Abstracts of the XXXIIrd International Congress on Law and Mental Health

Résumés du XXXIIIe Congrès International de droit et de santé mentale

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The editorial assistance of Marisa Corona is gratefully acknowledged.

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ABSTRACTS

English Language Sessions


Changing Attitudes among Trainees: Whose Job is It?

Brad Booth, University of Ottawa (bbooth@theroyal.ca)

With the exponential growth of individuals with mental illness coming in contact with the law, psychiatric care for these individuals is at times difficult to find. Many psychiatrists do not have experience with the legal system and therefore may avoid treating this group of patients. To clarify the attitudes of psychiatric trainees, a survey of senior Canadian residents at the national psychiatry review course was conducted. Among the 145 respondents, only 24% had been taught on correctional psychiatry and only 29% had any experience. Nearly 56% had been taught on sexual offenders but only 27% reported having had experience with this population. Nearly 1/3 reported they preferred not to deal with forensic issues and 43% preferred not to work with people with sexual offences. The data did show that teaching and experience with this population appears to be a powerful tool in changing attitudes. Being aware of these barriers may assist in developing strategies to increase psychiatric service availability.

Forensic Nursing Education: International Collaborations and Multidisciplinary Pedagogy

Arlene Kent-Wilkinson, University of Saskatchewan (arlene.kent@usask.ca)

By the end of the twentieth century, forensic nursing educational programs began to appear in the curricula of colleges and universities. The forensic focus has been a popular career choice and area of study for many of the health science disciplines. By the mid-1990s, some of the earliest forensic nursing courses were established. Considering that the first web-based course was not launched until 1995 in California (Bates & Poole, 2003), forensic nursing education made its online appearance on the global scene relatively quickly. Forensic nursing educators, supported by progressive administrators, used the technology to offer the first online forensic course in January of 1997 at Mount Royal University in Calgary, Alberta, Canada (Kent-Wilkinson et al., 2000). Today, courses exist at educational levels that range from certificate to doctoral programs. This presentation will focus on the power of using advanced technology and the value of international collaborations in the pedagogy of multidisciplinary forensic courses.
This session will also highlight findings of Dr. Kent-Wilkinson’s research that explored many aspects of forensic nursing education: definitions of forensic nursing, how forensic nursing roles are different from other disciplines, the unique knowledge of this specialty, and social factors influencing course development.

**Sexual Boundary Violations in the Forensic Mental Health Milieu**

Cindy Peternelj-Taylor, *University of Saskatchewan* (cindy.peternelj-taylor@usask.ca)

The ability to create and maintain treatment boundaries with forensic clients has been described as one of the most important competencies required by clinicians practicing in forensic mental health settings. When mental health professionals fail to establish or maintain therapeutic boundaries, they are at risk of “crossing the line” and becoming over involved with their clients. In practice, over involvement frequently leads to sexual boundary violations. This presentation gives voice to sexual boundary violations as discussed by nurses who participated in a phenomenological study exploring nurse engagement with forensic clients. Illustrated as a “real eye opener,” sexual boundary violations with forensic clients have grave clinical, ethical and legal implications. While the responsibility for establishing and maintaining professional boundaries rests with the mental health professional, some would argue that many forensic clients are skilled at manipulation and exploiting situations for their personal gain, thus contributing to a blurring of the lines of responsibility when sexual boundary violations do occur.

It is hoped that participants will move toward a more complex understanding of sexual boundary violations that occur in forensic mental health, which may allow them to better enact their relationships with forensic clients. Heightened awareness and understanding of the nature of sexual boundary violations within forensic mental health settings will, regardless of one’s professional discipline, contribute to effective risk management, thereby indicating the need for further research. Strategies need to be developed within forensic mental practice that deal with issues surrounding sexual boundary violations before, during, and after they arise.

**Law and Psychiatry Seminar: Meeting the Challenge of Medico-Legal Education in the 21st Century**

Glen Luther, *University of Saskatchewan* (glen.luther@usask.ca)

The relationship between lawyers and doctors, especially psychiatrists with whom they work closely, has been described as tenuous and riddled with miscommunication. The Law Society of Canada has introduced sweeping changes to enhance teaching in the colleges of law. Beginning in 1976, the University of Saskatchewan has brought together senior law students and psychiatric residents in a seminar course. This course first ran from approximately 1976 to 1986 with different instructors from those presently involved. The course was not offered for eighteen years and then was reintroduced in 2004. From 2004, the course has run yearly for 12-15 weeks...
between January and April with one instructor from each discipline. The joint sessions are 90-120 minutes each and revolve around a selected clinical case chosen to represent aspects of topics of relevance to law and psychiatry. These participatory and highly interactive sessions focus on a topic of the interface of law and psychiatry and involve a clinical interview, discussion of the legal criteria and case law, as well as the psychiatric aspects of the case law and the clinical case in question. Participants are also afforded other law and psychiatry related activities and encouraged to attend. These include attendance at a tribunal hearing, visits to a psychiatric hospital, and interactions with post-license practitioners in the two fields. The format has received positive reviews and evaluations by participants who indicate that they feel prepared to be involved in the post licensure world of practice, hopefully with better communication skills and collaborative attitudes. These are essential as they are part of the core competencies expected of psychiatrists. The presentation will describe the development, methods, practice and benefits of the inter-professional education Law and Psychiatry seminar.

**The Role of Psychology in the Justice System: A Pedagogical Model**

Tammy Marche, *University of Saskatchewan* (tmarche@stmcollege.ca)

The primary objective of the undergraduate course in Psychology and Law at the University of Saskatchewan is to show how psychological research and theory are used in a legal context, particularly in the Canadian legal system, with the goal of examining the role that psychology plays in promoting justice in the legal system. The course provides a review of theory, content, research, methodology, and controversy in selected areas in the field of psychology and law (e.g., roles of forensic psychologists, police psychology, profiling, detecting deception, interrogations and confessions, psychology of the jury, criminal and civil forensic assessment, social justice). To enhance understanding of the role that psychology and psychologists play in the legal process, members of the community who are involved in the legal system speak to the class about their experiences. For the term assignment, students either write a research report based on their participation in a community-based research project or they write an amicus research brief on a topic of their choosing. By the end of the course, students have a better understanding of how the discipline of psychology contributes to the discipline of law and of the challenges and responsibilities of psychologists in promoting justice within the law.

**2. Accountability, Responsibility, and Criminal Intent**

*Insight and Action Control in Forensic Psychiatry and Law in Sweden*

Tova Bennet, University of Gothenburg (tova.bennet@hotmail.com)

*Background:* In the Swedish criminal system, all who commit a crime are, regardless of their mental status, considered liable for their actions. However, according to the Swedish Criminal Code (30:6 2st.), the court may not sentence a mentally disordered offender to imprisonment if
the defendant as a consequence of a severe mental disorder lacked the ability to understand the meaning of the act or to adjust their actions according to such understanding.

Aims: The aim of the study is to compare the arguments used in forensic psychiatric reports regarding the assessment of the defendants’ ability to understand the meaning of the act and to control their actions with the corresponding reasoning in the associated court rulings.

Methods: The study includes 130 forensic psychiatry reports from 2010 and the corresponding court rulings. The arguments are compiled and analyzed thematically to establish how the concepts of insight and action control are defined and applied in practice.

Expected results: The results are expected to provide a clearer understanding of how the concepts are used today, as well as give input to the political debate about reintroducing the concept of accountability into Swedish legislation.

Criminal Responsibility and Ethics: The Relevance of Susan Wolf’s Account of Sanity

Gerben Meynen, Tilburg University (g.meynen@utv.nl)

Different jurisdictions may have different legal approaches to the insanity defense, yet they all reflect the same ethical intuition that mental disorders may excuse a person for a crime. As it appears, they all have their advantages as well as disadvantages. In this presentation I will consider the possibility of a metaethics-based approach to legal insanity. The philosopher Susan Wolf has argued that people can only be considered fully responsible for their actions when they are sane. In this presentation I explore the relevance of Wolf’s account of (in)sanity for psychiatric assessments of criminal responsibility (Meynen, 2012). I argue that, although some revisions of her account are required, it may be helpful to forensic psychiatric practice. I also discuss the limitations of such a metaethics-based approach to insanity.

Delusions and Criminal Responsibility

Susanna Radovic, University of Gothenburg (susanna@filosofi.gu.se)

How and when should a false perception of reality exempt someone from legal responsibility? According to most criminal laws, a person can have criminal intent, but if he has a false view of the world, he may still not be held accountable for his deeds. An example from a new Swedish governmental report (SOU 2012:17) is that a person who believes he is in war (but is in fact not) and kills a real person should not be punished. However, this concept of false beliefs is not capricious; most jurisdictions (including the Swedish proposed law) use the criteria that the false perception of reality should be due to a mental disorder. This presupposes that there is an important difference between false beliefs in a psychiatric context and “non-psychiatric” false beliefs. The standard definition from the DSM-IV is that a delusion is a false belief that is held
with unusual conviction and that is not ordinarily accepted by other members of the person’s culture or subculture. This definition raises several difficulties. There are examples of delusions that do not meet all of these criteria (e.g., delusions need not be false, and they can be shared by several people). There are also kinds of ideas that do meet these criteria, but are not normally viewed as delusions (e.g., some ideas that are maintained by religious or cultural subgroups). This presentation outlines different ways of defining delusions in the psychiatric sense, and discuss their usefulness when it comes to assessing accountability in a legal context.

Hate Crime, Mental Disorder, and Criminal Responsibility

Christian Munthe, University of Gothenburg (christian.munthe@gu.se)

Hate crimes are ordinary crimes committed in connection with a negatively prejudiced, biased, disparaging, or antagonistic attitude towards the victim in terms of a perceived membership of a social group. Some hate crimes are elaborate political acts of terror or elaborate persecution, some are so-called “hate speech,” but the overwhelming majority are instances of mundane criminality, involving everything from murder to theft and harassment. Hate crime policies rest on the idea that the bias or “hate” feature make such crimes worse, and that offenders for this reason should be held more firmly responsible. At the same time, the attitude of making a crime into a hate crime involves more or less distorted ideas about reality, together with a willingness to transgress social norms on that basis. In some cases, these views amount to major delusions, resistant to rational scrutiny. In other cases, we may move closer to a point where the belief-desire cluster can be seen as ordinary negligence. Thus, many hate crimes have features that may be argued acting to diminish responsibility according to standard ideas in the philosophy of punishment. The presentation maps underlying value conflicts, tensions, and incoherence in legal practice connected to this complexity of criminal law.

The Principle of Responsibility in Healthcare Prioritizations

Niklas Juth, Karolinska Institute, Stockholm, Sweden (niklas.juth@ki.se)

Principles of responsibility in health care claim that those whose need for health care interventions is a consequence of their own voluntary choices, choices for which it would be reasonable to hold them responsible, should receive lower priority. Such principles have been out of fashion for a long time in legislation and bioethical literature. They have been considered arbitrary due to the difficulty of determining who can reasonably be held responsible for their health, and moralizing, due to its tendency to focus on some causes of poor health (like smoking and eating) and not others (like fire-fighting and abstaining from pregnancy). However, in recent years, principles have received renewed attention and are defended again to an increasing extent. These defenses commonly rest on some form of so-called “luck egalitarianism,” according to which justice requires us to cater to the claims of victims of bad brute luck before there is an
obligation to assist responsible victims. In this talk, it is argued that the reformulations of the principle of responsibility in order to meet the traditional objections are unsuccessful: principles of responsibility remain arbitrary and moralizing even in the renewed versions.

