

Editor:

My small-town psychiatric experience with criminal justice confirms Dr. Michael Norko's contention<sup>1</sup> that forensic practice does indeed afford extraordinary opportunities for seeking truth and exercising compassion toward offenders. Consistent with that theme, consider the implications of recent neuroscientific thinking that contradicts traditional beliefs about criminality.

Criminal law in the United States is based upon the assumption that offenders are exercising free will as they violate legal norms. In the last few decades, however, neuroscience, in search of truth, has disproved that assumption and hewn a novel path to compassion: the investigation of the ancient question: Is free will possible? The scientific literature on freedom of the will is not well known to most psychiatrists.

In this literature, free will is seen as an illusion; anyone's behavioral repertoire contains nothing beyond what has been developed by genetics and life experiences. Determinism reigns. The brain, i.e., the neural unconscious, dictates everyone's thoughts and actions. Yet people feel like they are living within the confines of their conscious minds. Unaware of the origins of our ideas, biases, and decisions, we are more like robots than we realize.

Albert Einstein's lunar allegory may offer clarity about the notoriously counterintuitive concept of determinism:

If the moon, in the act of completing its eternal way around the earth, were gifted with self-consciousness, it would feel thoroughly convinced that it was traveling its way of its own accord on the strength of a resolution taken once and for all. So would a Being, endowed with higher insight and more perfect intelligence, watching man and his doings, smile about man's illusion that he was acting according to his own free will.<sup>2</sup>

Criminals, then, are at the same time victims themselves, victims of unfortunate combinations of genes, rearing, and life experiences. Proponents of the no-free-will concept consider short-sighted and immoral the infliction of punishment in the name of justice. They see punishment as providing emotional gratification to the enforcers while ignoring the complex underlying causes of misconduct. For society's protection, sequestration of dangerous persons may often be required, but to reduce crime substantially, societal attitudes and economic policies need to be

drastically reframed. Admittedly, this is a gigantic undertaking, yet one that some European governments have already successfully initiated.

So, in displaying fidelity to truth and empathy toward defendants, shouldn't forensic psychiatrists educate judges, attorneys, and the public about the inappropriateness of punishing offenders?

For more information, readers can review "Criminal Injustice" by general psychiatrists Robert Eisler and me.<sup>3</sup> Credentialed scientists have produced easily assimilated publications on the neural unconscious and free will as an illusion.<sup>4-7</sup> But a delightful read by a psychologically sophisticated Drexel Law professor<sup>8</sup> might be the most relevant and enjoyable place to start.

### References

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### Reply

Editor:

Dr. Silverman and I (and many of the colleagues whose work I cited in my manuscript<sup>1</sup>) agree about the critical importance of attempting to understand as fully as possible the life narrative of the subject of any forensic evaluation. We also agree as to how difficult that can be, especially when, as Dr. Silverman notes, we humans are mostly unaware of our own biases and the origins of our ideas. I would hope, however, that we not abandon the efforts of self-awareness in a nihilistic surrender to a reductionist notion that we live as automatons. Such a notion is incompatible with my beliefs about human spirituality. That not many of us achieve full enlightenment in the span of our lives is not

a reason to abandon its pursuit; such hopelessness serves no purpose and diminishes us.

Dr. Silverman is right to emphasize the sufferings and trials, as well as the biological and psychological limits, of the persons we evaluate. As I put it: “The author of the forensic report, then, becomes one limited being trying to make sense of the lives of other limited beings to assist an imperfect process of justice-making” (Ref. 1, p 17). I do not believe this approach turns on the existence or non-existence of free will. Physicists may assert that there is no such thing as time,<sup>2,3</sup> but we all keep track of our appointments and deadlines nonetheless. Neuroscience has not yet solved “the hard problem of consciousness”,<sup>4,5</sup> so we cannot expect to understand the nature of its contours and confines. Again, Dr. Silverman and I agree with many others that compassion is a necessary response to such limits.

## References

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