

A Case of Child Abandonment—Reflections on Criminal Responsibility in Adolescence

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The field of psychiatry has grown dramatically over the last 50 years and has inevitably fostered the development of subspecialties, such as forensic psychiatry. Unfortunately, the forensic psychiatrist cannot simply attain expert status in this subspecialty alone. Rather, because the essence of forensic expertise is in communicating, interpreting, and translating the insights of psychiatry persuasively to lay people operating in a highly specific legal framework, the psychiatrist must be as well informed not only about the relationship of psychiatry to law, but also regarding recent developments in a wide variety of psychiatric subspecialties.

The emergence of adolescent psychiatry as a subspecialty has been marked by the growth of the American Society for Adolescent Psychiatry from a local New York City group founded in 1958 to the current national organization with more than 1,600 members and international affiliates. The American Society for Adolescent Psychiatry was formed by both adult and child psychiatrists who felt that adolescence as a particular stage in the life cycle required more specific attention and study than had been given it by either the child or adult psychiatric movements.

The purpose of this article is to present a rather unusual case of child abandonment by an adolescent unwed mother and, through this case, to put forward certain notions regarding criminal responsibility during the adolescent development phase. A distinction will be made between responsibility in the legal sense as that which is fixed during the trial phase and responsibility in the moral sense, which may be a more complex matter and therefore more suitably addressed, dispensed, and articulated in the sentencing phase. Implicit in this presentation is the belief that a forensic psychiatrist with an understanding of adolescence can make a crucial difference in the way that the Court understands and deals with certain instances of adolescent lawbreaking. In this case the attorney relied heavily upon the psychiatric evaluation in his presentence statement, and the Court's ultimate disposition was clearly influenced by it.

What is adolescence? We now think of it as a unique developmental phase in the life cycle representing the transition from childhood to adult-

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hood, an "in-between" time which begins, in the Offers' words, "with puberty and ends when the individual's independence from his parents has attained a reasonable degree of psychological congruence".¹

Erikson² sees it as the time in which the life task of identity formation must be grappled with. Blos,³ an eminent theoretician of adolescent psychiatry, refers to the psychologic task of adolescence as a "second individuation process" analogous to the process of separation and individuation in childhood as described by Mahler⁴ and others.

"Prior to adolescence," Blos states,³ "the parental ego is selectively available to the child and, indeed, is his legitimate ego extension." But during adolescence there takes place a shedding of family dependency and a loosening of infantile object ties, leading to the second individuation, defined by Blos³ as "the structural changes that accompany the emotional disengagement from internalized infantile objects."

At the same time that the adolescent is attempting this disengagement from parental figures, he or she must also cope with the new strength of the drives that emerge with puberty. The struggle to master, channel, or control these drives and, at the same time, to develop an identity of one's own, distinct from the parents, with much less reliance upon them as ego support, makes adolescence a time of considerable turbulence for many young people. As a result, many basically normal adolescents are like loose cannons, swinging, in Blos' words,

from avid object hunger to bleak object avoidance and emotional withdrawal, from motoric impulsivity and action crafting to lassitude and limp indifference, from the idealization of ideas or heroes to cold egotistical cynicism, from narcissistic self-sufficiency, imperviousness and arrogance to the depressive and dejected state of shame and guilt.⁵

Acting out, when it is transient, may signify the adolescent struggling through this second individuation toward an autonomous adult identity. When it is sustained, repeated, and intense, it may well, in Blos' words,⁴ represent "the symptomatic signs of failure in the disengagement from infantile objects and consequently represent a failure in individuation itself." Therefore, when we are evaluating a teenager who is acting out, we must be prepared to think in terms of the adolescent's struggle, both with these drives and with the changing nature of these relationships to the parents, and the ways the acting out is related to that struggle.

For the parents' part, adolescence may also be a difficult period. It is the time when parental ambivalence toward the child is heightened, even inflamed. A recent article notes that,

to parents, their teenagers are provocative, threatening forces which produce anxiety, anger, and guilt. Vigorous growth reminds them of their own mortality and leads to thoughts that adolescents must be subdued, controlled, and even at times, destroyed. Adolescent vitality is a reminder of past unfulfilled aspirations.⁶

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This article goes on to show how family coping styles determine the ways in which this ambivalence is handled and how they affect the child's own coping style. Projection or projective identification is one common means by which parents deal with their feelings. Here, the parents use or designate the teenager as a repository of their own forbidden impulses and their rage against the child, each other, society, and, ultimately, their own parental figures. The adolescent becomes a scapegoat for issues going on within the family. Although this subject has been much explored by the family therapy movement, as far back as the '40's, Johnson and Szurek⁷ observed that delinquency often resulted from the parents' seducing their children into "acting out the parents' own poorly integrated forbidden impulses," allowing the parents to achieve vicarious gratification while at the same time escaping responsibility for the transgressions.