3. Addiction

**How Do People Change? Results from an RCT on Manualized Treatment**

Faye Taxman, *George Mason University* (ftaxman@gmu.edu)

Criminogenic needs have been defined as a set of dynamic characteristics of offenders that are known to affect offending behaviours. Andrews and Bonta (2010) identified the following criminogenic needs as important to reducing offending behaviour: substance use, anti-social cognition, anti-social associates, family and marital relations, employment, and leisure and recreational activities. This study relies on panel data to examine short-term changes in these dynamic criminogenic needs and identifies which need changes have the greatest impact on criminal offending and illicit drug use among a sample of drug-involved probationers who participated in a 12-month randomized controlled trial (n=251). A series of repeated-measure ANOVAs found that clients changed significantly over the time period in several need areas, but some changes were bi-directional. Generalized estimating equation analyses found that probationers who reduced the number of criminally-involved friends, enhanced their work performance, and decreased their frequency of alcohol and drug use had the greatest reduction in self-reported criminal activity. In addition, those who had a decrease in the number of criminally-involved peers and a reduction in alcohol use days were significantly less likely to self-report drug use over time. These findings suggest that certain dynamic need changes may be more important for facilitating reductions in crime and drug use among probationers than others, and that designing interventions to impact these criminogenic needs might improve offender outcomes.

**Handling Drug Violations Using an RNR-Based Decision Tool**

Susan Turner, *University of California at Irvine* (sfturner@uci.edu)

Current “best practices” have incorporated offender risk as well as delivery of appropriate services as part of effective correctional programming. As part of bringing evidence-based practices to parole supervision in California, the Division of Adult Parole Operations implemented a parole decision-making instrument which considered offender risk level and violation severity in recommending a sanction for parole violations. Offenders were classified into low-, moderate-, and high-risk levels using the California Static Risk Assessment (CSRA), which was modeled on a tool developed in Washington State. Parole violations were ranked into
four levels, with violations such as failure to follow parole agent recommendations and changing residence rated as “lowest” severity. Violations for criminal behaviours, such as robbery or battery, were rated as “highest” severity. Within a 4-by-4 grid defined by offender risk level and offense severity, recommended responses ranged from mild warnings to reincarceration at the state level. An evaluation of the program revealed that overall, the severity of violation appeared to be a more powerful predictor of reincarceration than offender risk level. Our sample contained substantial numbers of parolees who had been released from prison for drug offenses. In addition, drug offenses constituted a large proportion of violation charges. This presentation examines the effects of the PVDMI for drug offenders. More specifically, we examine how the parole violation decision-making instrument was used for high-risk drug offenders and their subsequent violations and whether the recommended sanctions (which could include drug treatment) appeared to be related to better outcomes, relative to non-drug offenders.

**Substance Misuse, Violent Offending, and the Law**

Tony Adiele, *Advanced Forensic Psychiatric and Medical Law Service, Cambridge, UK*  
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It is a tacit belief amongst members of the public, as well as mental health professionals, that a concrete relationship exists between an individual’s misuse of psychotropic substances (both legal and illegal) and the individual’s involvement in violent offences either as a perpetrator or as a victim. However, whether such a presumed relationship is direct, indirect, positive or negative requires careful examination. Also, further exploration is needed on whether any such existing relationship is largely dependent on the specific substance used or combinations thereof. Over the years, the legal systems obtainable in various countries and continents have manifestly exercised different approaches when faced with a defendant charged with a serious violent crime committed while apparently under the influence of such mind-altering substance(s). This presentation will therefore attempt to address these multivariate and complex issues based on current empirical evidence, forensic psychiatry clinical practice and the English Legal System. Prototypical medico-legal case vignettes will be discussed at the end of the presentation.

**Self-Regulation of Addiction-Related Complaints: A Study of Nurses in a Disciplinary Jurisdiction**

Diane Kunyk, *University of Alberta* (diane.kunyk@ualberta.ca)

Addiction is a bona fide medical condition expressed amongst some members of most occupations and professions. When it occurs within the health professions, there are profound safety implications for patients receiving care — and for the health of the highly skilled and valued health professional. When self-regulating, the health professions are responsible for ensuring that their members deliver safe and ethical care. Given their pedestal status in the
community, the management of addiction amongst the health professions provides an opportunity to enact and model their values regarding addiction and its treatment. Under the same Health Professions Act in one Canadian province, handling of addiction-related complaints appears incongruent between disciplines. For physicians, a confidential health program provides for diagnosis and evidence-based, subsidized treatment followed by a monitoring program that includes random testing for relapse upon return to work (for at least 5 years). Conversely, registered nurses are subject to a formal investigation of the complaint followed by a Hearing Tribunal to determine guilt of unprofessional conduct and sanctions. Informed by relational ethics, a study was designed to examine the situation of nurses as it relates to addiction. Findings raise questions regarding the authenticity of professional discipline for dealing well with this issue.

### 4. Addressing Difference: Recognising and Accepting

**Discrimination: When is Refusal to Treat Appropriate?**

Andrew Alston, *Flinders University* (andrew.alston@flinders.edu.au)

Discrimination is based on the recognition of difference. Some discrimination is acceptable, for example, awarding a prize to the best performer in an exam. Other discrimination is unacceptable and usually unlawful, for example, when it is because of race, religion, sex, sexuality, marital status, pregnancy, age or disability. When a health professional discriminates against a patient, there will usually be a stated reason. There may also be one or more underlying reasons. Usually, it is the underlying reasons and not the stated reasons that identify whether conduct is inappropriate. Examples of stated reasons are: patient is obese; patient is a smoker; patient is an alcoholic; patient’s life style is inappropriate. Examples of underlying reasons are: reduced chance of recovery; economy measures; penalty for bad conduct; risk to patient; personal dislike of the patient. When are underlying reasons inappropriate? How can they be identified as the real reasons for discrimination? What can patients do to avoid inappropriate discrimination or to seek redress when they have been inappropriately discriminated against?

**Accepting and Rejecting the Street Homeless: Practices of Local Authorities**

Caroline Hunter, *University of York* (caroline.hunter@york.ac.uk)

Helen Carr, *University of Kent* (h.p.carr@kent.ac.uk)

This presentation will look at the mundane exercises of power over the bodies of the street homeless in England. We will consider the attempted banning of soup runs and rough sleeping, and the washing down of sleeping places. The particular practices in certain London Boroughs will provide the lens for this. Thus, in the City of Westminster there have been recent attempts to
introduce by-laws to prevent rough sleeping and soup runs in certain parts of the borough and the campaign against this (see Inside Housing, March 25, 2011). In the City of London, an operation to “wet down” doorways and other places where the homeless sleep was met with a “Rights Guide for Rough Sleepers” (see The Guardian, Wednesday December 9, 2009). We will look at health and safety concerns, the fear of contamination, the touching of bodies and the technologies associated with this and consider bio-power and risk in the justification of these practices. We will look at what prompts exercises of power (for instance, commercial needs, political pressures, sporting events, disease, etc.) and also consider resistance to these controls from religious and charitable organisations, deployment of human rights, and other forms of protest.

**Smoking: Are the Legal Responses Justified?**

Kynan Rogers, Flinders University (kynan.rogers@flinders.edu.au)

Smoking is deeply related to mental health, and smokers face restrictive regulation on their behaviour, including support for measures to deny smokers non-emergency treatment. Smoking is a public and private health problem. However, the legal response to smoking is, compared with drinking or being obese, disproportionate. In Australia, for example, smokers are over-taxed and increasing prohibitions on smoking are, rather than being scrutinized, criticized for not coming into operation more quickly. Tobacco is regulated like no other product. The discourse of smoking is increasingly normative, yet our legal systems fail to recognize this and continues to rely on inappropriate rationales. As a minority, smokers are different, but are they different enough and in the right way? Upon what bases do we truly regulate smokers? Are these bases consistent with modern and postmodern theories of justice? Is tobacco control anything more than an institutional expression of the dominant social order?

**Addressing Hoarding: A Principled Approach from Public Health?**

Michele Slatter, Adelaide University (michele.slatter@adelaide.edu.au)

Until quite recently cases of problem hoarding were treated as isolated oddities. They might inconvenience neighbours, worry local authorities and risk the safety of family, but they were addressed (or ignored) case by case. However, the last two decades have seen major shifts in both professional and public awareness. The incidence of problem hoarding is much more frequent than was earlier believed. Hoarders fit no stereotype. There is no “standard appropriate response,” no “one size fits all,” and no professional monopoly in these cases; best practice recognises the need for multidisciplinary engagement and support. Although the “causes” of hoarding are diverse, the lead-up to DSM-5 saw an explosion of research seeking to establish Hoarding Disorder. Discussion of hoarding cases is now informed by this broader and more sophisticated understanding. Nevertheless, such cases remain challenging especially for local authorities, driven by conflicting responsibilities, limited resources, and uncertain powers.
Reform of public health legislation in Australia has introduced another uncertainty into this mix. In developing a risk-based approach, the new Acts deploy the flexibility of legislation based on eight guiding principles that operate through extra-statutory codes and guidelines. This presentation explores the implications of this reform for future cases of problem hoarding.

**Sexsomnia and Sleep Forensics: The Interface between Nocturnal Behaviours and the Law**

Michel C. Bornemann, *Minnesota Regional Sleep Disorders Center, Minneapolis, USA* (michel9626@yahoo.com)

First defined at WorldSleep07, Sleep Forensics is a growing investigative field most often associated with the sleepwalking defense in cases of homicide. For five years (8/1/06 to 6/1/11), the sleep forensics team at the Minnesota Regional Sleep Disorders Center were contacted by attorneys and law enforcement agencies to place their cases (a total of 210 cases) in consideration for a formal review to assess whether a sleep disorder may have been involved. As anticipated, Parasomnias were the most prevalent sleep disorder subtype implicated (n=97). Further analysis within this subtype reveals that Sexsomnia was the most common condition implicated (n=74). However, this does not necessarily imply that a favorable criminal defense for sexual assault was formulated, as our group was often sought by both the defense and prosecutorial arms of the judicial system. Sexsomnia demographics reveal that the gender of the perpetrator to be male (n=73) adult with an age range of 18 years - 55 years (n=73) while the gender of the victim to be female (n=70) minor with an age range of 3 years - 17 years (n=51). It was also of interest to note that 81% (n=60) of the victims knew the perpetrator, as they were either a family member, significant other, or friend. Analysis of the sexual behaviour was divided into 3 subtypes: i) Inappropriate Touch- in isolation or combined on breasts/genital region (n=44), ii) Sexual Contact- in isolation or combined with oral/genital/anal (n=29), and iii) Indecent Exposure (n=1). Proximity between the victim and perpetrator during the course of the behaviour reveals that it was: i) confined to the bed (n=27), ii) confined to the bedroom (n=16), or iii) began outside of the bedroom (n=31). Lastly, a review of toxic influences review that alcohol intoxication over the legal limits was not uncommon (n=11). This data is the first methodical analysis of parasomnias in a medico-legal arena and underscores the forensic implications of violent parasomnias which appear not uncommon from the perspective of sexual assault. Analysis from such forensic data may provide further insight into sexsomnia to improve clinical management and enhance public safety, but also importantly provides insight to improve the legal systems understanding, or lack thereof, of these sleep-related conditions.

