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MEDICO-LEGAL CONCEPTS OF CRIMINAL INSANITY

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The problem of relating law to psychiatry and other behavior sciences is epitomized by the difficulties, on the one hand, of applying the archaic McNaghton rules on insanity in the modern criminal court and, on the other, of applying the common notion that all delinquents and criminals are emotionally sick people. These conflicting ideas point up very acutely the need in contemporary criminology to improve the integration of the sciences of human behavior with the reasonable and realistic operation of our criminal courts and correctional system. To that end we must exploit the skills of the biological and social sciences more fully, but we must also better adapt the techniques of these fields *to the goals of criminal law*, insofar as they may serve the administration of justice. Much of the problem of relating law to the clinical fields lies in the need to clarify the functions and objectives of each, to recognize the differences in their orientations, and to arrive at an effective coordination of them.

Putting it simply, it appears that the behavior sciences are concerned primarily with the problems of maladjustment and emotional illness, while the criminal law aims basically to provide for the security of the community and its citizens. The former, therefore, looks to the diagnosis and therapy of pathologies in the individual; there is no direct concern with conforming the individual's conduct to standards of law and morality. The clinician, by his training and philosophy, is more concerned with the individual than the mass, with the protection of the patient rather than the community. In contrast with this orientation, the function of the criminal law is to protect society against the invasion of the citizen's rights rather than to resolve problems of social welfare or of public health. While these objectives of law and behavior science are not uniformly and intrinsically inconsistent, neither are they always entirely compatible.

Criminal justice is concerned in its utilization of clinical knowledge and personnel that there be a large consensus among the behavior experts on basic matters of diagnosis and treatment of criminal deviations if their theories are to be introduced into criminal procedures and correctional methods. Justice also requires that the public be pro-

tected even if the consequence is not ideally suited to the clinical requirements of the offender. Where diagnosis is required by the court and where therapy is employed in the correctional system, the major objective is the prevention of future crime. And to justify expenditures for clinical diagnosis and treatment, it must be reasonably economical in time and expense, particularly as to minor offenders whose threat to the community is not great.

The criminologist is generally hesitant today to establish a strictly clinical orientation in the treatment of most offenders. He is skeptical particularly concerning the application of medical psychology to the great mass of what appear to be psychologically normal criminals or to "emotionally deviated," "psychopathic" or neurotic offenders where their conditions are not amenable to reasonably effective treatment modalities nor even to uniform diagnoses among the experts. In addition he is (or should be) concerned that a thoroughly individualized and clinical orientation in our courts and correctional system may too far dilute the deterrent value of the law in its impact upon the whole community. The notion, increasingly popular in some quarters of contemporary criminology, that all criminals are products of "emotional illness" requiring extensive analytic investigation and intensive clinical therapy appears—at least at the present state of our knowledge and tools—to lack the vindicative evidence that would be necessary to support a system of clinical justice. More resources for the understanding and the effective treatment of the criminal we do surely need, but these cannot soundly be predicated upon narrow, sectarian, and inadequately tested hypotheses concerning etiology or therapy!