Protection of Persons with Mental Disorders⁴, enacted first in Croatia among the states established on the territory of the former Yugoslavia.

A great novelty in the new penal law is that safety measures cannot be applied for an indefinite period, but their duration is strictly defined and cannot last longer than three years. Safety measures can be pronounced when there is possible danger that a person could commit any other new offense in the future due to his/her condition. In Croatian legislature a legal link of measures to more severe and dangerous crimes against safety of people and property, as well as to deeds with elements of violence or more severe consequences, does not exist. Such linking is regulated in German and Austrian penal laws,

as well as in the new Slovene penal legislature^{5–8}, which explicitly defines which offenses contain danger that an irresponsible or less responsible person can commit them (Article 64, Paragraph 1).

The new concept of decreased responsibility in the Croatian penal law in its broadness presents an original solution worldwide. This, of course, does not mean that such originality is a better solution than the concepts known so far, and thus it is difficult to draw more secure parallels in relation to any similar solutions in other countries. The main controversy in this concept is the possibility that the evaluation of decreased responsibility be brought even in relatively mild mental disturbances. The majority of foreign legislatures connects the decreased responsibility with serious, severe mental disorders which significantly, in a high degree or similarly, reduce the offender's abilities to understand unlawfulness of his/her own criminal behavior or the possibility of con-

trolling one's own conduct at the time of crime commitment. As an additional limitation connected to this fact, in some foreign legislatures (e.g. in English laws) the application of this institute is limited only to the most severe crimes (murders and infanticides). This additionally points to the necessity of as restrictive attitude as possible towards psychiatric reasons for reducing penal responsibility.

As this problem occurred after the enactment of the new Croatian penal law, its scientific elaboration has been done only in theoretically conceived works, while extended empirical research on this topic did not exist before this article. More detailed theoretical elaboration of the problem is contained in a larger number of both juridical and psychiatric contributions^{9,10}.

The main goal of this research was to examine which diagnostic categories influence the recommendations for safety measures and to investigate the impact of constellatory factors, as an acute intoxication with alcohol or psychoactive drugs and intense affect on responsibility reduction and on the safety measures recommendation.

Subjects and Methods

Subjects

The sample consisted of examinees expertised at the Center for Forensic Psychiatry of the Psychiatric Hospital Vrapče, in the period from January 1, 1998 till December 31, 1999. The basic criterion for inclusion was decreased responsibility. The investigation encompassed 120 examinees. The experimental group contained 60 examinees with recommended safety measure of compulsory psychiatric treatment or compulsory treatment of dependencies. The control group consisted of 60 examinees without any safety measures. The examinees were diagnosed according to ICD-10¹¹.

Law

The investigation started on January 1, 1998, because on that date the application of the new Penal Law¹ and the Law on Protection of Persons with Mental Disorders⁴ was inaugurated. According to these laws, the criteria for responsibility quantification are changed, as well as the criteria for pronouncing psychiatric safety measures. Irresponsible offenders are excluded, because no further penal sanctions can be applied on them, not even psychiatric safety measures.

Statistics

A questionnaire with 137 items was used as the basic investigation tool. It is a modification of the questionnaire designed by the workgroup for documentation in forensic psychiatry at the Department of Psychiatry in Munich^{12,13}. In it are contained all relevant data: from demographic (age, gender, level of education, marital status, developmental conditions in childhood etc), clinical psychiatric (data on previous treatments, abuse of alcohol and psychoactive substances, psychiatric diagnoses

during expertise and at the time of commitment), criminological (previous sentences, the type of offense as the cause of expertise) to forensic psychiatric ones (previously applied safety measures, the level of present danger, reasons for recommending or not recommending safety measures, etc.).

The comparison of results obtained in both groups was performed by detailed statistical analysis¹⁴ on several levels (chi-square test, t-test, Pearson's correlation coefficient, canonic discriminative analysis).