5. Applied Research in Law Enforcement, Mental Health, and Crime Prevention

*Development and Implementation of the Seattle Police Crisis Intervention Team/Mental Health Partnership Pilot Project*
In 2010 the Seattle Police Department launched a 24-month pilot project establishing a Crisis Intervention Response Team (CIRT) comprised of members of the Seattle Police Crisis Intervention Team partnered with licensed mental health professionals (MHPs) trained in crisis assessment, intervention, and resource referral. The goal of the pilot program is to improve police response in situations involving mentally ill and chemically dependent individuals through specialized mental health provider response in the field. To date, few jurisdictions have implemented programs involving law enforcement/mental health provider partnerships. This presentation focuses on the history, development, and implementation of the pilot program with focus on the experiences of the CIT Officer and MHP in their collaborative roles within the CIRT Pilot. The impact of the CIRT Pilot in changing the nature of police response to the mentally ill and in enhancing police-mental health practitioner partnerships in serving the community is discussed.

**Evaluation Results from the Seattle Police Crisis Intervention Team/Mental Health Partnership Pilot Project**

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Matthew J. Hickman, Seattle University (hickmanm@seattleu.edu)
Andre Labossiere, Seattle University (labossiere@seattleu.edu)

This presentation outlines results from an incident-based descriptive evaluation of the Seattle Police Department’s (SPD) Crisis Intervention Team/Mental Health Practitioner Partnership implemented from 2010-2012. The purpose of the evaluation is to measure the value added by the MHP in cases involving mentally ill individuals and the effectiveness of the CIRT with specific focus on the role and function of the MHP and the impact of the inclusion of the MHP on the nature of the incident, time to resolution, repeat contacts, and referral to services. Data was collected from SPD incident and supplemental reports for a 12 month segment of the program from January 2011 to January 2012. Key variables included incident location, case clearance, repeat contacts, linkages to services, and case disposition. Results of analysis of incident and supplemental reports will be presented and implications for future development of the CIT/MHP partnership will be discussed.

**The Seattle Police Department’s “IF” Project**
The Seattle Police Department’s (SPD) “IF” project was cofounded, developed, implemented, and is coordinated by Detective Kim Bogucki from the SPD Community Outreach Unit. The program originated when Detective Bogucki went to the Washington Correctional Center for Women (WCCW) and posed a question to the inmates – “If there was something someone could have said or done to change the path that led you here, what would it have been?” Afterwards, a WCCW inmate asked other inmates to write an essay in response to the question and the program was born. There are currently over 700 essays that have been written by women incarcerated at WCCW. The project has since expanded to include workshops conducted at juvenile detention centers, middle and high schools, and in juvenile court. The workshops involve Detective Bogucki and former inmates who have participated in the IF project while incarcerated who share their experiences with the youth and pose the aforementioned question to them followed by Q&A, breakout sessions, and resource referrals to help the youth with specific issues they are facing addressed in their written response to the question. The project also includes monthly informational topic meetings in the prisons that bring in guest speakers on a range of topics of interest to the inmates. The history, development, and implementation of the “IF” Project will be discussed with a focus on how the project addresses issues of trauma, victimization, and mental health in crime prevention.

If There Was Something Someone Could Have Said or Done to Change the Path that Led You Here, What Would It Have Been?
Analysis of “IF” Project Essays

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Stephen K. Rice, Seattle University (ricest@seattleu.edu)
Sarah Robinson, Seattle University (sarah@theifproject.com)

This presentation outlines findings from qualitative analysis of essays completed by “IF” Project participants. Analysis of 800 workshop essays in response to the “IF” question using qualitative data analysis software Atlas.ti was conducted. Using the framework of the constructivist approach to grounded theory, content analyses of the documents utilizing an inductive approach were used to develop analytic codes from the data. Themes identified that reflect how participants answered the “IF” question will be presented to offer an answer to the question, “If there was something someone could have said or done to change the path that led you here, what would it have been?” Implications of these findings in the development and extension of
scholarship on general theories of crime, trajectories of offending, and factors and individual-environment interactions influencing criminal behaviour patterns are discussed.

**Results from the Pilot Evaluation of the Seattle Police Department’s “IF” Project**

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This presentation outlines results from the pilot evaluation of the Seattle Police Department’s “IF” Project, a crime reduction and crime prevention program run by the Seattle Police Department that involves multiple components that bridge law enforcement, corrections, juvenile justice, schools, and community agencies. The core of the program involves a prison-based writing workshop in which inmates are posed the question, “If there was something someone could have said or done to change the path that led you here, what would it have been?” Additional programmatic components involve a monthly prison-based informational topic presentation, and workshops in schools, courts, and juvenile justice facilities in which ex-offenders who have participated in the prison-based workshops facilitate similar writing workshops for juveniles for the purpose of crime prevention. Results from a mixed methods evaluation of all components of the “IF” Project including evaluation of workshops conducted from July 2012 to June 2013 in prisons, juvenile detention facilities, and schools are presented. Implications of findings for future development of the “IF” Project and its effectiveness in crime prevention and in addressing issues faced by individuals engaged in criminal behaviour patterns will be discussed.

**6. Approaches to Communication Dilemmas in the Workplace**

**Challenging Colleagues about Difficult Behaviours**

Rob Lane, *University of Leeds* (r.lane@leeds.ac.uk)

When something is wrong in a team it is always difficult to address this with colleagues and continue to maintain the relationships needed for effective team functioning, especially when it relates to behaviours which are difficult to define and categorise yet have a clear impact on the
team. This is particularly true when challenging senior colleagues or peers. The literature describes a number of techniques that allow effective challenge, create the opportunity for support yet ensures that change occurs. Dealing well with these situations avoids unnecessary legal challenge or internal complaints. This presentation aims to explore the literature and make practical recommendations for busy practitioners.

**Deception through Translation: Linguistic and Cultural Issues**

Rachel Taylor, *University of Glamorgan* (rtaylor@glam.ac.uk)

Interviews with non-native speakers conducted through an interpreter are an increasing feature of police practice. However, from the perspective of assessing the credibility of such suspects, translated interviews present unique challenges. This presentation outlines and critically discusses some of the main challenges for lie detectors when faced with a translated interview. Issues, such as cognitive load, inter-cultural communication and the trade-off between accurate translation and good quality communication, are discussed. Further issues specific to police practice include the availability of suitably qualified interpreters, wider cultural knowledge shared by the interviewee and translator, and the potential requirement for interpreters to work both in a police interview and in a confidential conversation between a solicitor and a client. Finally, this presentation outlines some strategies for researching this emerging area of credibility assessment.

**General Protections Pursuant To Fair Work Australia: A New Remedy**

Nada Vujat, *Barrister, Newcastle West, Australia* (nvujat@emery.com.au)

Over the past six years, Australia has experienced radical changes in industrial relations. The Fair Work Act 2009 (Cth) (FWA) establishes the current national system of industrial relations which applies to about 85% of Australian employers. Fair Work Australia commenced on 1 July 2009 (Labor Government). The legislation was intended to increase protections available to the labour force which were arguably diminished pursuant to the previous WorkChoices regime (Liberal Government). Part 3-1 of the FWA is titled “General Protections.” This presentation explores the nature of these new remedies in detail, how the Federal Court of Australia is applying them, and the impact the introduction of such remedies has had and is likely to have upon the relationship between employers and employees.

**Workplace Aggression and Victim Typology in Three Forensic Psychiatric Clinics**
Fanny Klerx, Tilburg University (f.klerx@tilburguniversity.edu)

Current research on workplace aggression focuses mainly on perpetrators’ typologies, the approach of the perpetrators and context characteristics. Workplace related victim research on the causes of workplace violence from a victim perspective is under-represented. This research in Dutch Forensic Psychiatric Institutions examines individual factors in relation to workplace aggression. In our research, we assume that some individuals become more likely a victim of aggression at work due to personal/individual characteristics. Predictors that can enhance that chance include personality and behavioural characteristics, such as childhood maltreatment and post traumatic stress disorder (PTSD) in adulthood. We suppose that (physically) victimized workers suffer more from childhood maltreatment, and PTSD than non-victimized workers and have more inadequate coping strategies to deal with problems and to reduce (re)victimization. In this presentation, we present our theoretical framework on workplace aggression from inmates in Forensic Psychiatric Institutions towards their treatment officers. Our hypotheses, which are based on the precipitation theory, are tested in a longitudinal study conducted in three Dutch Forensic Psychiatric settings. The preliminary results will be presented. First, we will describe our respondents according to demographical characteristics. Second, we will present the prevalence of workplace aggression. Third, and finally, we will present causal effects of the personality and behavioural characteristics of the workers on victimization of workplace aggression.

7. Assessment and Treatment of Psychopathy in Clinical Practice

Psychopathy and Treatment Outcomes

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Although in the past 20 years research on assessment and etiology of psychopathy has increased dramatically, studies dealing with the treatment of psychopathy are still quite rare and findings are mixed. Psychopathy can now be diagnosed reliably and validly with the Psychopathy Checklist – Revised (PCL-R), but clinicians are still left with very few guidelines as to how to treat psychopathic patients. In this study, we evaluate the treatment-outcome of a sample of 366 forensic psychiatric patients who were admitted involuntarily to the Van der Hoeven Kliniek in the Netherlands. Since 1997, all patients have been assessed prospectively with the PCL-R. During treatment, risk assessments are conducted repeatedly, including the assessment of protective factors. We will present (preliminary) findings on the distribution of PCL-R scores in our sample and their relationship to risk as well as the development of protective factors during treatment. Also, we will compare psychopathic and non-psychopathic patients with regard to length of treatment, treatment drop-out, incidents during treatment and recidivism after rehabilitation. Finally, we will discuss the implications of this study for clinical practice.
A Treatment Program for Psychopathic Patients

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In the Van der Hoeven Kliniek, a forensic psychiatric hospital in the Netherlands, approximately 25% of the patients score high on the Psychopathy Checklist – Revised (PCL-R). Although research on the treatment of psychopathy is scarce, we have attempted to implement a program for these patients, inspired as much as possible by what is known to be effective for seriously violent offenders in general. The “What Works” principles as described by Andrews and Bonta constitute the central framework for the program. Treatment is directed at dynamic risk factors, taking into account the responsivity of patients. Other important elements are the Good Lives Model (Ward), the Stages of Change Model (Prochaska and DiClemente) along with motivational interviewing (Miller and Rollnick), cognitive behavioural psychotherapy and team supervision. We will describe how we incorporate these elements into clinical practice and illustrate this with clinical case examples. Furthermore, we will discuss our failures and successes in the treatment of these particularly difficult patients, and attempt to provide directions for further research.