The so-called "superego lacunae" in the child were seen as duplications of similar distortion in the organization of the parents' own personalities. From their research, the authors state flatly that, "in serious acting out, therapy of the child is futile unless the significant parent is either adequately treated or the child is separated from the home."⁷

Further elaboration of the growing body of knowledge generated by the family systems movement is beyond the scope of this article, except to point out how typical it is in dealing with adolescent "symptom-members"—and they usually are the symptom members—to find collusion within the entire family system. Much adolescent criminality is but a subset of adolescent symptomatology, in which the adolescent is acting out in behalf of the entire family system.

It should be self-evident by now from this discussion that the fixing of criminal responsibility for the delinquent acts of teenagers is itself a unique and weighty responsibility. Responsibility for one's criminal acts is presumed to be full in the autonomous adult, unless specific factors diminish or eliminate one's capacity to form intent or control one's own behavior. But what about someone who is not yet an autonomous adult? There comes a time, in Marohn's words,⁸

when, as character structure is increasingly crystallized, the adolescent becomes relatively immune to the influences of the family and his psychopathology is no longer the acting out of family conflicts or identification with family pathology. Rather, the adolescent's pathology has now become his own, either an internalized conflict or some kind of psychological deficit.

When that point is reached, we have a fully responsible adult. But what about the time before this point is reached?

It is worth considering how uniquely problematic becomes the fixing of responsibility, moral, if not legal, when we are dealing with someone who

is in transition to full adulthood. If someone's pathology is still part and parcel of a family system of pathology, if someone's ego is still subsumed to some degree by the ego of a significant parental figure, and if someone is acting out the projected desires or impulses of another dominant person, should all responsibility for the crime fall upon the adolescent actor?

I propose that the answer must be in the negative, for otherwise are we not punishing the arm for the crime of the person?

If, as is being suggested, the degree of individual responsibility should be related to the level of individuation a person has achieved, then it follows that we must attempt to assess in each individual adolescent the level of identity formation or individuation that he/she has achieved as part of our overall evaluation for criminal responsibility. No two adolescents, matched for age, social class, or other variables, are necessarily at the same point in this process.

Doubtless it has been noted at this point that a legal concept, namely, criminal responsibility, is being considered in a fairly nonlegal way, i.e., as if there are gradations between total responsibility for one's actions and total nonresponsibility. In contrast, the law ordinarily views responsibility as something that either is or is not present in any one individual. One might ask, "would any judge during a trial sit still for the kind of psychological theorizing indulged in here about something that is seen as "all or nothing"?"

It is doubtful that a judge would. However, as will be seen from the case about to be presented, the psychiatric reports dealing in this fashion with responsibility were never presented at the trial phase. Rather, they became a part of a presentence report for the Court's consideration after responsibility in the strict and narrow legal sense had already been fixed. At this stage in the legal process, the judge was able to consider and evaluate the findings without needing to think about responsibility in legal terms. In fact, legal responsibility was conceded as part of a plea bargain, in order to focus our presentence argument on the question of moral responsibility at sentencing.

Following is a case which brought up these questions of responsibility as they relate to an adolescent perpetrator with excerpts from the psychiatric report that attempted to communicate our insights to the Court. In the process of discussing the particulars, an attempt will be made to show how adolescence as a life stage and its unique features bear upon responsibility.

Case Presentation

"Cathy" was a 19-year-old single teenager who had been charged with attempted murder, child abuse, assault, and intent to murder as a result of abandoning her newborn infant son in July 1983. The child had been

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discovered in a paper bag resting in a trash can by a tenant of the apartment building in which Cathy was living, but after being examined and observed at Children's Hospital, he appeared to be physically intact and unhurt by the experience. Certain physical evidence caused suspicion to be centered on Cathy, who was living with the building's superintendent and his family in an apartment just across the hall from the trash bin, but Cathy and the family with whom she lived initially denied that she was in any way involved. Blood samples from Cathy and the child, as well as serial gynecologic examinations, ultimately left no doubt that the child was Cathy's. She soon accepted responsibility for the act but maintained that she had no memory of the birth and delivery of the child or her subsequent efforts to dispose of him.

