

Who is Responsible When a Child Psychiatrist's Advice for a Counseling Measure in Forensic Cases Is Ignored?

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ABSTRACT

Who is responsible when a child psychiatrist's advice for a counseling measure in forensic cases is ignored?

Children who are neglected or abused, whose physical, mental, moral, social, or emotional development and personal safety are at risk, must be protected. Precautionary reports can be prepared about children for whom supervision has been decided. In this case, the court's ignoring of a child psychiatrist's advice for a counseling measure and the later occurrence of sexual abuse in an adolescent girl is discussed. G.D., a 17-year-old girl, is referred to our clinic by the public prosecutor with the request for a report on the development of the girl's competence to understand the legal significance and consequences of sexual abuse. We found that she had been referred to our clinic as a forensic case two years previously because of accusations that she had stolen gold and money from her neighbors at the request of her friends. It was found that the patient was at risk of sexual abuse. In the forensic report that we had prepared two years ago, it was suggested to monitor her behavior carefully as it was forming a basis for sexual abuse; hence precaution about this risk should be taken. Therefore, the case should be followed from the perspective of abuse, and a counseling measure was recommended by court decision. But as far as we learned from the family, neither had been applied. In our case, failure to apply the required counseling measure resulted in sexual abuse. There seems to be a need for bilateral control mechanisms between court and mental health workers for the application of measures mentioned in child protection law.

Keywords: Counseling, forensic psychiatry, sexual abuse

ÖZ

Adli olaylarda çocuk psikiyatristlerinin danışmanlık tedbir kararı tavsiyeleri görmezden geldiğinde bu durumda sorumlu kim olacak?

Bedensel, zihinsel, ahlaki, sosyal ve duygusal gelişimi ile kişisel güvenliği tehlikede olan, ihmal veya istismar edilen çocukların korunması, haklarının ve esenliklerinin güvence altına alınması kanunen belirlenmiştir. Çocukların korunması ile ilgili çeşitli tedbir kararları alınabilmektedir. Biz bu vakada; mahkemenin bir çocuk psikiyatristinin tedbir karar tavsiyesini görmezden gelmesini ve olgunun ilerleyen dönemde cinsel istismara maruz kalmasını tartışacağız. G.D.; 17 yaş, olgu kendisine yapılan cinsel istismar fiilinin anlam ve sonuçlarını algılama yeteneğinin gelişip gelişmediği yönünde rapor düzenlenmesi istemiyle polikliniğimize başvurdu. Yapılan değerlendirmede olgunun iki yıl önce kliniğimize, arkadaşlarının isteği üzerine komşularından altın ve para çalma suçlamalarından dolayı adli bir vaka olarak sevk edildiğini saptandı. İki yıl önceki değerlendirme raporumuzda; olgunun cinsel istismar riski altında olduğu, bu risk göz önüne alındığında önlem alınması amacıyla olgu hakkında danışmanlık tedbiri kararının çıkarılmasının uygun olacağı belirtilmiştir. Ancak, aileden alınan anamnezde danışmanlık tedbiri kararının uygulanmadığı öğrenildi. İlgili rapor sonrasında olgunun cinsel istismara maruz kaldığı öğrenilmiştir. Sonuç olarak; çocuk koruma yasasında belirtilen tedbirlerin uygulanması için mahkeme ve ruh sağlığı çalışanları arasında ikili kontrol mekanizmalarına ihtiyaç olduğu görülmektedir.

Anahtar kelimeler: Danışmanlık, adli psikiyatri, cinsel istismar



How to cite this article: Aktas H, Ogutlu H, Esin IS, Dursun OB. Who is responsible when a child psychiatrist's advice for a counseling measure in forensic cases is ignored? Dusunen Adam The Journal of Psychiatry and Neurological Sciences 2018;31:205-208.
<https://doi.org/10.5350/DAJPN2018310209>

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Date of receipt / Geliş tarihi:
August 16, 2017 / 16 Ağustos 2017

Date of the first revision letter /
İlk düzeltme öneri tarihi:
September 13, 2017 / 13 Eylül 2017

Date of acceptance / Kabul tarihi:
September 30, 2017 / 30 Eylül 2017

INTRODUCTION

According to Article 1 of the United Nations Convention on the Rights of the Child, every human being under the age of 18 is a child (1). When a child comes into contact with forensic units, it is often for having committed a crime or as a victim of some incident. As a perpetrator of a crime, he or she is defined as a child who has been investigated or prosecuted for an alleged act or in whose respect forensic measures have been taken on the basis of this act (2). Maltreatment of a child or child abuse is defined as a child being exposed to harmful, intentional and preventable behavior by the person or persons responsible to care for him or her, that is harmful to the child's physical or mental health and has a negative effect on his or her physical, emotional, mental, or sexual development (3). The common points between the victim of child abuse and the child who has committed a crime are that all children are legally defined as victims, and priority is given to the protection of children. According to the Juvenile Protection Law No. 5395, children who have been neglected or abused and whose physical, mental, moral, social, or emotional development and personal safety are at risk must be protected and their rights and well-being must be guaranteed (4). The purpose of this law is to establish and implement procedures and principles for the protection of the rights and well-being of children who are in need of protection or have committed crime. Protective and supportive measures are intended to provide protection primarily in his/her family environment, and these measures are implemented in five ways, namely: counseling, education, care, health, and accommodation measures. Counseling has an important place among these measures. It provides measures regarding raising children for the ones who are responsible for the care of the child, and for children to solve their problems related to their education and development. Protective and supportive measures for juvenile offenders or victims of abuse are taken by judges in juvenile courts upon the request of the forensic departments of hospitals and the public prosecutor. If these

precautions are not implemented, neglect and abuse of these children may be more frequent than in the normal population (5). In this case, the consequences of the failure to implement the counseling measure, despite having been suggested by a child psychiatry doctor, will be discussed.