Gender Issues in the Assessment of Psychopathy

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The assessment of psychopathy in female forensic psychiatric patients is still a relatively unexplored area. The findings on the widely used Psychopathy Checklist-Revised (PCL-R; Hare, 2003) in female samples thus far are not sufficiently convincing to draw conclusions about the similarity of the PCL-R structure across gender (Logan, 2009). In this presentation, we will present results from a Dutch multicentre study on psychopathy and violence risk assessment in female forensic psychiatric patients. PCL-R codings of about 300 women will be analysed and related to criminal and demographic characteristics, as well as to different violence risk assessment tools, including the HCR-20, the SAPROF for protective factors and the recently developed gender-specific tool for female (forensic) psychiatric patients, the Female Additional Manual (FAM; De Vogel et al., 2011). Furthermore, for a subgroup of female patients, PCL-R codings will be compared to those of a matched male sample. Finally, some clinical case examples of the manifestation of psychopathy in women will be discussed and suggestions will be provided with respect to the gender-sensitive assessment and treatment of psychopathy in women.
Psychopathy and Aggression

Olof Svensson, University of Gothenburg (olof.svensson@rmv.se)

**Background**: Population-based studies of psychopathy and related traits are rare in comparison to the general attention drawn to this diagnostic concept. There is also a specific need to study psychopathy in relation to other diagnoses, including childhood perspective, as a predictor of a predictor of aggressive antisocial behaviours, and to assess background genetic and environmental effects to developmental associations between mental disorders and aggressive behaviours.

**Aims**: To determine prevalences, patterns of overlap and genetic background effects for psychopathic traits including their relation to other mental disorders in children.

**Methods**: In the Child and Adolescent Twin Study in Sweden (CATSS), parents of 12,496 children aged 9 and 12 years were interviewed by inventory which includes validated algorithm for identifying Conduct Disorder (CD) the “Autism – Tics, ADHD and other Comorbidities,” and by the Psychopathic Core Traits Inventory (CPTI). CPTI defines three core aspects of psychopathy: (1) grandiose and deceitful traits, (2) callous and unemotional traits, and (3) impulsivity and need for stimulation.

**Expected results**: Psychopathic traits will be presented by descriptive statistics and related to other mental health problems. Main effects of CPTI subdomains as predictors on CD as a binary dependent will be quantified by Generalized Estimating Equations. The relative importance of hereditary and environmental effects will be assessed by measuring intraclass correlations for monozygotic (identical) and dizygotic (50% identical) twin pairs separately.

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8. Assessment, Intervention, and Program Evaluation in a Prevention Program for Intimate Partner Violence

**Treatment Gains and Losses Over Time for Men Who Completed a Program for Intimate Partner Violence**

Brendon Pratt, The Family Centre, Edmonton, Canada (brendon.pratt@the-family-centre.com)

The Reaching for a Good Life group has been offered since October 2009. Initial program evaluation data suggests that participation in the program appears to be correlated with positive outcomes at group completion. This presentation discusses the longer-term impact of the program on participants, especially the client’s perception of which changes have been maintained and any deterioration of growth two years after completing the group program. The initial assessment battery was re-administered and participants participated in a semi-structured interview. The qualitative and quantitative outcome data will be presented. The findings are considered in terms of outcome research about programs for men who engage in intimate partner violence. This research will look at whether the Reaching for a Good Life model exhibits similar
The desire to understand typologies and characteristics of men who batter has been a prominent theme in domestic violence literature (Saunders, 1992; Holtzworth-Monroe & Meehan, 2004). A better understanding of these men will increase the ability of practitioners to create more relevant and effective interventions, more effectively engage clients in treatment, improve treatment outcomes and reduce attrition rates. This presentation will include brief review of the typology literature and present the profiles emerging from participants in the Reaching for a Good Life Program. Data was derived from the Personality Assessment Inventory (PAI) profiles and individual interviews completed with each participant. Participants include a diverse group of men from various socioeconomic backgrounds and age ranges. Approximately two thirds of participants were not court mandated to participate. How this sample compares to the current understanding of domestic violence is addressed. Implications of these findings on program planning and development will be discussed.

Program Experiences of Men Completing the “Reaching for a Good Life” Program

This presentation will report the findings of a qualitative investigation into the experiences of thirty-one men completing the Reaching for a Good Life program as well as post-group quantitative measures of executive functioning and anger/hostility. The men were interviewed immediately after completing the four-month program. The semi-structured interview prompted the men to consider what was helpful (or not) for them in the program and to reflect on where they experienced the most growth. In addition, the quantitative measures were discussed with the men and this initial post-group program evaluation data suggests that participation in the program appears to be correlated with positive outcomes at group completion. The major themes emerging from the qualitative data reflected on program design, the changes in their interpersonal relationships and areas of personal growth. The use of this qualitative data in further program design will be discussed.

Including the Voice of Participants in On-Going Program Planning in an Intimate Partner Violence Prevention Program
Men involved in intimate partner violence prevention programs, like most people in therapy, are more likely to make progress when they find: a) the content relevant; b) the process responsive to his needs; and, c) participation actually helps him in some way (Duncan & Miller, 2008). To ensure that the facilitators of the Reaching for a Good Life Program received consistent and timely feedback from participants, we employed the Outcome Rating Scale and the Session Ratings Scales (Duncan & Miller). Additionally, to ensure the connection to the Good Life goals, the men had established during their treatment planning sessions the Good Life histogram (Dewhurst, 2011) was employed at the end of each module as a means of reviewing those goals. The use and value of these tools for intervention planning and program evaluation will be discussed.

### 9. Asylum Deniability and Retraumatization

**How the Asylum Procedure Retraumatizes the Victims of Torture**

Joost den Otter, *International Rehabilitation Council for Torture Victims, Copenhagen, Denmark* (jdo@irct.org)

To protect victims of torture is a world-wide obligation according to the U.N. Committee Against Torture (UN CAT). However, torture is still being practiced in more than 100 countries. Only a fraction of the people, who have been tortured or ill treated, flee to a European country assuming to find a safe haven there. The U.N. Refugee Agency (UNHCR) recently critiques both their inhuman detention conditions as well as the inadequate protection against refoulement as being in spite of the Reception Directive. The identification of vulnerable asylum-seekers is a key issue of the EU asylum policies. It is a stain upon Europe’s reputation that tortured asylum seekers are held in detention, a practice that carries a great risk of retraumatisation for someone who has previously been confined and subjected to torture. Rehabilitation should first and foremost start by a proper determination and reception process that is not retraumatizing. Hence, early recognition of torture victims who seek asylum is essential. A hearing and assessment by a health professional, using the Istanbul Protocol (IP), is paramount in guiding the refugee determination authorities. Moreover, as recently elaborated in UN CAT’s 3rd General Comment, each State party has to adopt a long-term, integrated approach and ensure that specialists for rehabilitation are available. The same IP assessment is a guide to a holistic rehabilitation process.

### The Detention of Asylum-Seekers and Irregular Migrants in the Netherlands

Annemarie Busser, *Amnesty International, Amsterdam, The Netherlands* (a.busser@amnesty.nl)
In the past decades, we saw in the Netherlands an increasingly tough stance against irregular migration. This has been followed by a significant increase in the number of detention facilities and cells. In 1980, the capacity was only 45 detention places. This increased to almost 4,000 places in 2006. Fortunately in the last few years the capacity decreased to around 2,000 places and the number of detainees decreased from around 13,000 in 2006 to 8,000 in 2010 and about 6,000 in 2012. Although we see that the situation is improving, in general Amnesty International still has two concerns about immigration detention in the Netherlands:

• Amnesty International is concerned about the number of people in detention, the duration of their detention and the fact that vulnerable groups, such as minors, elderly, traumatized asylum-seekers, torture victims and pregnant women, continue to be detained. In sum, the detention policy in the Netherlands is not conformed to the ultimum remedium principle (the principal of last resort).

• The prison-like regime with its unnecessarily restrictions. People are detained in heavily guarded buildings with high walls, and detainees are locked in cells for at least 16 hours per day.

We focus on alternatives: statutory prohibition detaining vulnerable persons (e.g. unaccompanied minors, victims of torture and human trafficking, pregnant women) and those with a serious medical condition, mental illness, disability or the elderly. Detention should always be based on a detailed and individualized assessment, personal history and the measures of restriction should be proportionate to the risk of absconding. Any form of immigration detention should always be as short as possible.

**The Asylum Request and Medical Evidence**

Janus Oomen, *Netherlands Institute for Human Rights and Medical Assessment, Diemen, The Netherlands* (oomen@xs4all.nl)

The provision of asylum has become a paramount test for national human rights approach instead of a refuge for the victims of civil war, torture and rape outside the state boundaries. The asylum procedure has become prejudiced towards the deniability of asylum-requests to the extent that criminalization of the applicants is used for method. As a reprieve, medical assessments are invoked in appealing rejected applications. Physicians and psychologists have the potential to support asylum claims by demonstrating the evidence of harm or torture attesting to a person’s request to resettle in a new country. The Istanbul Protocol (1999), a United Nations manual on the causes that make asylum necessary, must be extended to prevent the retraumatization of persons confronted by unjustifiable rejection and consecutive risk of refoulement. To that aim all Dutch voluntary agencies, committed to an appropriate medical and psychological assessment in the context of the asylum-request, have united in 2012. The institute for Human Rights and Medical Assessment (iMMO) trains volunteering professionals (physicians and psychologists) to the required level of knowledge and expertise, as an extension of their own professional responsibility. As an independent agent, iMMO has managed to transfer the expertise of the founding non-governmental organizations, and participates in the (inter)national discourse on
asylum. In addition, the institute has been able to achieve a working relationship with the immigration authorities.

**The Asylum Procedure as Risk Factor for Psychiatric Problems**

Kees Laban, *De Evenaar Centre for Transcultural Psychiatry, Beilen, The Netherlands* (kees.laban@ggzdrenthe.nl)

Problems of asylum seekers are multiple and complex. Having experienced the adversities that put them at flight, in the host country they face usually long asylum procedures and a multitude of post-migration living problems. Literature shows high prevalence rates of mental disorders and low quality of life. The length of procedure is an even more important risk factor for psychopathology than the adverse life events in the country of origin. Both qualitative and quantitative research has shown the relevant types of post-migration living problems, such as uncertainty about the future, the fear to be sent home, missing one’s family, and lack of work. In order to improve the mental health status of this very vulnerable group, the government should reconsider their policies regarding the length of the asylum procedure, living conditions in the asylum seeking centres, work, and family reunification, and should facilitate support by voluntary agencies. Mental health workers should realize the importance of the asylum procedure and the often related post-migration living problems and consider to focus their treatment on coping with these problems instead of only focusing on traumas from the past. A resilience-oriented approach is recommended.

**New Facts and Circumstances in Asylum Law in the Netherlands**

Gerda Later, *Barrister, The Hague, The Netherlands* (gerdalater@gmail.com)

Asylum seekers arriving in the Netherlands, relieved to have escaped their problems, will enter the asylum procedure and meet different individuals. Although now some medical examinations may be involved in order to discover whether an asylum seeker is capable of being interviewed, many problems may need to be addressed. An asylum seeker may be psychotic, but this may also not be recognised. Psychosis influences the memory and the capability to tell a complete story. If the whole story is not told, in the next procedure it will not be identified, because it was known before and should have been recounted in the first procedure. Subsequently, it may become clear that an asylum seeker suffers from mental retardation, which influences his or her capability to tell a clear story about what happened in the country of origin. These factors should be taken into consideration in the following procedure, and the former decision should be reconsidered. However, cases show that it is nearly impossible to have such reconsideration.