Naturally, her attorneys asked for a psychiatric examination in order to cast light on this bizarre situation, and, at my suggestion, my own evaluation was supplemented by a complete psychologic examination performed by an experienced and competent colleague.

I was anxious to meet this young child abandoner, having little idea what to expect. When Cathy first appeared, what was most remarkable was how conventional and homespun she seemed. Her attorney had referred to her as a "Rebecca of Sunnybrook Farm" type, and so she was: an attractive guileless young woman seemingly worlds apart from the grim events of her recent past.

She was neatly dressed and groomed, alert, pleasant, and cooperative throughout each of the four interviews. Her sensorium was intact, her memory adequate for anything other than the incident itself, and her intelligence was judged to be in the low normal range, later confirmed by psychologic testing to be in the range of 89 (FSIQ).

The following history emerged from my interviews as well as from other sources: Cathy was herself born out of wedlock to her 20-year-old mother, who was forced thereupon, with considerable resentment, to give up any hopes of a career and marry Cathy's father. They went on to have two other children before he left Cathy's mother for her best friend when Cathy was seven. Cathy remembers that he was a violent man with a bad temper, who once "put his fist through the wall" and can "say things he doesn't mean."

Within two years, Cathy's mother remarried a man several years older than she, and they have stayed together since, having had one child between them. This family moved from Florida, where Cathy had been born, to suburban Maryland when she was nine, and she remained there until 1979, when she and her brothers moved back south to live with her father and his second wife.

It seemed apparent that the move back resulted from friction with her mother and stepfather, but Cathy was vague about the details. In any case,

she and her brothers remained with their father for less than three months because of what Cathy called her stepmother's "jealousy" of the time her father was spending with them. They moved back to Maryland and mother.

While in the tenth grade, Cathy became pregnant by her boyfriend and, she claims, her only sexual partner, at age 17. It is important to note that when she realized she might be pregnant and approached her mother, her mother, in Cathy's words, "went nuts." At one point she punched Cathy in the stomach, saying that she had better not be pregnant, "or else", or "if that's a baby in there, I hope it dies." When it became clear that there was one, her mother became enraged and kicked Cathy out of the house, forcing her to stay with her boyfriend's parents for a week. She attacked Cathy's values and obviously spoke with the bitterness of her own unplanned pregnancy, with Cathy, in mind. She talked of how the pregnancy had caused her to marry prematurely to an unsuitable man, Cathy's father, and to give up any hope of making something of herself. She indicated that she had hoped for better things for Cathy, who is her only daughter and her eldest.

Eventually, however, she became reconciled to the situation and took Cathy back into her home. Cathy dropped out of school and had the baby. At this point, the identity of the father was no secret, and the two seemed to care for each other. The parents of the boy extended an invitation to Cathy to live with them until the young man was able to establish himself financially, with the expectation that the two young parents would then get married and move into their own place. Cathy accepted and was living with them and her by-then 15-month-old son at the time of the incident. This family lived only two blocks from Cathy's parents, so that she maintained almost daily contact, not only with her boyfriend's parents, but also with her own family.

Cathy had been given her own room, and the illusion was maintained in the household that Cathy and Brian were not sleeping with each other. It was during this time that a second child was conceived, and it was this second child that was abandoned on the trash heap.

At this point, that one of the most fascinating and certainly decisive elements of this case must be noted. It is that, of all of the adults who had daily contact with Cathy as her pregnancy progressed, not a single person acknowledged that she was pregnant! To be sure, Cathy has a slim and attractive young woman's figure, yet no one "saw" or chose to see the changes that an advancing pregnancy produced. When asked by the probation officer about this, Cathy's mother stated that she was aware that Cathy was gaining weight but attributed it to Cathy's use of birth control pills! Nor did the boy's parents, with whom Cathy lived, give any indication

that they were aware of it, even during the police investigation of the incident.

Later during a hypnotic interview, Cathy stated that she had given birth to the child alone in her bed in the small hours of the morning, had "hidden" the placenta in the closet, and placed the bloody sheets in the wash. Such massive group denial, apparent during the pregnancy and its aftermath, amounting perhaps to a kind of negative delusion, later on became an important element in our presentation to the Court.

Our hypnotist stated after his interview that he did not believe Cathy had been in a trance, nor that Cathy had totally blocked the incident out of consciousness. In any case, however, it was at least the trappings of the hypnotic session that allowed Cathy to unburden herself to us, which she was unable to do in previous sessions.

