

Particular qualities of the treatment of persons who have committed sexual offenses

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Background. The question of the treatment of persons who accomplished sexual crimes continues to be discussed by researchers around the world. Mark certain insufficiency of preparation of specialists in relation to an estimation and treatment of sexual disorders in medical and psychiatric establishments, and even in judicial psychiatric associations, that understanding, that treatment of sexual criminals is accessible and can be successful and effective needs a subsequent ground. Current criteria of the force usage of medical care are developed not enough.

Aim. To find out the criteria of application of the forced measures of medical character This research is devoted to solving scientific and practical problems, which is to develop a forensic-psychiatric expert evaluation of persons who have committed sexual criminal offences.

Materials and methods. The paper presents the results of a scientific study conducted as part of the dissertation "Forensic psychiatric evaluation of persons who have sexual offences". To achieve the goal of the study, the author analyzed 287 sub-experts who committed sexual offences and were on forensic psychiatric examination (FPE) at the Kyiv City FPE Center from 2000 to 2015 (16 years).

In order to determine the relationship between the degree of violation of the ability to understand their actions, manage them and resolve expert issues, all observations were divided into 2 groups of comparison: 1 - 200 observations (sub-experts, considered "sane"); 2 - 14 (sub-experts, recognized as "insane"); 3 - 73 ("limited sanity"), this group was formed artificially from the group of "sane", based on the concept of "limited sanity".

Research methods used in the work: information-analytical, socio-demographic, clinical-psychopathological, experimental-psychological, expert, situational analysis, statistical.

Results. The criterion for the application of coercive measures of a medical nature (CMMN) in the form of a referral to a specialized psychiatric institution is the recognition of a person as "insane", the provision of compulsory outpatient care.

Conclusions. The identification of criteria for choosing the right forced medical health care type, i.e., validity and sufficiency of the recommended forced measure of a medical character, is needed to increase a quality upgrading prophylactic measures in the conditions of the forced treatment.

Background

The issue of the treatment of sex offenders continues to be debated by scientists around the world. There is a certain lack of training for the assessment and treatment of sexual disorders in medical and psychiatric institutions, as well as in forensic psychiatric associations, i.e., the understanding that the treatment of sex offenders is available and can be successful and effective needs further justification [1]. In some countries, there is no such a concept as coercive measures of a medical

nature (CMMN). The definition of security measures is used more often, which is much broader in scope than coercive medical measures. Security measures are applied not only to persons, who have committed crimes in a mental disorder state but also to patients with chronic alcoholism and drug addiction.

The most significant problem for the system of involuntary treatment is the criterion of social danger, which is inextricably linked with the development of objective indicators of deviant desires relevance. Which dictates the need to create a comprehensive program for the dynamic diagnosis of pathological sexual desires [\[2\]](#).

Patients' treatment and rehabilitation are based on data obtained from psychological and psychiatric examinations [\[3\]](#). The change of the modern concept from "danger assessment" to "risk assessment" has expanded the range of assessment to include environmental, situational, and social influences [\[4,5\]](#), as the impact of mental disorder on human behavior in a legally significant situation is mediated through personal and social situational factors. At the same time, there is a lack of research on the features of involuntary treatment of mentally ill patients in institutions with various modes of supervision (including intensive supervision), comprehensive assessment of the socio-environmental and clinical factors impact on the duration and success of involuntary treatment, quality of life and patients' social functioning; the data on the preconditions and factors of sexual offenses are not systematized, individual psychological markers of social danger of patients are not selected, there is no unambiguous assessment of the role of deficient and productive psychopathological disorders as the most likely clinical mechanisms of recurrent sexual offenses. The rehabilitation system of this patients' contingent needs to be improved, taking into account the tendency to humanization and legal regulation of psychiatric care [\[6,7\]](#).