**Maimonides and Spinoza: How Two Thinkers with Similar Intuitions Came to Very Different Conclusions**

Ken Seeskin, *Northwestern University* (k-seeskin@northwestern.edu)

This presentation explores how two rationalist philosophers seeking to avoid anthropomorphic conceptions of God came to very different conclusions about how to respond to that God. Maimonides' strategy was to stress our ignorance of God. If we cannot know what God is, then any comparison between God and humans is immediately suspect. Spinoza’s strategy was the opposite: to stress that we can know God but that there is no supernatural component to what we know. The result is that while Maimonides’ thought culminates in awe and humility in the face of something too great for us to comprehend, Spinoza’s culminates in a feeling of empowerment as we comprehend how everything follows from the essence of God. In this way, what is for Maimonides the highest virtue becomes for Spinoza a source of pain or weakness.

**Spinoza’s Ethics: A Framework for Human-Animal Relations?**

Anne Benvenuti, *Cerro Coso College* (anne.benvenuti@gmail.com)

The twinned concept of human distinctness and superiority compared to other animals is pervasive in Western culture to such an extent that it can be categorized as a meme, as it is replicated within otherwise non-compatible systems of thought. It is found in the book of Genesis, where it is attributed to divine mandate. It is central to Aristotle’s ontology, as he attributed human superiority to our self-evident capacity for rational thought. Descartes and Spinoza further developed this line of thought, attributing human distinctness and superiority to thinking. However, a large body of evidence from studies across a spectrum of animal species and scientific perspectives points to the fact that thought, feeling, intention, and language are common amongst non-human animals. Congruent with these findings, the biological sciences and especially ethology increasingly emphasize evolutionary continuity; a concept that focuses on the common features of animal life and that defines “specialness” not as superiority but as particular adaptive capacities within specific ecological niches. This emphasis on evolutionary continuity is harmonious with Spinoza’s dual aspect monism and with his explicit denial of any hard and fast boundary between human beings and the rest of nature. In fact, Spinoza was critical of the “domain within a domain” by which philosophers and religious teachers made claims for human exceptionalism, and insisted that humans be understood by the same principles as everything else in nature. Further, his ethical ideal of rational devotion to Nature/God offers an instructive viewpoint from which to examine the philosophical challenges raised by complex interiority in non-human animals, as well as the possibilities for developing a fresh theoretical approach to human-animal relationships.

**Spinoza’s Ethics and Mental Health**
The most famous, and by all accounts, the best philosopher to have ever lived in Amsterdam was Baruch Spinoza (1632-1677). Though we usually consider Spinoza to be a metaphysician, he also had a well thought out ethic, one that spelled out what a harmonious human life could be. A harmonious human life is one we would consider to be mentally healthy. Spinoza was certainly influenced greatly by the famous adage of the Roman poet Juvenal (who was following an earlier adage of Thales, the earliest known Greek philosopher): “a healthy mind [mens sana] in a healthy body [in corpore sano].” This is an excellent precedent for Spinoza, since he saw the mind and the body to be two aspects of the same unified person, so that one cannot reduce the body to the mind or reduce the mind to the body. Body and mind must be correlated at every level. Though mental/physical (what we would call “psychosomatic”) health is the main concern of his ethic, a person still has more control over their mind than they do over their body, nonetheless. That is why Spinoza’s ethic is meant to be therapeutic philosophy, i.e., it is meant to teach truly thoughtful persons how they can live a fully rational harmonious life. That life is one directed by a supreme love, and it is a life of a person who learns to overcome love’s opposite, which is not hate but fear. Concerning that mentally healthy person, Spinoza writes: “A free man thinks of nothing less than of death, and his wisdom is a meditation on life, not on death” (Ethics IV/prop. 67). This presentation will critically explore what kind of love enables a truly free, healthy person to overcome the fear of death, which for Spinoza is most destructive of a harmonious human life.

The “I” that Is “We:” Rethinking Moral Agency Without Free Will and in Terms of Discoveries in the New Brain Sciences

Heidi Ravven, Hamilton College (hravven@hamilton.edu)

This presentation outlines a range of neurobiological and other evidence from the new brain sciences that we must relinquish the notion of free will as the source of moral agency and moral responsibility. It refers to Damasio’s neural self-mapping and mechanisms of homeodynamic stability, mirror neurons, Panksepp’s seven basic emotional systems as contributory sources of our human moral capacity. It argues that locate a basic biological striving in a self distributed beyond our skin into our environments, natural and human. This is why we care about the world and why it is the arena of our moral concern and of our ideals. As a consequence we must rethink moral responsibility in terms of the actual scope of its agents – from the individual to the group and even beyond that to agents that span historical time periods.

11. Behavioural Approaches within the Criminal Justice System: From Policy to Practice
**Behavioural Approaches within the Penal System**

Edwin Bleichrodt, *Erasmus University Rotterdam* (f.bleichrodt@law.eur.nl)

In this contribution, the legal possibilities which accommodate behavioural interventions within the penal system will be outlined. They include: conditional sentences, treatment facilities and treatment programs within the prison system, and possibilities for diversion towards the (forensic) mental health system. Recent changes in the Dutch system include the option for conditional release, somewhat comparable to the Anglo-American parole system, and the concentration of prison mental health care within penitentiary mental hospitals (PPCs). Among the current discussions are parole and treatment options for “lifers,” reward systems within the prisons, and a measure of preventive detention/supervision especially for sex offenders that are still considered dangerous upon prison release.

**The Measure for Repetitive Offenders**

Sanne Struijk, *Erasmus University Rotterdam* (struijk@law.eur.nl)

In the typically continental European twin track system of penalties and “measures,” which are not intended for retribution but often for “safety” in a broad sense, the measure for repetitive offenders (ISD) is a relatively new sanction. However, while in its current form the measure has come about in 2004, it can be placed in the context of historical predecessors. As the measure focuses on series of minor crimes, it has a maximum duration of two years. Despite the absence of the word “treatment” in the ISD-provisions, a recent trend within jurisprudence is that a lack of treatment efforts may result in midterm termination of the measure.

**The Measure for Dangerous Mentally Disordered Offenders**

Michiel van der Wolf, *Erasmus University Rotterdam* (vanderwolf@law.eur.nl)

The infamous TBS (entrustment) measure for dangerous mentally disordered offenders has a long history. While the measure of indefinite duration dates back to 1928, recent developments have had a major impact on its execution and character. After a few re-offences causing upheaval in society, a parliamentary inquiry commission advised on new safety measures within the execution of the system. Consequently, the mean duration of the measure has increased in the past ten years from about six to over ten years, the possibilities of getting leave have been reduced and placement on long-stay wards is ever present. It is fair to say that the character of the measure has shifted somewhat from treatment to safety. In order to avoid a TBS-order, defendants refuse psychological evaluation, with fewer impositions and less treatment as a result. This shows how changes in the execution of sanctions affect the practice of evaluation.
Psychological Evidence in the Legal Perspective

Paul Mevis, Erasmus University Rotterdam (vanderwolf@law.eur.nl)

In this contribution, a legal perspective will be given on the integration of psychological evidence within both the criminal procedure and the decision-making within the execution of sentences. Recent developments have led to a shift of emphasis from disorder to risk. The dominance of risk assessment instruments leads to discussions within legal practice.

Psychological Evidence in the Psychological Perspective

Hjalmar van Marle, Erasmus University Rotterdam (h.j.c.vanmarle@erasmusmc.nl)

The mentioned developments in the proceeding contribution will also be addressed from a psychological perspective. They lead also to ethical reflections within the professional group of behavioural scientists. The contribution that risk assessment has within the legal system will be discussed as well as the influence of the neurosciences and the use of neuro-imaging within expert testimony in criminal cases.

12. Best Practices in Use of Force

Why the Traditional “Alpha Bravo” Approach to De-Escalation Does Not Work in Police Encounters with People in Psychiatric Crisis

Stuart Thomas, Monash University (stuart.thomas@monash.edu)

Concerns have long been expressed that police may be using excessive force to resolve encounters with people in psychiatric crisis. While a number of reasons have been proposed for this, these have generally focused on assessments of increased risk based either on reports provided to police en route to the scene or on observable behaviours witnessed by police during the encounter itself. As such, issues around perceived dangerousness, aggression and impulsivity have dominated the popular literature. More recently, however, some scholars and oversight bodies have started to consider the impact of the standard approach and engagement style of police and questioned whether these traditional methods could actually be aggravating the situation when the suspect is in a state of psychiatric crisis. This presentation will critique the more traditionalist approaches of limit setting and de-escalation in aggression management and consider the possible additional influence of interpersonal style as a mediating factor in achieving a peaceful resolution.
Use of Force in Australia: Policy Guidelines for Vulnerable Populations

Louise Porter, Griffith University at Mt. Gravatt (l.porter@griffith.edu.au)

This presentation discusses an analysis of police Use of Force guidelines and policies that pertain to Australia’s eight police jurisdictions. Jurisdiction-specific policies and national guidelines are compared and analysed from the perspective of the needs of potentially vulnerable populations that can frequently come into contact with Police. It is argued that such populations, particularly those experiencing psychiatric crisis, may necessitate distinct guidance for police to assess and respond to situations safely and effectively. The content of current policies is assessed and discussed, particularly regarding guidance on selection of force options and assessment of risk and threat. Aspects of policies that are particularly relevant to vulnerable populations are highlighted, as are areas that may warrant consideration for change in order to improve policing processes and outcomes.

Policing Mental Disorders: Rethinking Use of Force Models in Australia

Duncan Chappell, Griffith University at Mt. Gravatt (chappell@bigpond.net.au)
Simon Bronitt, Griffith University at Mt. Gravatt (s.bronitt@griffith.edu.au)

In Australia, there has been more than two decades of policy and law reform aimed at improving policing responses on the streets for individuals experiencing mental health crises. In this presentation, the shifts in the law, policy and practice governing police use of force against this vulnerable class of persons are evaluated. The prevailing “offender-centric” models governing the use of force prioritize police assessment of the threats, risks and the safety (of the officer, “suspect” and community). In this presentation, an alternative model of intervention, based on a “human rights-centric” perspective, which addresses these limitations and would enable the police officers to tailor their responses to the specific needs of those experiencing mental health crises, is outlined.

Practical Tools for Taking Mental Health Training for Police Forward

Michael Williams, Victoria Police, Melbourne, Australia (michael.williams@police.vic.gov.au)
Across the different states and territories in Australia there are a number of different approaches taken to providing mental health training to operational police. This presentation will outline the key elements of a novel e-learning package that is currently being rolled out as a portion of the bi-annual Operational Tactics and Safety Training qualification in Victoria. The “Critical Incidents Involving the Mentally Ill” package is an interactive program covering a range of mental health topics. Key information about different disorders is provided to the reader, followed by an interactive element (e.g., a short video). Individuals are then required to complete and pass a short quiz on the topic with a 100% pass mark required to proceed. After outlining this framework, this presentation will go on to discuss early evaluations of this package and set an agenda for taking mental health training for police forward.