The remainder of the history and mental status disclosed no use of drugs or alcohol, no prior criminal record, and no prior visits to mental health practitioners for any problem. She was a "B" student until dropping out of high school and had had no problems in school. Interestingly, she had had to be hospitalized at the culmination of her first pregnancy because of a precipitous rise in blood pressure, which had caused her obstetrician to induce labor artificially. Other than this her only medical complaint was of "migraine headaches," helped by aspirin or bedrest, which she volunteered that her mother and grandmother also suffer from.

Cathy manifested no signs of overt mental illness. She did not even appear to be depressed until the subject of the offenses was brought up, at which time her whole demeanor and facial expression changed markedly, like a sudden change in the weather.

While she had no difficulties remembering what took place after the detective finally arrived to question her, she continued to claim amnesia for the incident itself—and indeed has continued to do so even since the hypnotic session. She conceded, however, that she had to be the mother of the child. She became quiet and tearful throughout our discussion of the incident and was particularly distraught at the possibility that she could lose custody of her other child, to whom, by all accounts, she has been a good mother indeed.

Cathy had little insight into her own feelings and actions. The psychologic testing was therefore particularly helpful in validating the presence of certain feelings, attitudes, and predispositions. Specifically, though Cathy characterized her relationship with her mother as "good," and indeed got into her only physical fight with a woman who had called her mother a "bitch," the testing revealed low self-esteem, a profound feeling of being unloved by her parents, a great longing for love both of the sexual and tender varieties,

and, at the same time, a great deal of resentment toward authority. The testing suggested that she had spent a good deal of time trying to find the emotional support she needed within her family, in the process subordinating her own needs to those of the family and even idealizing her mother in the process. There were no signs of incipient psychosis in the testing but ample evidence that she had failed to get her needs met by her mother; unfortunately, as is often the case with adolescents and children, she saw this as her own failing, a reflection upon herself.

The psychologist opined that this feeling was responsible for her short-lived attempt to live with her father instead, the results of which have already been noted. The psychologist likened Cathy to what he termed a "burnt child," in whom a lack of nurturance develops tension, susceptibility to stress, shame, and withdrawal under fire. He found a tendency to precipitous action under stress and an intent to rid herself of the burden she was carrying.

In the light of our findings, the defense attorney was able to negotiate an appealing plea bargain with the state's attorney. The original four counts of attempted murder, first- and second-degree child abuse, and assault with intent to murder were reduced to a single count of child abuse, to which Cathy pled guilty. Extensive presentence reports both by me and the psychologist were introduced at sentencing. Furthermore, the judge consented to see a videotape that had been made of the hypnotic interview, which documented not only the actions of Cathy but also the considerable emotion she displayed as she retold them.

Discussion

Few dynamic psychiatrists would fail to see a connection in this case between her mother's rejection and expulsion of Cathy from her home when she became aware of Cathy's first pregnancy and Cathy's own expulsion and rejection of her newborn. The mother's unresolved anger and guilt resulting from her own pregnancy out of wedlock with Cathy found an object when that child repeated the mother's history. In abandoning her own newborn child, Cathy found a way of identifying with her mother, the aggressor, while at the same time bringing shame and possible retribution down on her own head.

Testing had already noted the ambivalence of Cathy toward her family; while resenting authority, she also had a long history of adopting masochistic behavior patterns in the forlorn hope that these would regain or provide badly needed narcissistic supplies and ego support. To those analyzing this situation in terms of the defensive functions used by Cathy (and others), evidence of projection and projective identification, displacement, identification with the aggressor, turning passive into active, rationalization, and

denial can be seen. Family therapists would discuss this case in terms of family myths, projective identification, scapegoating, overinvolved dyads, or a lack of differentiation within the family. They would point out the power of the forces within the family that were sufficient to cause reality to be denied and disregarded, not only by Cathy and her mother but by other adults and adolescents within the system.

For an analytic interpretation of delinquency in general and sexual acting out in particular as the adolescent girl's reaction to the strong regressive pull to the preoedipal mother, the reader is referred to Blos' major work, *On Adolescence*.⁹

Regardless of the theoretical framework, most psychiatrists would conclude that Cathy's crime was to some considerable degree an outgrowth of her enmeshed and regressed relationship with her mother and family. However, for those averse to basing forensic judgments upon theoretical considerations, numerous rigorous studies of child abuse in its less exotic forms repeatedly find that the "abusing parents themselves have had disturbances of relationships with attachment figures as children, and themselves experienced violence from severely punitive parents."⁹

In one study, abusing mothers seemed "extremely sensitive to separations, reacting with strong anxiety, anger, and feelings of rejection, and self-blame, low self-reliance, and feelings of low self esteem."¹⁰

In another recent study of predictors of repeat pregnancies among low income adolescents,¹¹ a poor relationship with the mother was found to be an important predictor of repeat pregnancies. The authors comment that one implication of their study is that "those interested in preventing second pregnancies in adolescents might give special attention to supporting and improving the mother-daughter relationship. . . ."