Research material

- The study is based on an analysis of a continuous sample of examinees who committed criminal offenses on sexual grounds and were on FPE at the Kyiv City Center for Forensic Psychiatric Examination from 2000 to 2015 (for 16 years), a total of 287 examinees were studied. The information was collected by copying data from various official documents (inpatient medical records, criminal case file, FPE acts) in a specially designed survey card containing general information about the subject and examination, anamnestic, socio-demographic, clinical, and the examinees' individual psychological features, data on the identity of the victim, crime and post-criminal situation, the examinee's behavior during the FPE.
- In order to determine the relationship between the degree of violation of the ability to understand and manage their actions and the solution of expert questions, all observations were divided into 2 comparison groups: 1 (200 observations) - examinee was considered "sane"; 2 (14 observations) - examinees were considered "insane"; 3 (73 observations) - "limitedly sane". The latter was artificially formed from the group of "sane persons", based on the concept of "limited sanity". This concept is based on a systematic approach to the concept of "limited sanity", which was developed in Ukrainian forensic psychiatry by V.B. Pervomaisky [\[8\]](#), A.V. Zaitsev [\[9\]](#).

Research methods: anamnestic, information-analytical, socio-demographic, clinical-psychopathological, experimental-psychological, expert, situational analysis, statistical.

Results

Diagnosis of sexual preference disorders, determination of forms and types were carried out in accordance with the diagnostic criteria of the International Classification of Diseases 10th revision (ICD-10), as well as definitions adopted in domestic psychiatry. Expert assessment of non-psychotic mental disorders depends on their severity in combination with the presence or absence of other

clinical, social, situational factors, requires consideration of a set of factors within the "actual mental state" of the person during the sexual offenses and during FPE (forensic psychiatric examination).

At the same time, it should be noted that it is difficult to expertly assess those cases when sexual desire disorders have arisen in personality disorders (psychopathy) or are an independent mental pathology type. In this case, a psychiatric assessment of the person's condition and analysis of sexual disorders is necessary, which requires a comprehensive examination with the participation of a psychiatrist and sexologist. At the same time, the main attention is paid to the syndromic picture of sexual desire disorders [\[10\]](#).

In a clinical study in 7 (50%) people from the group of "insane" there was found paranoid schizophrenia, continuous-progredient course, severe psychopathic defect (ICD-10: F20.00); 3 (21.4%) - OBL (organic brain lesion) due to traumatic brain injury with severe psychoorganic syndrome (ICD-10: F07.9); 1 (7.15%) - moderate mental retardation with severe emotional and volitional disorders (ICD-10: F71.1), schizoaffective disorder, manic type, exacerbation (ICD-10: F25.0); 1 (0.3%) - epilepsy with dementia (ICD-10: G40, F01.8).

144 (72%) subjects from the "sane" group were healthy, and 16 (8%) had residual organic brain lesion; 10 (5%) - emotionally unstable PD; 7 (3.5%) - mental and behavioral disorders due to alcohol consumption, addiction syndrome; 6 (3%) - mild oligophrenia without severe emotional and volitional disorders; 5 (2.55%) - OBL due to traumatic brain injury with cerebrastenic syndrome; 3 (1.5%) - opioid addiction and excitable PD (personality disorder); 2 (1%) - OBL of neuroinfectious genesis with mild psychoorganic syndrome; 1 (0.5%) - mental and behavioral disorders due to drug use of the group of psychostimulants (pseudoephedrine), addiction syndrome, organic and epileptoid PD (personality disorder).

In the group of "limitedly sane" (73 patients), most of the subjects were mentally healthy (52; 71.2%), in 10 (13.8%) cases there was a residual organic brain lesion with mild intellectual impairment and moderate emotional and volitional disorders; 4 (5.5%) - PD (personality disorders); 4 (5.5%) - mild mental retardation with moderate emotional and volitional disorders; 3 (4.1%) - Mental and behavioral disorders due to alcohol use with personality changes, addiction syndrome. The majority of people in this group showed a distortion of sexual desire (92.2%) of compulsive level. Pedophilia affected 48 (67%) patients, gerontophilia - 3 (4.1%), necrophilia - 1 (1.4%), sadism - 4 (5.6%), exhibitionism - 10 (14%).