“Mental Health Frequent Presenters” to Police: Policy and Program Considerations

Gina Andrews, University of Sydney (gina.andrews@optusnet.com.au)

“Mental Health Frequent Presenters” (MHFPs) are mental health consumers with multiple needs who frequently present to a cross section of emergency services in mental health crisis. They often fail to have their complex health, social and economic needs met, relapse quickly, and then repeatedly present to emergency services in the midst of mental health crises. Emergency services (police, ambulance and emergency departments) invest substantial and disproportionately high levels of resources into managing and stabilising such mental health consumers in crisis. The purpose of this presentation is to identify the commonalities of MHFPs to police as a population group; identify evidence based mental health case management models and case management program examples; as well as to discuss possible policy and program solutions that might result in improved outcomes for Mental Health Frequent Presenters to Police and the wider emergency service agencies. This presentation predominately draws on two recently published research pieces on Mental Health Frequent Presenters to NSW Police Force (Australia): multi method qualitative research findings by Andrews (2011) and quantitative NSW Police Force Computerised Operating Policing System data findings by Baldry, Dowse and Clarence (2012).

13. Bio-Psycho-Social Research in Forensic Child and Adolescent Psychiatry

Fearlessness and Brain Functioning in Antisocial Adolescents

Moran Cohn, VU Medical Centre, Amsterdam, The Netherlands (m.cohn@debasacle.com)

Antisocial behaviour in juveniles has long been recognized as a mental health priority. Such behaviour is highly prevalent, related to negative future outcomes, and entails a growing
economic burden. In psychiatry, persistent and severe antisocial behaviour is diagnosed as a disruptive behaviour disorder (DBD), which is the most prevalent disorder in adolescent psychiatry. Currently, effective treatment is limited. In addition to psychosocial factors, neurobiological factors have been shown to influence the development of antisocial behaviour. This proposal focuses on brain functioning deficits related to fearlessness. It has been hypothesized that the lack of fear contributes to the pathogenesis and persistence of antisocial behaviour through a lack of anticipation of, and reaction to, social cues with negative consequences, e.g. punishment. Currently, while adult brain imaging studies find evidence for this theory, support for this hypothesis in adolescents is limited to studies with peripheral neurobiological measures. Moreover, longitudinal studies are lacking. Therefore, an innovative longitudinal imaging study in juveniles with early onset DBD was conducted in which brain function parameters reflecting specific aspects of fear, i.e. fear conditioning and reward/punishment anticipation, were related to patterns of persisting versus desisting (transient) antisocial behaviour. Participants (n=150) were drawn from a unique large cohort (n=256) of delinquent juveniles in the Netherlands, of whom many have previously been diagnosed with early onset DBD. Data collection was finished in Summer 2012. As such, fresh data will be presented from structural and functional MRI analyses that will be performed in 2012/2013. Ultimately, results should extend current knowledge about the underlying brain mechanisms predicting the early pathogenesis and persistence of antisocial behaviour in juveniles and thereby stimulate the development of specific and effective treatment strategies.

**Longitudinal Studies on HPA and ANS Activity in Relation to the Development and Persistence of Antisocial Behaviour in Adolescents**

Lucres Jansen, *VU Medical Centre, Amsterdam, The Netherlands* (l.nauta@debascele.com)

The Hypothalamic-Pituitary-Adrenal (HPA) system and Autonomic Nervous System (ANS) have been frequently studied in relation to antisocial behavior. However, most studies to date have been cross-sectional, with single measurements of HPA and ANS activity. Even longitudinal studies including HPA and ANS activity as a possible predictor for future antisocial behavior usually have not included repeated measurements of HPA and ANS activity. However, the activity of both systems is not only controlled by genetic/innate factors, but is also influenced by environmental (stress) factors. HPA and ANS activity in mental disorders may thus be susceptible to change over time. Two longitudinal studies on the development and persistence of antisocial behavior including repeated measurements of HPA or ANS activity in adolescence will be presented. Also, the stability of HPA and ANS activity during adolescence will be discussed from a more methodological point of view.

**Psychiatric Correlates of Competency to Stand Trial in Young Offenders**

Eraka Bath, *University of California at Los Angeles* (ebath@mednet.ucla.edu)
Much of the research on juvenile competency to stand trial (CST) has focused on age and intellectual functioning as consistent predictors of competency status. Clinical correlates of CST status, such as psychopathology, diagnostic severity and presence of co-occurring disorders, are less understood in young offenders. Only a limited number of studies have focused on psychiatric disorders (Grisso, 2005) and diagnostic severity (Cowden and McKee, 1995; Vijoen, Roesch, & Zapf) as predictors of juvenile CST status. The current study aimed to investigate the extent to which diagnostic severity and psychiatric comorbidity predict CST status in a sample of 324 juvenile participants in the Los Angeles County Juvenile Mental Health Court. Preliminary analyses identified that age, intellectual functioning, mental retardation, pervasive developmental disorders, mood disorders, substance use disorders and psychotic disorders are significant correlates of CST status in young offenders. Given that delinquent populations are at higher risk for displaying mental and developmental disabilities, improved understanding of the relationships between CST status and mental health conditions is critical and may provide guidance on determining the types of services and rehabilitation programming young offenders may need to proceed with their legal cases.


**Interdisciplinary Teaching Strategies in Mental Health Law**

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Many mental health professionals perceive a fundamental conflict between lawyers and physicians in the mental health context. Traditionally, lawyers have championed the individual rights of patients, seeking to maximize patient autonomy by protecting their right to bodily integrity and self-determination. Conversely, the role of the physician is to act in the patient’s best interests, ensure their well-being, and provide the best care possible. The authors contend that these conflicting values are a reality that must be addressed by lawyers and healthcare providers alike; both tread a fine line, struggling to discern and respect patient self-determination while simultaneously meeting patients’ needs for care and treatment. They suggest that the struggle to balance these competing concerns may thus be fruitfully addressed via an interdisciplinary approach in education and teaching strategies. Law and medicine may be seen as interlocking pieces of the same puzzle, as law demarcates the legitimate boundaries for intervention and care. Using bright-line tests of capacity and best interests, the Ontario legislation permits intervention for assessment and care, alongside the ability to treat where consent is obtained from the patient or a substitute decision-maker. A patient’s prior capable wish to refuse treatment is upheld and respected where it is applicable in the circumstances.
Withdrawal of Life Support and the “Best Interests” Test

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By 2013, the Supreme Court of Canada will have rendered its decision in Rasouli (Litigation guardian of) v. Sunnybrook Health Sciences Centre, [2011] O.J. No. 2984, a case on end-of-life issues under the Ontario Health Care Consent Act. Mr. Rasouli’s physicians argued that no consent was required for withdrawal of life support, claiming that it was not a “treatment” here because it was futile and of no medical value. The Ontario Court of Appeal held that withdrawal of life support is a “treatment,” and that the matter should be decided by the Consent and Capacity Board. There are serious questions to be addressed as to whether or not an administrative tribunal is the appropriate forum for the resolution of disputes between physicians and families at the end of life. The decision will also have important ramifications for incapable patients generally who depend on a substitute decision-maker to safeguard their health and autonomy. A corollary issue in this case is the interpretation of the “best interests” test, raising important questions about quality of life. Ordinarily, an individual’s choice to refuse treatment would be respected, but those who suffer from depression or a similar diagnosis of mental illness may not have the same freedom, being more likely to be found to be incapable.

Off-Label Uses of Drugs: Knowledge Deficits and the Standard of Care

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Drugs are approved for use in certain populations and for certain purposes. These limits on uses reflect the testing conducted prior to regulatory approval. Physicians, though, may prescribe beyond these approved uses for other uses, populations, combinations and delivery systems. Such discretion provides a means of introducing further innovation into treatment in a situation where safety and efficacy data have been produced and approval granted. What are the risks of such off-label uses? The central risk rests on the inadequacies of knowledge in the full population for which the product will be used. For example, use of antidepressants in adolescents was such an unapproved use. Regulatory bodies limit promotion of off-label uses due to its potential to provide a sense of certainty where unknowns exist and to expand the range of adverse effects. How should physicians determine their legal obligations in this situation? In particular, the standard of care for treatment must be met, as must disclosure of risks and benefits. The presentation will examine this question in relation to the standard of care in other related situations, such as research participation and end-of-life decision-making where the prognosis is hopeless.

Job Characteristics and Job Stress among Judges
For several years there has been growing world-wide awareness of the impact of the work circumstances of judges. The growth in asylum cases and in more complicated cases is one well-known change. In international research one of the most reported job characteristics among judges is work pressure and there are indications for stress, burnout and secondary traumatization. This study examines several job characteristics, the job demands (e.g., work pressure, work-home interference), the resources (e.g., autonomy and social support), and the role of personality factors—using the Job Demands-Resources Model. The effects of the job characteristics and the personality factors on the well-being (e.g., burnout, post traumatic stress, absenteeism and engagement) of judges are objects of this study. Judges of five courts of first instance, from the criminal law, civil law, family law, administrative law and asylum law divisions, participated. An online questionnaire composed of several existing questionnaires was administered on the above-mentioned factors, supplemented by items particularly for the professional group of judges. Given the results the judiciary may gain an insight into the relationship between work pressure, other organizational factors and personality factors and for instance stress and absenteeism among judges.

**Mapping Canadian Law and Psychology Scholarship**

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This presentation outlines a map of Canadian law and psychology scholarship published over the last twenty years. Although the psycho-legal field has evolved tremendously over the last century, the work of scholars, often published in non-legal and hybrid journals, is not as well-known as it should be in the legal sphere. The presentation’s objective is to summarize, assess and map relevant research with a view to creating a general guide for legal professionals seeking information on psychological phenomena touching upon various broad areas of law. To achieve this goal, a number of selection criteria were established and selected articles and books were divided in categories discrete enough to make sense to legal professionals as distinct areas of law impacted by psychological research. Examples of selected themes include policy, triers of fact and decision-makers, evidentiary issues, criminal law and forensic psychology, family law and children, victims of sexual trauma and sex offenders, psychological injury, therapeutic jurisprudence, and ethics. Scholarship was summarized and key developments and findings were highlighted. Finally, after assessing the overall status of law and psychology in Canada, areas where further research would prove useful were identified. The hope is that the map will help to disseminate law and psychology scholarship as widely as possible to legal practitioners and academics.

**15. Building a Bio-Psycho-Social Response to Intimate Partner Violence**
Violence and the Brain: Biological Mechanisms that Underlie Violent and Aggressive Behaviour

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One of the important factors underlying violent, impulsive, and aggressive behaviour is brain functioning. A neuroscientific perspective may be taken to understand and possibly even predict violent behaviour (Nadelhoffer et al., 2012). In this presentation, we will discuss the biological mechanisms that play a role in violent and aggressive behaviour. In particular, the role of the human stress response as well as the executive functioning systems in such behaviour will be introduced. The fight-or-flight response, how our brain activates and de-activates adrenaline, as well as how we manage instincts and urges, will all be discussed as they relate to violence. The more complex and higher level executive functioning tasks including decision-making, learning from experience, and understanding cause-effect reasoning will also be examined in the context of violent behaviour. Exploration and understanding of these processes will enable us to adopt a biopsychosocial perspective of violence, through which we can better tailor the way we intervene with violent offenders. Recent outcome data from a program for men who perpetrate intimate partner violence will be used to illustrate the importance of biological mechanisms in relapse prevention work.