Results

Socio-demographic characteristics

Statistically significant differences between the group of examinees with the suggested safety measure and the group without it regarding age, gender, marital status and education were not found. However, statistically significant difference between groups was found regarding employment ($\chi^2 = 16.087$, $p < 0.05$). In the group without safety measures 45.0% were unemployed, while in the group with measures this percentage amounted to 65.0%. There were 31.7% employed in the group without measures, and in the group with measures only 15%.

Diagnostic categories

The analysis was performed for three psychiatric diagnoses. In the analysis of the first psychiatric diagnosis established during the expertise statistically significant differences between the groups with and without suggested measures were not found. The most frequent first diagnosis in both groups was personality disorder.

Regarding the second psychiatric diagnosis, statistically significant difference was found between the observed groups ($\chi^2 = 55.320$, $p < 0.05$). In the group with measures dominated alcohol abuse with 30% and opiate dependence with 26.7%. In the group without measures organically caused disorders amounted to 16.7% and alcohol abuse to 10%.

In the analysis of the third psychiatric diagnosis statistically significant difference was also found ($\chi^2 = 15.700$, $p < 0.05$). In the group without measures the third diagnosis was not established in 90% of the examinees, and in the group with measures in 70% of them. In the group with safety measure dominated organic disorder caused by alcohol abuse in 15%, while PTSD and organic disorders of non-alcoholic etiology were present in 5.0%.

Constellatory factors – conflict situation, alcohol intoxication, effect of drugs

Conflict situation preceding the crime commitment was registered in 86.7% of the examinees without measure and in 46.7% of the examinees with the suggested safety measure (Table 3), what is statistically significant ($\chi^2 = 21.600$, $p < 0.001$).

Statistically significant difference was also found in the analysis of alcohol intoxication state at the time of

the crime ($\chi^2 = 6.069$, $p < 0.01$). In the group without measure 35.0% were under the influence of alcohol when committing the offense, and in the group with measure 53.3% of them.

In the analysis of the impact of drugs or other substances at the time of the deed, statistically significant difference was found as well ($\chi^2 = 24.662$, $p < 0.001$). In the group without measure only 1.7% of the examinees were under the influence of a drug, i.e. heroin, at the time of the crime, while in the examinees with measure a crisis was registered in 5.0%.

Statistically significant difference was obtained in analyzing the determining effect of dependence at the time of crime. In the group with suggested safety measure such impact was found in 66.7% of the examinees, and in the group without measure in only 1.7% of the cases, what is also statistically important ($\chi^2 = 56.351$, $p < 0.001$).

Canonic discrimination analysis was performed as well. All variables that had passed the tolerance test were included.

Group centroids in the obtained canonic discriminative function for the examinees without measure are -5.253 and 0.821 , for the examinees with the suggested measure – compulsory treatment of alcoholism – 5.003 and -9.860 , and for the examinees with the measure of compulsory psychiatric treatment -4.952 and 2.609 .

The percentage of exact classification was 97.5%. In the group without measure 96.7% of the examinees were correctly classified, while 1.7% of them were classified into compulsory treatment of dependence (alcohol), and 1.7% in compulsory psychiatric treatment.

The percentage of exact classification of compulsory treatment of dependence on alcohol and drugs was 100%, while the examinees with the measure of compulsory psychiatric treatment were correctly classified in 95.0%, and 5.0% of them were classified in the group without measure.

Discussion

The obtained results show that psychiatric safety measures are more often recommended to examinees with diagnosed dependence on alcohol and psychoactive drugs, who also have personality disorder.

An intense affect influenced the reduction of responsibility, but did not impact the suggestion for safety measures. On the other hand, alcohol and drugs intoxication, besides influencing the reduction of responsibility, also had an impact on the suggesting a safety measure.

With the enactment of the new penal law in the Republic of Croatia occurred the problem of differentiating less responsible persons^{15–17}. It is not easy to distinguish persons who do not need treatment within safety measures from those to whom a safety measure of either psy-

chiatric treatment or compulsory treatment of dependence on alcohol or psychoactive drugs was ordained with the aim to lessen the danger for the environment.