Thus, from the analysis of the research material, taking into account clinical and expert ideas about the mental disorders' course, the peculiarities of false sexual desire implementation, there was developed a model of forensic psychiatric assessment of the ability to realize the importance of their actions and (or) manage them by the persons, who have committed a socially dangerous act ([Figure 1](#)).

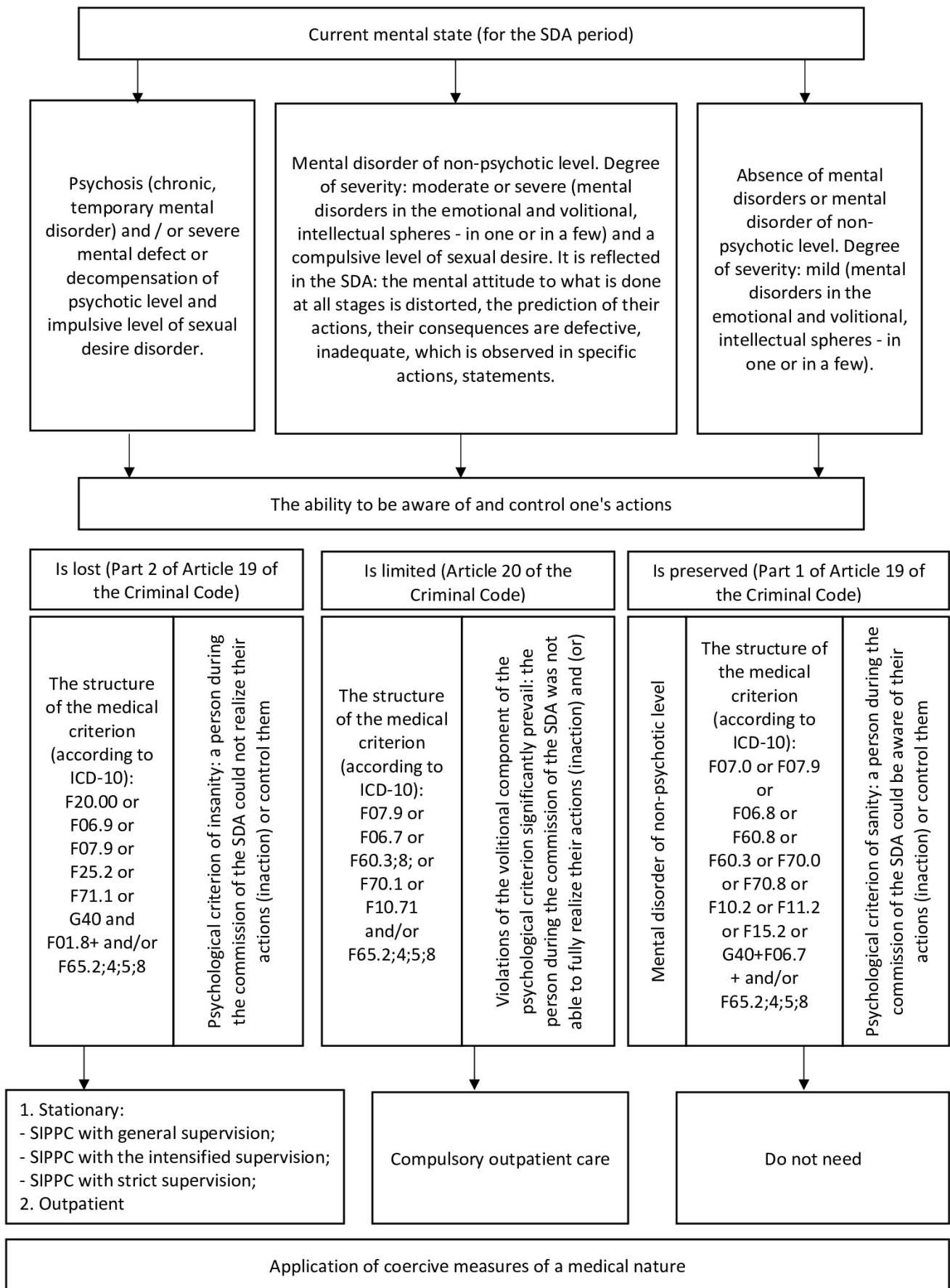


Figure 1. *Forensic psychiatric assessment model of the ability to realize the importance of own actions and/or manage them for those who committed sexual offenses act*