A Bio-Psycho-Social Perspective on Interventions for Violent Offenders

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In order to most effectively and appropriately provide interventions for violent offenders, it is crucial to understand the mechanisms underlying violent behaviour. There is a need to reconceptualize our understanding of violence and aggression as bio-psycho-social processes whereby brain systems such as stress response and executive functioning play a critical role. From this biologically-informed perspective, the current presentation will discuss intervention strategies that address the underlying brain factors influencing violent and aggressive behaviour. Interventions, such as meta-cognitive and self-regulation strategies, mindfulness, and meditation, will be introduced and their potential in the treatment of violent offenders will be explored. We will also discuss how embedding a biological perspective into our interventions for violent offenders has the potential to reduce violent response patterns and improve outcomes for these individuals. Personality and executive function data collected before and after involvement in a program for perpetrators of intimate partner violence will be used to illustrate this theoretical framework.
Effective Counselling Practice and Intimate Partner Violence Programming

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The Reaching for a Good Life program integrates feminist counselling theory, offender rehabilitation theory, and a common factors approach to effective counselling with men who have engaged in intimate partner violence. A basic understanding of the biological basis for decision-making and behavioural control is also integrated into the program. These theoretical frameworks arise from a worldview, which holds that intimate partner violence is a complex phenomenon that must be approached with strategies that meet multiple needs simultaneously. In this presentation we suggest that the components that should be integrated into an effective program for men who engage in intimate partner violence include: a) improving a client’s executive functioning skills; b) increasing the client’s awareness of gender inequity and the social permission for male aggression against women; c) exploring the client’s personal and cultural values and beliefs to develop those that are incompatible with violence; and d) encourage therapists to use meaningful and engaging change processes that fit with the client’s personal goals for a good life. This presentation will discuss this theoretical model and its implications for effective program development.

Being Guided Through the Maze: Women Leaving Domestic Violence

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Women who have experienced domestic violence have higher prevalence rates of mental health disorders, including depression, anxiety and post traumatic stress disorder, than women who have not experienced domestic violence. Social support has been associated with buffering or protecting women who have experienced domestic violence from the long term mental health impacts of domestic violence. Social support may be informal, including friends and family or more formal helping services, such as health or legal workers. This presentation explores some findings from a narrative research project in Australia about women who have experienced and left domestic violence. Interviews were undertaken with twelve women who have experienced and left domestic violence, as well as three focus group interviews with services whose work includes the provision of legal support to women who have experienced domestic violence. The formal social supports, including legal support that women found helpful, or not helpful, will be discussed. The role of service providers, including the role of legal workers, in providing service to women who have experienced domestic violence will be examined in light of findings from this research project. A discussion of how service provision from the legal and health sector may be enhanced in light of findings from this research will conclude the presentation.
16. Bullying

Cyber-Bullying: Should Bullies be Protected by the Cloak of the First Amendment?

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More and more children are being seen in in-patient psychiatric units and therapeutic schools as a result of intense cyber bullying. Those are the lucky ones. Others commit suicide because they feel so hopeless and alone due to the bullying. Due to the advent of cyberbullying, bullying has become so pervasive that children feel that there is no escape, and home is no longer the protective sanctuary it once was. While many US states are enacting anti-bullying laws addressing bullying in schools, these laws, with only one real exception, fail to address omnipresent cyber-bullying outside the schoolyard. With no clear cut U. S. Supreme Court ruling addressing this topic, some states have been reluctant to expand the scope of bullying laws beyond the schoolyard due to the contention by the American Civil Liberties Union that cyber-bullying in the home is protected by the First Amendment. Opponents of anti-bullying laws have opposed inclusion of parochial schools within the scope of anti-bullying laws. If discrimination against LGBT persons is not allowed in universities, workplaces, and public facilities, why should it be allowed in parochial schools? Legal remedies, other than standard anti-bullying laws, will be explored in this presentation.

Why are Bully Prevention Programs Failing in Schools in the United States?

Dorothy Espelage, University of Illinois (espelage@illinois.edu)

Bullying is highly prevalent, reduces academic achievement, and results in psychosocial problems that extend into adulthood (Espelage & Horne, 2008). Despite the costs of bullying, the impact of bullying prevention programs in the US has been disappointing, especially in middle-schools. Two meta-analyses found that effects were non-existent or too small to be practically helpful (Smith et al., 2004, Merrell et al., 2008). A third found that programs reduced bullying in non-US countries by 23% but effects for US studies were significantly lower (Ttofi & Farrington, 2011). It is important that anti-bullying legislation and policies are comprehensive and enumerate specific characteristics of targets to be protected. Comprehensive policies about bullying and discrimination explicitly state protection based on enumerated personal characteristics, including sexual orientation and gender identity/expression, race, etc. Bullying content is highly associated with homophobic banter (for review, see Espelage & Poteat, 2012). In addition to their focus on general bullying, prevention efforts and legislation should require a focus on gender-based harassment and violence (i.e., sexual harassment and violence, dating violence, harassment and violence associated with sexual orientation and/or gender-role nonconformity).
A Call for Public Health Policies for the Prevention of Bullying: Related Health and Safety Risks

Jorge Srabstein, Children’s National Medical Center, Washington, USA (jsrabste@cnmc.org)

There is evolving evidence that bullying is a multifaceted and toxic form of maltreatment, prevalent across social settings, throughout the lifespan and around the world. People who participate in bullying as victims, perpetrators and/or as bystanders are at significant risk of suffering from an array of health and safety problems and risks. Most of the legislative initiatives developed around the world have placed the brunt of responsibility for its prevention on educators and school administrators and have focused on penalties or consequences. Given the significant psychobiosocial antecedents and consequences of bullying, as well as its public health implications, there is a need to advocate for the development of public policies that foster the prevention, detection and treatment of bullying related health problems, across social settings, throughout the lifespan and with whole community participation. This presentation will enable participants to: appreciate the developing understanding about the nature, ecology, prevalence and morbidity of bullying; review the range of anti-bullying legislative initiatives enacted around the world; advocate for the development of public policies for the prevention of bullying and related health risks, across social settings and along the lifespan, based on a three tier prevention model.

Bullying: A Child Psychiatrist’s Qualitative Reflection

Meena Ramani, Nassau University Medical Center, East Meadow, USA (drmeenaramani@gmail.com)

Bullying has both physical and mental health consequences. Bullying has been increasingly recognized as a serious, but modifiable, risk factor in children’s mental health. The mental health effects of bullying range from minor symptoms to major psychiatric problems. These may range from poor attention, transient emotional reactions, school refusal, and poor self-esteem to the development of severe anxiety disorders, such as post traumatic stress disorder, panic disorder, major depression and substance use disorders. Bullying has also been implicated in extreme psychiatric outcomes such as suicides and homicides. Bullying during childhood has been linked to development and persistence of mental health disorders during later life. With the advent of extensive outreach by internet, bullying has morphed in form over the last decade. It is also likely to become more pervasive, although mental health effects of cyber bullying are not yet systematically well studied. In the age of globalization, many children are increasingly spending their childhood in multi-cultural societies and the nature of bullying in this group may change. This presentation will focus on clinical implications of bullying, as observed by a child psychiatrist/pediatrician over the past two decades. Case presentations will include clinical observations from various settings.
Bullying and Suicide: Post Hoc Forensic Evaluation

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Bullying has become a recognized problem as evidenced by the surge in research on victims and perpetrators, as well as recent media attention in the US directed at high-profile cases of bullying and harassment. Although this social phenomenon is identified in many settings, there is little evidence-based support for successful interventions that generalize across cultures and settings. Interventions may target the bully, the target, and the system in which the bullying occurs. Traditional bullying behavior has moved into the arenas of technology and social networking. Suicide risk, as well as other psychological sequelae, may be increased for both victims and perpetrators. There are protective and risk factors that individuals or systems might possess with regard to bullying behavior and its effects. This presentation will address these issues and provide a framework for evaluators to objectively examine behaviors in the context of performing forensic evaluations in the context of civil litigation after a youth’s suicide in which bullying may have played a role. This presentation will examine some of the challenges associated with post hoc suicide forensic evaluations where bullying is cited as a “causative” factor.


Capacity and the Provision of Support and Protection for Adults at Risk of Harm

Ailsa Stewart, University of Strathclyde (ailsa.e.stewart@strath.ac.uk)

The Adult Support and Protection (Scotland) Act (2007) (ASPA) provides for voluntary and statutory measures to support and protect adults at risk of harm, including those who have capacity to make decisions. Intervention under the ASPA can only be sought with the consent of the adult. However, if evidence can be provided that the consent of the adult is being withheld due to undue pressure being exerted by an external source, the Act allows for the consent to be overridden in certain circumstances. Since the implementation of the ASPA in October 2008, it has become clear that the statutory measures to support and protect adults at risk of harm, including removal and banning orders, have been used sparingly and often only as a last resort. The measures available within the legislation to override the consent of an adult to provide support and protection have also been little used. This presentation will focus on discussing the factors considered in practice to override the consent of an adult within this unique legal context. In particular, the legislative framework and associated codes of practice will be considered alongside the place of professional judgement in considering risk of harm and the requirement
for statutory intervention, the issue of undue pressure will also be considered. The presentation will draw upon empirical research to distill the key challenges in practice of providing support and protection to adults utilising the measures within the ASPA, drawing distinctions between the various groups of professional staff involved in these endeavours.

**The Use of Section 13ZA of the Social Work (Scotland) Act: Least Restrictive Option or Unlawful Detention**

Gillian MacIntyre, *University of Strathclyde* (gillian.macintyre@strath.ac.uk)

Section 13za of the Social Work (Scotland) Act (1968) commenced in March 2007 in order to make explicit instances where a local authority, following an assessment of an individual’s needs can take steps to ensure the individual benefits from services, where they do not have the capacity to make this decision for themselves. Section 13za enables local authorities to take “any steps” they believe are necessary to ensure the individual benefits from such services. The interface between the various relevant pieces of legislation and guidance including Section 6 of the Adults with Incapacity (Scotland) Act (2000) and the European Convention on Human Rights (ECHR) are complex and local authorities must ensure that any steps that are taken do not contravene an individual’s human rights. This relates particularly to Article 5 of the ECHR, in terms of deprivation of liberty. This presentation will explore the continuing differences amongst professional groups in terms of their understanding of what Section 13za allows local authorities to do. There are mixed views for example when moving an adult who has been assessed as being “incapable but compliant” into residential care as to whether this represents the least restrictive option, complying with the principles set out in the Adults with Incapacity (Scotland) Act (2000), or whether in actual fact this represents a deprivation of liberty. The presentation will draw on data drawn from focus groups and interviews conducted with key stakeholders in this field, namely Solicitors, Mental Health Officers and Psychiatrists.

