

H1. Therapeutic Jurisprudence

H1:1 David Korostyshevsky, *Locked in a Mad House: Guardianship, Asylums, and the Medical Incarceration of Habitual Drunkards in the Gilded Age*

In the United States during the second half of the nineteenth century, a period known as the Gilded Age, civil courts stripped habitual drunkards, the official legal term for compulsive drinkers, of their legal personhood, civil rights, and, in some cases, their physical freedom, even though they were never convicted of a crime. Defined as a person rendered incapable of managing their affairs by alcohol, the habitual drunkard was most often a propertied male head of household, in contrast to the criminalized common drunkard, an indigent person caught intoxicated in public, fined, and incarcerated in a poor house or jail. While the history of involuntary civil commitment of people with mental disabilities to an asylum has been well studied, this paper explores how a complex entanglement of civil law and medical institutions shaped the medicolegal discipline of habitual drunkards before the articulation of modern medical concepts of alcoholism and later, addiction. Because guardianship case files betray few details about individual cases, I focus on two cases that attracted sensational nationwide newspaper coverage: Henrietta Wiley and George Bull. Both were declared habitual drunkards by a court, put under guardianship, and incarcerated in medical institutions before vigorously contesting their confinement and, ultimately, regaining some degree of freedom. Their cases highlight how complex entanglements between civil law, guardianship, and medical institutions worked to define, discipline, and govern the habitual drunkard, a conceptual antecedent of the addict, at the intersections of gender, race, class, and ability. I conclude by drawing some links between the Wiley and Bull cases with present-day celebrities such as Britney Spears and Wendy Williams, who similarly experienced guardianship and medical incarceration.

Learning Outcomes

- Recognize how complex entanglements between scientists, medical professionals, and legal authorities shaped historical individuals' rights and citizenship.
- Understand how historical concepts of incapacity and disability shaped the lived experience of people encountering medicolegal interventions.
- Recognize links between the historical commitment of habitual drunkards and the predicament of persons under guardianship who find themselves medically incarcerated in the present day.

H1:2 Peper Rivers, “*Artificial Motivation’: The American Experiment with Civil Commitment for People Who Use Drugs (1961-1971)*”

The 1960s are commonly known as the Golden Age of “rehabilitation” in penal policy. However, between 1961 and 1971, incarceration and institutionalization continued to characterize the primary treatment method for drug users, espoused by both the medical establishment and political progressives across the board. In a period that saw a massive overhaul of policies mandating the involuntary commitment and indefinite confinement of people diagnosed as mentally ill or disabled, people who used drugs were subject to new federal and state civil commitment procedures which mandated their commitment, ironically on the basis that addiction was a dangerous and contagious disease.

While commitment to large, custodial mental health hospitals cratered nationwide, policymakers lobbied for the same practices to be leveraged against people who used drugs as a progressive and humane way of dealing with mental illness—in this case, “drug dependence”— as a public health issue. On the very same juridical discretion upon which disabled and mad activists argued that their involuntary commitment was cruel and unusual punishment, federal and state legislation encouraged the indefinite and recursive incarceration of people who used drugs because of their inherent dangerousness.

This paper reframes the legislative history of civil commitment of drug users to center around an incipient view of rehabilitation that acknowledges its multiple, incongruous disciplinary sources across medical, criminal-legal, and political fields of expert knowledge. By interrogating the invidious contradictions of the “new” tool of civil commitment in this period, this paper presents a critical re-apprehension of the way policymakers and practitioners used the specter of drug abuse to fuse a new jurisprudence of dangerousness. Ultimately, this notion of rehabilitation reinvented the way people who use drugs could access care, as well as become subject to state coercion and prolonged incarceration, prefiguring and predetermining the “punitive turn.”

Learning Outcomes

- Interrogate historical and contemporary understandings of “rehabilitation” in a medical and medico-legal context.
- Recognize multiple disciplinary actors involved in the history of drug dependence and substance use disorder as understood during sentencing reform of the 1960s and 1970s.
- Understand how notions of in/capacity and dangerousness form medical categories used to compel civil and criminal commitment, particularly in the case of pathologized drug use.

H1:3 Elizabeth Nelson and Jarrod Wall, *Getting into the DSM: Diagnostic Recognition of Trauma among Vietnam Vets and the Formerly Incarcerated*

Mass incarceration is a public health crisis, and among the 600,000 people released from American prisons each year there are countless accounts of trauma and the lingering effects of institutionalization. Numerous peer support groups have emerged nationwide to support formerly incarcerated people in their transition back into their communities, and in the past decade there have been notable efforts among these groups to put a name to the devastating mental health effects of incarceration. This process has uncanny echoes with efforts to secure official, medical recognition of past collective trauma stemming from state violence. Specifically, the current development of the quasi-psychiatric concepts of Post-Traumatic Prison Disorder (PTPD) and Post Incarceration Syndrome (PICS) among formerly incarcerated people mirrors the history of PTSD, which emerged as an officially recognized diagnosis largely due to advocacy among Vietnam veterans' "rap groups" in partnership with psychiatric practitioners in the 1970s and 1980s.

Drawing on theoretical foundations laid out in Orisanmi Burton's groundbreaking book, *Tip of the Spear*, which characterizes the carceral complex as the front lines of a war, this paper explores the resonances and differences between, on the one hand, veterans' "rap groups" and the creation of "PTSD" as a diagnostic category and, on the other hand, more recent explorations of the potentials and pitfalls of diagnostic labels by formerly incarcerated people. While inclusion in the DSM was a sought-after (if hotly contested) goal of Vietnam veterans, the benefits of the psychiatric recognition of the mental health impacts of mass incarceration are less clear, in part because the history of PTSD acts as a recursive framework -- both an inspiration and a warning - for contemporary advocates for post-carceral mental health.

Both presenters are co-founders of FIRE (Formerly Incarcerated, Radically Empowered), an organization that seeks to address mental health after incarceration through strategic organization and cultivation of peer support groups nationwide.

Learning Outcomes

- Consider the benefits and pitfalls of officially recognized diagnostic categories
- Explore similarities and differences between the efforts of Vietnam veterans and formerly incarcerated advocates today to name and address collective harm
- Critically examine the utility of medical frameworks in addressing the harms of state violence