

■ Diane H. Schetky, M.D.

Back when I was in training in the early 1970s, it was not uncommon for child psychiatrists to blame parents for their children's problems. I confess to having bought into this to some degree until parenthood brought me instant humility, a new perspective on parent-child relationships and greater empathy for parents. Subsequent research on child development, genetics, the neurobiology of mental illness, and the impact of life experiences and family systems has led to a better appreciation of the multifaceted events that shape a child's development and, in turn, less finger pointing.

My concern is that the pendulum appears to be swinging back again. We read of mothers (never fathers) being criminally charged for their children's truancy. In a recent Connecticut case, a mother was charged with contributing to her 12-year-old son's suicide and put on probation. Prosecutors successfully argued that the squalid conditions in her home and her son's poor hygiene made his life miserable and caused schoolmates to bully him. There is no mention as to whether or not poverty and mental illness in either the mother or her son were contributing factors. Nor is there any reference to whether social services, the school or extended family might have been able to intervene with this family.

The Rhode Island Supreme Court recently ruled on a particularly troubling case. *Raymond Volpe et al v. James Andrew Gallagher et al* (Docket 2001-463 Appeal) involved Sara Gallagher, a mother caring for her mentally ill 34-year-old son, James, who lived in the basement of her home. Although in the past, James had been hospitalized and received outpatient psychiatric care, apparently, she had never been told that he had Paranoid Schizophrenia, the nature of his symptoms or the need for ongoing treatment, let alone the possibility that he could become violent. Unbeknownst to Mrs. Gallagher, James, who became delusional and paranoid, kept a gun and shot the gun and ammunition in his basement quarters in her home where

he would retreat and spend hours by himself. One day, he came outside with a loaded gun and fired it at their neighbor, Mr. Volpe, who was trimming the hedge between their houses. Volpe, with whom he had no prior history of conflict, was killed and his family brought a wrongful death suit charging Mrs. Gallagher with negligently allowing James, who was mentally ill, to keep guns and ammunition on her property. James dropped his insanity defense and pled to a reduced charge of second-degree murder and received a 40-year sentence.

Mrs. Gallagher argued that James had no history of violence and that she had no idea he had the guns and, therefore, could not have foreseen that he would one day shoot their next-door neighbor. A jury rejected her defense and returned a verdict in favor of Volpe's family. However, the trial court's verdict was then overturned when the trial justice changed her mind regarding the

defendant's repeated motions for a new trial. The requests were based on the grounds that because James had never been violent in the past, Mrs. Gallagher did not owe a legal duty to Volpe because she could not have foreseen that James would use firearms to kill him. The question put to the Supreme Court was whether or not the trial judge had abused her discretion in granting a new trial based on an error of law during the trial.

The Supreme Court held that "absence of a violent past did not excuse the defendant's conduct in failing to exercise control over her property to prevent such a mentally ill person from using her house as an ordnance depot." It further opined that Mrs. Gallagher had taken "a foreseeable risk that a third party in close proximity of that dangerous activity will be hurt or killed as a result of allowing such an unstable individual to use her property in this careless manner."

continued on page 209



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the game. Its repetitiveness made it even more enjoyable. It continued until she threw me a lion puppet. "Use that as a glove," she ordered.

"I'm still afraid," I answered. "You're scaring me!" The balls kept coming and I kept complaining. As time went on, the velocity lessened. Suddenly, she went to a giant toy bin I have in my office and, instead of throwing the ball, she started throwing toys from the bin one at a time. As she did this, she repeated over and over "What a mess! What a mess!" I would repeatedly ask her what the mess was about. She didn't answer and gleefully threw the toys in my direction, naming them as she did: "fire truck, Indian, soldier, sheep, motorcycle, Indian, another Indian, block, puppet, car, I have no

idea what this is, gun, cell phone, devil's pitchfork, jack in the box, another Indian..." She continued until the bin was empty. "What a mess! What a mess!"

She then returned to the rubber ball and played catch with me. The throws were now gentle and the goal was to see how many times we could throw the ball to each other and catch it without it falling. We got to 100. She was thrilled. We then did the same with two balls in play at the same time. We again got to 100. After this feat, I announced that the time was nearly up and that we needed to clean up.

"OK," she said and we cleaned up all the toys. As we did, I remarked once more that I wondered what all the mess was about. She didn't answer.

Instead, she yelled loudly, "I can hear my mom." As she opened the door, there indeed was her mom. "How'd the therapy go?" she asked. Sally and I both remarked simultaneously, "Just fine." Having said the same thing at the same time, we both looked at each other and smiled. ■

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Critics of this decision note the burden it creates for families who choose to care for mentally ill offspring at home and the cost to society and children if institutionalization remains the only fail-safe option. Furthermore, as a result of downsizing, long-term psychiatric beds are hard to find and many chronically mentally ill do not meet the criteria for involuntary commitment. The decision also assumes that one can accurately predict violence, which simply is not so over the long term. At best, we can weigh risk factors. As with the case of the 12-year-old boy who suicided, we must ask to what extent society should bear some responsibility for these untoward acts.

Why was James allowed to fall through the cracks of the mental health system and stop taking medication? Would a home counselor have made a difference? Would educating his mother about mental illness and providing her with a support system such as the National Alliance for the Mentally Ill (NAMI) have altered this tragic outcome?

Yet another concern was the choice of language used by Judge Flanders, who heard the case, in his decision which stigmatized mental illness and conveyed his lack of understanding of the complex issues involved in chronic mental illness. The executive director of the Rhode Island Chapter of NAMI noted that Flanders had "a horribly archaic and inhumane view, not only of the son, but of the mother's situation" and did not seem to realize that James' disorder was treatable (Rosenbaum). Ironically, James was recently paroled because of advanced colon cancer. There is no mention as to where he is living or whether his mother will be allowed to provide him with end of life care.

Section 5 of the *Principles of Medical Ethics* reminds us "A physician shall continue to study, apply, and advance scientific knowledge, make relevant information available to patients, colleagues, and the public..." These tragic cases remind us of the importance of educating families, schools and the judiciary about mental illness. ■

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References

- Rosenbaum, S.I.: "Killer's Mother held responsible for his action," *Providence Journal*, May 19, 2003.
- The Principles of Medical Ethics with Annotations Especially Applicable to Psychiatry, Washington, DC, American Psychiatric Association, 1993.