The actual goal of this research was to try to make differentiation between the group of examinees who were examined according to the new Penal Law and pronounced less responsible but without safety measures, and the group of those considered as less responsible and with suggested safety measures.

A positive trend in the Penal Law is certainly the limited duration of safety measures. Their duration is restricted to three years and is included in the prison sentence^{1,17,9}, what is an extremely important shift in ensuring the basic human rights of patients with safety measures.

In analyzing legislative solutions pertaining to pronouncing and executing safety measures worldwide, we can say that solutions differ in two basic directions^{6,7} and models in pronouncing the measures.

The first model, characteristic for German and Austrian legislatures, is characterized by accentuated orientation to repressive safety dimension of forensic treatment, which is unfailingly defined as a penal juridical sanction no matter whether applied to an irresponsible or only less responsible person^{8–10}.

The other model contains the most elements based on ideology and tradition of the Anglo-Saxon jurisdiction. In less responsible offenders the principle according to which psychiatric safety measures cannot last longer than prison sentence is strictly obeyed. If psychiatric treatment is indicated after the end of detention, it can be executed in accordance with civil law procedures.

One of very important tasks is creating clear criteria for pronouncing safety measures, what would decrease delinquent behavior. To achieve this goal, it would be necessary in the future to define unambiguous prognostic criteria of dangerous behavior^{21–24}. The results of this research enable significantly differentiated insight into particular aspects of pronouncing safety measures to less responsible offenders, and planning treatment of such delinquent groups. Future investigations are needed to additionally check the results of the present research and to perform new studies on larger samples. Special regard should be paid to the application of safety measure of only compulsory psychiatric treatment. In this research it became evident that this group in many situations differed from the examinees with pronounced measure of compulsory treatment of alcohol and drug abuse, but during examination of predictive factors got nearer to the group without suggested safety measure. It is possible that the safety measure of compulsory psychiatric treatment often was not recommended because an institution for its application did not exist, what is the violence of human rights of persons who needed safety measures.

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INDIKACIJE ZA PSIHIJATRIJSKE MJERE SIGURNOSTI

SAŽETAK

Cilj rada bio je ispitati zastupljenost pojedinih dijagnostičkih kategorija unutar kategorije smanjeno ubrojivih počinitelja kaznenih djela, ispitati utjecaj konstelativnih faktora kao što su stanja akutne alkoholiziranosti, akutne intoksikacije psihoaktivnim drogama, intenzivnog afekta i sl. na redukciju ubrojivosti i na preporuku za mjeru sigurnosti. Uzorak je sačinjavalo 120 ispitanika koji su vještačeni u Centru za forenzičku psihijatriju PB Vrapče od 1. siječnja 1998. godine do 31. prosinca 1999. godine i koji su ocijenjeni smanjeno ubrojivim. Uzorak je podijeljen na dvije grupe i to grupu ispitanika kojima je predložena mjera sigurnosti i grupu ispitanika kojima nije predložena mjera sigurnosti. Temeljni metodološki instrument bio je posebno koncipirani upitnik sa 137 itema. S obzirom na sociodemografske karakteristike nije nađeno značajnih razlika u odnosu na dob, spol, razinu naobrazbe i bračni status među grupama. Dijagnoza poremećaja ličnosti, kao prva dijagnoza, utjecala je na redukciju ubrojivosti, ali ne i na preporuku za mjeru sigurnosti. Ovisnost o alkoholu i o psihoaktivnim drogama statistički su značajno zastupljenije u skupini s predloženom mjerom sigurnosti kao druge dijagnoze, te su osim na redukciju ubrojivosti utjecale i na preporuku za mjeru sigurnosti. Intenzivan afekt utjecao je na redukciju ubrojivosti, ali nije na preporuku za mjeru sigurnosti, dok stanje alkoholiziranosti i intoksikacije drogama je osim na redukciju ubrojivosti, utjecalo i na preporuku za mjeru sigurnosti. Odlučujuće djelovanje ovisnosti utjecalo je na preporuku za mjeru sigurnosti.