Having said all this, the problem arises as to how to communicate these insights to the courts as an aid to sentencing. The wish was for the Court to understand that Cathy's behavior represented the acting out of a bizarre group phenomenon and that, consequently, the group, and especially its adult members, bore considerable moral responsibility for the events. The unusual and uncontested facts of this case made this point of view compelling and easy to grasp in an intuitive way without the necessity of using any psychiatric jargon.

The summary of my report noted "that when Cathy became pregnant for a second time she felt extremely isolated, frightened and unable to turn to others for assistance. Because she could not announce the baby to the world, she simply kept it to herself. This behavior is not the result of any overt mental illness of the type that would relieve Cathy of responsibility for her behavior. She will indeed have to accept her share of responsibility for what has taken place and, importantly, needs treatment to help her resolve the

many issues that led to this terrible experience as well as to help her deal with the experience itself.

“What I wish to emphasize most strongly in this report, however, is that the responsibility for this tragic event belongs not only to Cathy but to various other people with whom she lived. Even though Cathy is the only person on whom criminal sanctions will be placed, there are others, beyond the reach of the law, whose behavior had as much to do with causing this event as did Cathy’s. I refer specifically to the network of family and near family with whom Cathy lived and worked for the nine months prior to the unhappy birth of her son. For while it is true that Cathy used denial to ignore the fact of the developing pregnancy, the very same denial was obviously used by her parents, Brian, and Brian’s parents in whose house she lived. Four of these individuals were the parents of grown children and certainly more adult and experienced than Cathy herself. It is incredible to me that none of these four adults who saw this girl on a daily basis ever confronted the developing situation so as to find a reasonable solution to the problem. In other words, Cathy went through an entire pregnancy under the noses of four adults, and it appears that none of them ever said a single thing about it. To me they were clearly giving Cathy the message that she was not to be pregnant and setting an example for her that somehow the pregnancy could be ignored or denied. As I see it, in doing what she did, Cathy was following an unstated message that she was not to be pregnant.

Under these circumstances, Cathy seems to have had no support at all from any adult. In my opinion this situation is nothing less than bizarre on the part of Cathy’s parents and Brian’s parents even more than in Cathy’s own case. In my opinion, the crime with which Cathy has been charged is nearly as direct a result of these peoples’ behavior patterns and thought processes. In a word, Cathy was a participant in a virtual group delusion in which the reality of her growing fetus was denied. Under these conditions, the collective responsibility for this act must be emphasized rather than placing the entire blame upon Cathy’s shoulders alone.”

“I agree with Dr. Madsen that had Cathy not been a participant with such immature and self-centered adults, the bizarre disposal of her newborn would never have happened. While Cathy has psychological flaws that make these crimes understandable, they would simply not have happened if it were not for the grotesque behavior of those with whom she lived and on whom she depended for so much. It stands to reason that to bring all of the punishment for this incident down on Cathy’s head alone would be a miscarriage of justice. In addition, Cathy does not need punishment nearly so much as she needs guidance and support from someone who can deal with her in a therapeutic fashion on a regular basis.”¹²

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Ultimately, the Court decided upon imposing a five-year suspended sentence and three years of supervised probation conditioned upon "psychologic counseling."

Summary

The issue of responsibility for delinquent acts has been examined in the light of adolescence as a unique developmental stage, and it has been proposed that the degree to which one should hold an adolescent morally responsible for his/her acts corresponds to the degree to which he/she has individuated from his/her family and become a psychologic adult. A case was presented in which the crime of child abandonment was committed by an adolescent who was still deeply enmeshed interpersonally with her mother and had not yet achieved a separate identity as an adult. The psychiatric findings were presented to the Court after a plea bargain had been struck and prior to sentencing. They conveyed the belief, in lay terms, that moral responsibility for this crime was collective, to be borne in part by the perpetrator's family. The Court responded humanely with a suspended sentence, conditioned on psychotherapy, allowing the young mother to remain together with her first child.

Not only does this article suggest the value of an understanding of adolescent psychiatric concepts for the forensic psychiatrist, it also suggests that the more subtle aspects of assigning responsibility can be better evaluated by the court at the time of sentencing than during the trial phase.

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