CASE

G.D., a 17-year, 11-month-old girl, lives with her family as the youngest child. She was referred to our outpatient clinic by the public prosecutor's office in accordance with the Turkish Penal Code with the request for a report on the development of her competence to understand the legal significance and consequences of sexual abuse. Forensic psychiatric evaluation was performed in our outpatient clinic. In her psychiatric examination, she was fully conscious and cooperated. She was completely oriented in time, place, and person. She had an immature demeanor. The clothing was compatible with being an adolescent girl of her socio-economic status. Her mood was euthymic, but her affection was inappropriate. During the evaluation, she showed meaningless smiles. Judgment and abstract thinking were retarded compared to her peers. According to clinical evaluation and applied psychometric tests, she was diagnosed with a mild intellectual disability. There were no psychotic findings. When the patient's history was investigated, it was learned that special education had been offered with a diagnosis of mild intellectual disability by a child psychiatrist. She had been unable to learn to read and left the school in the 3rd grade of primary school. However, the socio-economic situation of her family was not good and there were many people engaged in legally inappropriate activities in their neighborhood. Furthermore, when we reviewed the outpatient clinical records, it was found that about two years earlier she had been referred to our clinic as a forensic case because of accusations that she had stolen gold and money of her neighbors upon the request of her friends. In our forensic medical records, she had been diagnosed with attention deficit hyperactivity disorder

and mild intellectual disability. Due to a lack of adequate parental support, easiness of being deceived, mental retardation compared to her peers, and the behaviors observed during assessments, it was established that the patient was at risk of sexual abuse. In her forensic report which we had prepared two years ago, it was suggested to monitor her behavior carefully, as it formed a basis for sexual abuse, hence precautions should be taken. Therefore, the case should be followed from the perspective of abuse, and a counseling measure was recommended by court decision. Despite the fact that the counseling for the case had been recommended by us, this decision was not implemented as far as we learned from the family, and the patient was admitted to our clinic as a sexual abuse victim about two years later.

DISCUSSION

Child abuse is a public health problem that is increasingly prevalent all over the world, leading to numerous medical, legal, developmental, and psychosocial problems. In a study conducted in Europe, it was determined that one out of every five children was abused (6). A study to determine the causes of sexual abuse has identified a number of different causes for abuse. Upon examination, the most common reasons are risky environment, inadequate family conditions, and low socioeconomic status (7). In our case, similar to those in the literature, the presence of these factors was the main risk leading to the abuse. The identification of risk factors for sexual abuse constitutes an important step in the specification of preventive measures. Implementation of recommended measures is important to prevent the occurrence of future negative experiences as well as recurrences. While there are many legal arrangements for the protection of children with risk factors, it seems that Turkish Law and Security Departments focus on punishing the offenders rather than the protection of children. It should be taken into consideration that the protection and psychosocial support of victims of sexual abuse are as important as the punishment of the offenders. If the necessary precautions are not

taken, sexual abuse can be repeated (5,8). In our case, it was suggested that a counseling measure should be applied because of the risks the patient carried before the abuse, but it was learned that the failure to apply the required counseling measure resulted in sexual abuse. The aim of psychiatric evaluation in forensic cases is not only to provide treatment for the psychopathology detected or prepare forensic reports. Psychiatrists, who also have a role in preventive medicine, determine the risk factors that can cause both psychopathology and traumatic recurrence and the precautions to be taken in this context. If the risk factors are determined as a result of forensic evaluations, the physician can propose the implementation of various precautionary decisions for the case. Considering the knowledge and experience of child and adolescent psychiatrists with child protection, the proposals should be taken into account in the implementation of measures against abuse. In order to ensure this implementation, there is a need for bilateral control mechanisms between court and mental health workers for the applications mentioned in child protection law. In addition, prevention-based training targeting individuals with intellectual disability and their families should be implemented.

Contribution Categories		Author Initials
Category 1	Concept/Design	H.A., H.O.
	Literature review	H.A.
	Data analysis/Interpretation	H.A., H.O.
	Case follow-up (if applicable)	H.O., H.A., I.S.E.
Category 2	Drafting manuscript	H.A., H.O.
	Critical revision of manuscript	I.S.E., O.B.D.
Category 3	Final approval and accountability	H.A., H.O., I.S.E., O.B.D.
Other	Technical or material support	N/A
	Supervision	N/A
	Securing funding (if applicable)	N/A

Informed Consent: Written consent was obtained from the patients.

Peer-review: Externally peer-reviewed.

Conflict of Interest: Authors declared no conflict of interest.

Financial Disclosure: Authors declared no financial support.

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