Mental disorders in the framework of sanity require differentiated assessment and accounting for them in each case. It is impossible to predict all the variety of life situations that in each case could be considered mitigating. Only if the mental anomalies are a significant element in the causal link that led to the commitment of the crime and the occurrence of the criminal result, the court can recognize them as an attenuating circumstance taking into account all the circumstances of the case. In cases of persons with a mental disorder that does not preclude sanity, courts take mental disorders into account when sentencing, reduce the sentence and may impose coercive medical measures. Thus, the main punishment can be imposed in conjunction with coercive measures of a medical nature [11].

As mentioned above, the court decrees on the release of a person from criminal liability and the application of coercive measures of a medical nature only after finding it proven that the act prohibited by criminal law, committed by this person in a state of insanity [12]. Limited sanity, provided that it is indicated in the conviction, provides an opportunity to apply to the subject of the crime (voluntarily or compulsorily) appropriate corrective measures - both general or psychological correction, and psychiatric treatment [13]. That is, limited sanity is the basis for determining the conditions of detention in places of imprisonment and the appointment of coercive measures of a medical nature [14].

Sending a person suffering from a mental disorder, to a psychiatric hospital in an involuntary procedure has two purposes: medical and legal. At the same time, the priority is the treatment of mentally ill people or the improvement of their mental state. The legal aspect of the issue is to prevent the commission of new crimes. However, in practice, the latter provision is often decisive in the appointment of involuntary treatment, namely in the choice of its type and term definition [15].

The decision on the application term of coercive measures of a medical nature and the consequences of the application of these measures differs in the legislation of different countries. For example, in the United States, defendants acquitted of insanity are not released. In Connecticut, in cases where a person is released from criminal liability for insanity, the judge determines the period during which this person must remain in a psychiatric institution until one is found to be adequately aware of the crime circumstances. In this case, the judge transfers control of the convict to the state supervisory board before the expiration of the appointed period. In other states, such individuals must be kept in a psychiatric hospital until their mental state ceases to be socially dangerous [16,17]. In some states, review boards have been established to provide care and responsibility for those in treatment after being declared insane. The boards monitor the treatment and can set the conditions that must be met in order for a person to be released from the institution [18]. It should be noted that in the United States, even if the defendant is convicted and has served their sentence, they may be placed in a psychiatric hospital.

Usually, the justification for keeping persons in a non-criminal institution is that they will be treated there. However, with regard to perpetrators of sexual offenses, it has been established that many of them cannot be treated. In such cases, in some states, the authorities refer these people to regime institutions - in the interests of public safety [19].

In terms of its content, the involuntary treatment scope is complex and diverse. It covers, in addition to the actual medical work, also the organization of periodic medical examinations to raise before the court the question of the continuation of the prescribed measures or change of their types; organization of the psychiatric hospitals' security system providing involuntary treatment; a documentation system required for the proper implementation of involuntary treatment, etc.

[20.21].

Outpatient psychiatric care may be compulsorily provided to a limitedly sane convicted both in a special medical institution and in medical units of special institutions of the State Department for the Execution of Sentences of Ukraine if the convicted person is serving a sentence of restriction or imprisonment. In these institutions, individuals also undergo medical and social rehabilitation, as due to mental disorders they need to create conditions for adaptation to the correctional facilities regime [\[22\]](#).

