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Forensic use of a DSM-5 Quadrant in juvenile fire setting and bomb making cases: A mitigation of criminal responsibility?

By: Ronn Johnson, Ph.D., ABPP

Jessica Mueller, PsyD Student*

Eric Jacobs, MA Candidate**

Elizabeth Grace, MA Candidate**

JoJo Y.K. Lee, MA Candidate**

* Alliant International University

** University of San Diego

Overview

- JFSB DSM-5 Quadrant
- Why the Quadrant is important
- What is Criminal Responsibility
- How the DSM-5 Quadrant diagnoses mitigate criminal responsibility

DSM-5 Quadrant

- Term coined by Dr. Ronn Johnson
- "A DSM-5 Quadrant that includes conduct disorder/oppositional defiant disorder, PTSD, autism spectrum disorder and ADHD may capture many of the JFSBs seen."

Conduct Disorder/ Oppositional Defiant Disorder	Post- Traumatic Stress Disorder
Attention Deficit/ Hyperactivity Disorder	Autism Spectrum

Johnson & Jones (2014)

Why the DSM-5 Quadrant is Important

- 34.3% of arson offenses involved juveniles, which was the highest percentage of offenses involving only juveniles
(FBI, 2011)
- In 2013, there were 1,240,000 fires reported in the United States. These fires caused 3,240 civilian deaths, 15,925 civilian injuries, and \$11.5 billion in property damage
(National Fire Protection Association, 2013).
- The average dollar loss per arson is \$13,196 (FBI, 2011)
- Juveniles may be subject to severe legal punishment as well as his or her parents/guardians

Criminal Responsibility and JFSB

- What is criminal responsibility? (Bryan-Hancock & Casey, 2011; Spaans et al., 2011).
- What makes a juvenile culpable? (Weithorn, 1982)
 - Criminal Intent
 - Consider consequences and abstract possibilities
- Two important things should be considered (Lexcen, 2000)
 - Adolescents with psychopathology
 - Adults with similar pathology
- Mental state of arsonists (Rasanen, Hakko, & Vaisanen, 1995)
- How often are they likely to be criminally responsible?
(Rasanen, Hirvenoja, Hakko, & Vaisanen, 1995)

Mitigation of Criminal Responsibility

Juveniles

Fire setting behavior
Under the age of 18
Developmental immaturity

Adults

Arson
Over the age of 18
Level of maturity

Juveniles and Adults

Learning disability or low IQ
Diminished understanding of crime, actions, and consequences
Mental / medical illness directly responsible for the crime
Extreme Duress/ Threat

Conduct Disorder/ODD and Criminal Responsibility

- There is little research on conduct disorder and criminal responsibility (Spaans, 2011; Sparr, 2009)
- Likely to be seen as responsible
- Some believe they should not be considered responsible
- Case law and state decisions for those with Antisocial Personality Disorder
 - American Law Institute (ALI)
 - Some states exclude APD
 - Some states include APD

PTSD and Criminal Responsibility

- Prevalence of PTSD in the courts (.3%)
(Friel, White & Hull, 2008).
- PTSD is a risk factor for aggressive and violent behavior (Friel, White & Hull, 2008; Sparr, 1996)
- Control in individuals with PTSD (Lasko et al., 1994)
- PTSD in a forensic arena

Autism Spectrum and Criminal Responsibility

- Difficult to identify whether there is an over-representation of ASD amongst criminal offenders
- Youth with ASD were more likely to be diverted into pretrial interventions, less likely to be prosecuted than other youth (Cheely et al., 2012).
- Two challenges in criminal investigations & proceedings (Freckelton, 2013)
 - the capacity of a person with ASD to understand and communicate
 - The impression of their behavior during interview and in court

ADHD and Criminal Responsibility

- Prevalence of ADHD
 - 3-5% of the General Adolescent Population (Porth, 2009)
 - Antisocial Adolescent Samples
 - 4% of Detained Adolescents
 - 14-19% of Adjudicated Adolescents
 - 20-72% of Incarcerated Adolescents (Vermeiren, 2003)
 - 20-40% of Juvenile Firesetters (Rae, 2011)
 - 2-5% of Adults
 - 45% of Young Adult Prison Inmates (Rösler et al., 2004)

ADHD and Criminal Responsibility

- ADHD and decision making
 - Executive Function Deficit (EFD)
 - Working Memory
 - Planning
- Is ADHD alone currently enough to impact criminal responsibility?
 - Short answer: No
 - However, there are exceptions
 - Wisconsin Student
 - Tennessee Student
 - Decided Case by Case

Importance of These Findings

- Essentially these diagnoses could mitigate criminal responsibility, but it is a case by case basis
- This information can be used for treatment purposes as well as court considerations
- Treating these symptoms would lessen likelihood of fire setting behavior and court involvement
- More research is necessary

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