Compulsory treatment in a general psychiatric hospital can be prescribed to persons: who has committed sexual offenses and is now in a psychotic state, in cases of no pronounced tendencies to hospital disorders and a favorable prognosis for therapeutic relief of psychosis; persons with the phenomena of dementia, other mental disorders who have committed sexual offenses, provoked by external circumstances; persons with a temporary mental disorder that developed after the sexual offenses, but before the verdict; persons who have undergone involuntary treatment in specialized psychiatric hospitals, including with intensive care (in the order of changing the degree of medical nature); patients who demonstrate during outpatient involuntary treatment deterioration of mental status and increased social danger [\[23,24\]](#).

Treatment in a specialized type of hospital with intensive care is recommended for people with chronic mental disorders or dementia who are prone to recurrent sexual offenses; persons suffering from a temporary mental disorder that developed after the implementation of the sexual offenses, but before sentencing, in case of new sexual offenses threat; persons with chronic mental disorders after involuntary treatment in a specialized hospital with intensive care; persons who found during the application of a less severe degree of mental deterioration and increased risk of committing sexual offenses [\[25\]](#).

Compulsory treatment in a specialized hospital with strict supervision is recommended for persons who pose a special danger: with chronic mental disorders or dementia, showing a tendency to commit repeated severe or especially severe sexual offenses; show persistent antisocial tendencies, which is manifested in the commitment of multiple sexual offenses and gross violations of the hospital regime; persons suffering from a temporary mental disorder that developed after the commitment of the sexual offenses, in case of committing new serious sexual offenses threat; in case of deterioration of mental state after previous treatment and/or in case of danger, if it makes it impossible to carry out the prescribed treatment and rehabilitation measures in the previous conditions and requires their transfer to a specialized hospital with intensive care [\[25\]](#).

In countries where a court decision refers to treatment, there is usually a rule that a person placed in a psychiatric institution, if found insane, cannot be there more than this person would have received in the form of imprisonment for this offense.

At the same time, a significant part of the issues related to the implementation of compulsory medical measures cannot be resolved on the basis of current legislation. Thus, it is considered necessary, first of all, to legislate a general rule that persons who are subjected to coercive measures of a medical nature are subject to the same examination medical methods and treatment as all mentally ill people with similar forms of mental disorder. In other words, it is first necessary to legalize the principle of a kind of "therapeutic equality" of all psychiatric patients, and that such legal norms will be set out in a law specifically dedicated to the implementation of coercive medical measures, and not scattered as separate rules throughout medical law. Only outpatient psychiatric care or compulsory hospitalization in a psychiatric institution with normal supervision may be assigned to a person with limited sanity. The insanity of a person is the basis for the appointment and application of coercive measures of a medical nature under Article 94 of the Criminal Code of Ukraine [\[26\]](#).

The research found that most of the examinees did not need CMMN (200; 69.9%). Compulsory

outpatient treatment was required for 74 (25.6%) persons, CMMN in a special institution for the psychiatric care provision with strict supervision was required for - 7 (2.5%) with strict supervision, 5 (1.8%) - intensified supervision, 2 (0,7%) - general supervision ([Table 1](#)).

| CMMN | Frequency | % | Cumulative % |
|---|-----------|-------|--------------|
| Does not need | 200 | 69.9 | 69.9 |
| Requires outpatient involuntary treatment | 73 | 25.6 | 95.5 |
| CMMN in a psychiatric hospital with strict supervision | 7 | 2.5 | 100 |
| CMMN in a psychiatric hospital with intensified supervision | 5 | 1.8 | |
| CMMN in a psychiatric hospital with general supervision | 2 | 0.7 | |
| Total | 287 | 100.0 | |

Table 1. Distribution of examinee according to the need to apply coercive measures of a medical nature

The criterion for the application of coercive measures of a medical nature in the form of referral to a specialized psychiatric institution is the recognition of a person as "insane", the provision of compulsory outpatient care - the recognition of a person who has committed a sexual offense, "limitedly sane" and suffering from a sexual preference disorder.

Conclusion

Determining the criteria for choosing the type of coercive measures of a medical nature, i.e., the validity and sufficiency of the recommended coercive measure of a medical nature, is necessary to improve the quality of preventive measures in conditions of involuntary treatment.

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