**The Adults with Incapacity (Scotland) Act 2000: The Potential of Graded Guardianship**

George Kappler, *Mental Welfare Commission for Scotland, Edinburgh, Scotland* (george.kappler@mwcscot.org.uk)

Welfare Guardianship under the Adults with Incapacity (Scotland) Act (2000) has been a victim of its own success. There are now approximately 7,000 people on welfare guardianship in Scotland – a 50% increase in three years. Private parties, not local authorities who are struggling, alongside health, to meet their statutory obligations, make most applications. There has been an increase in its use for younger people with learning disabilities. Worryingly, nearly half the orders are now approved on an indefinite basis. The question of when an order should be sought as opposed to when it must be sought continues to be the subject of considerable debate.
Alongside this increase has come a change in the nature of its use. Traditionally, applications were made largely by local authorities in exercising their protective role, now 75% of new applications are being made by private parties. There has also been an increase in its use for younger people with learning disabilities. The question of when an order should be sought as opposed to when it must be sought continues to be the subject of considerable debate. A key issue which needs to be addressed is the Act’s one-size-fits-all approach in the application process and subsequent requirements for supervising the guardian and visiting the adult. This presentation will explore a possible way forward by the creation of different levels of guardianship with graded levels of statutory involvement at the application and supervision stages which are more proportionate to the individual circumstances of the adult.

**Understanding and Use of the “Impaired Ability” Criterion for Compulsory Treatment in the Mental Health (Care and Treatment) (Scotland) Act 2003**

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Jacquie Reilly, *University of Glasgow* (jacqueline.reilly@glasgow.ac.uk)

The Mental Health (Care and Treatment) (Scotland) Act (2003), introduced in October 2005, brought a fundamental change to the criterion for compulsory treatment. For the first time in United Kingdom mental health legislation, a capacity criterion was introduced for short-term and compulsory treatment orders. This criterion states: “that because of the mental disorder the patient’s ability to make decisions about the provision of medical treatment is significantly impaired.” Significantly impaired decision-making ability (SIDMA) is not the same as “incapacity” under the Adults with Incapacity (Scotland) Act 2000 but is a “related concept” based on similar factors, but with a lower threshold. As such, the law in Scotland “recognises that patients with mental disorder may have impaired capacity which, while damaging their ability to make decisions, does not render them entirely incapable.” This was seen as being a more ethical and less discriminatory way of dealing with people with mental disorders. There is no precise threshold for SIDMA, which means that there can be different interpretations within and between different professional groups, depending on the circumstances and complexity of any given assessment. It is important to understand how different groups view this possibility and what provisions they expect to make. This presentation focuses on the findings of a study which assessed relevant professional groups (psychiatrists, mental health officers) views about how SIDMA is being applied by professionals, including potential differences between groups, the impact of the inclusion of the criterion on decisions about compulsory treatment and the setting for treatment.

**The Impact of Significantly Impaired Decision-Making on High Readmission Rates to Hospital: A Psychological Perspective**
Psychiatric hospitalization is a major life event for both patients and families and has significant societal costs. Readmission rates have been used to monitor success in preventing, or reducing, unplanned readmissions to hospital for acute psychiatric services. Repeated emergency admissions to acute in-patient psychiatric units have been variously defined and such individuals have been known as “high readmission” patients. In 2008, the Scottish Government set NHS Health Boards specific Health Efficiency Access and Treatment (HEAT) targets. Target 3 was to “reduce the number of readmissions (within one year) for those that have had a hospital admission of over seven days by 10%.” The Scottish Patients at Risk of Readmission and Admission (SPARRA) is a risk prediction algorithm, developed by the Information Services Division (ISD) Scotland. It aims to identify patients at greatest risk of emergency admission. The SPARRA for mental disorders has been considered potentially useful in planning healthcare provision and measuring the effects of service redesign. This presentation will outline data on the clinical and demographical characteristics of “high readmission” patients within a NHS Lanarkshire locality. It will draw upon empirical findings on how “high readmission” patients were significantly more likely to have Compulsory Treatment Orders under the Mental Health (Care and Treatment) (Scotland) Act (2003) used between admissions compared to patients with less frequent admissions. Issues concerning significantly impaired decision-making, risk to self or other, treatment refusal and likely benefits of treatment are explored.

18. Challenges under Guardianship and Mental Health Law in New South Wales

Community Treatment Orders: Two Decades of Experience as a Clinician and a Review Tribunal Member

Charles Doutney, Prince of Wales Hospital, Sydney, Australia (cdoutney@bigpond.net.au)

After a decade of consultation, New South Wales introduced a new Mental Health Act in 1990 intended to define the conditions for involuntary care, to facilitate access into that care for mentally ill persons at risk of serious harm, to provide such care in the least restrictive setting consistent with safety and efficacy and to give carers a right to be involved in the care. In order to meet the second of these aims, CTO’s with a looser set of requirements than those for inpatient involuntary care were included in the provisions of the Act. Over the two decades the use of CTO’s has continued to increase, and contradictions have emerged between the original intent of legislators to limit their use to short periods of time and the long term use of involuntary community treatment to ensure continuance of care. The presentation will discuss issues of
definition, incapacity, efficacy and duration from the perspective of clinicians, tribunal members, patients, carers and outside reviewers.

**Financial Management Orders, Capacity, and Challenges under Guardianship Law in New South Wales**

Rohan Squirchuk, Barrister, Surry Hills, Australia (rohan@rohansquirchuk.com)

My client is under a Financial Management Order (FMO) and faces the challenges in demonstrating that she is able to manage her own affairs and the need for there to be a review body over Trustee and Guardian that is not the Mental Health Review Tribunal (MHRT). Therefore the issue of capacity as opposed to mental health needs to be pursued in this presentation. A financial manager has the authority to make decisions about financial affairs for someone who is incapable of making these decisions for him or herself. Financial affairs refers to things such as operating bank accounts, paying bills, investing money, or selling or buying property. The NSW Trustee and Guardian Act (2009) allows a Financial Management Order to be made. The MHRT is one of the bodies with the power to make FMOs. FMOs can also be made by the Supreme Court and the Guardianship Tribunal. When the Tribunal makes a FMO, it appoints the NSW Trustee to manage the financial affairs of the person under the FMO. The NSW Trustee manages the property, business and financial interests in close consultation with the person and if appropriate, his or her nominated friend, relative, guardian or care provider. The actual day-to-day management of the person’s affairs is undertaken by staff who work for the NSW Trustee.

**Refugees: Death in Custody – An Australian Problem?**

Yega Muthu, University of Technology at Sydney (yega.muthu@uts.edu.au)

In Australia, refugees are subjected to mandatory immigration detention for two years or more whilst they await their applications to be processed. They have no assets or income as they are prohibited from working. There is a clear association between prolonged and indefinite incarceration and psychological injury for asylum refugees. The compound effect of indeterminate mandatory detention and the inability to work unequivocally leads to detainees developing anxiety, major depression and psychosomatic illness. Pre-existing conditions such as post traumatic stress disorder are exacerbated by detention and result in acute mental illnesses, self-harm and suicide attempts. There have been reported deaths in detention centers. The Australian Government paid $23 million in compensation for unlawful detention and for careless treatment of refugees under civil law. What is the Australian Government doing about this problem? This presentation will explore possible solutions and reduce deaths in custody and self harm.
**How Effective are Compulsory Treatment Orders for the Treatment of People with Persisting Psychotic Disorders Receiving Psychiatric Treatment in the Community?**

Andrew Campbell, *Mental Health Review Tribunal, Boronia Park, Australia*  
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How effective are Compulsory Treatment Orders (CTOs) for the treatment of people with persisting psychotic disorders receiving psychiatric treatment in the community? The experience comes from 12 years reviewing CTOs in New South Wales. The author will outline the elements of Australian legislation, review seminal studies, summarize personal research over 12 years into who gets such orders and their effectiveness, and discuss recommendations for future legislation and research. CTO’s are an important element of effective community care but require adequate resourcing of Community based services to be effective.

**19. Child Abuse I**

*Maternal Incest: Challenges for Child Protection*

Jackie Turton, *University of Essex* (turtje@essex.ac.uk)

Protecting children against abuse is not always possible for a variety of reasons, but numerous public enquiries in the United Kingdom have laid the blame for failure at the door of the statutory services. By examining unusual cases we increase our understanding of the difficulties confronted by professionals in the current child protection process and consider ways in which these might be challenged. There are usually three key players who interact within known cases of familial child abuse: the child, the abuser and the child protection worker. In some ways it is this social framework that creates opportunities for perpetrators to abuse and can silence the child victim, especially in cases of maternal incest. The data for the presentation is drawn from interviews conducted for research considering female perpetrators and also includes a consideration of the current literature. The presentation will analyze some of the problems encountered when confronted with mothers who sexually abuse their children, such as the denial by professionals, the social expectations of mothers, and mothering, and the silent child victim. The focus will highlight gaps in contemporary child protection provision and the problems encountered when dealing with cases of abuse that fall outside of familiar gender stereotypes and storylines.

*Innovations in the Children’s Court of Victoria in the Management of Sexual Abuse Allegations*
In 2006, wide-ranging legislative reforms were introduced in Victoria, Australia with a view to improving the experience of sexual abuse victims in the criminal justice system. A number of these changes related to the way children gave their evidence, including the creation of a specialist Child Witness Service and increasing the ability of the judiciary to prevent inappropriate questioning. The Children’s Court embraced these changes and set up a sexual offence list to manage the cases and implement the reforms. The offenders in the Children’s Court are up to 18 years of age and their victims can be very young children. Except in the most serious of offences, the emphasis has been on ensuring a rehabilitative rather than a punitive approach. In appropriate cases, this has involved diverting young offenders out of the criminal justice system. A further challenge for the Children’s Court has been in the area of child protection where the alleged offender is most often an adult. With the assistance of a multi-disciplinary consultative committee, the Children’s Court will pilot a specialist Sexual Abuse List in the first half of 2013. This presentation outlines the operation of this list and the challenges it presents as the Court attempts to improve court processes in the difficult areas of evidence, proof and risk assessment.

The Physical Punishment or “Lawful Correction” of Children: An Issue of Rights and Effects

Bernadette J. Saunders, Monash University (bernadette.saunders@monash.edu)

Tolerance of physical punishment in childhood reinforces children’s subordination and enhances their vulnerability to physical and emotional harm. To date, 193 countries have ratified the United Nations Convention on the Rights of the Child (1989), yet following Sweden’s example in 1979, only 33 countries have enacted legislation to prohibit the corporal punishment of children in all locations, including the child’s home. In Italy and Nepal, common law decisions are yet to be codified. Eighty countries still allow the corporal punishment of children at school. This unnecessary response to children continues despite increasing evidence that physical punishment is associated with mental health issues and aggressive, anti-social behaviours. The impact of physical punishment may be evident in childhood and continue through to adulthood. In this context, this presentation discusses the continuing tolerance of physical discipline of children, with particular reference to the defence to assault of “lawful correction” or “reasonable chastisement” as well as relevant international law. While the potentially harmful effects of physical punishment on children’s well-being are noted, children’s rights to dignity and respectful treatment are emphasised. This presentation also highlights some children’s perspectives on this issue.
Informing Decisions: What Lawyers and Social Workers Should Know

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In child protection matters, the legal and social work professions share a common concern that the best interest of the child is served and justice is done. Both professions are informed in their engagement of this area by specialized knowledge and by critically analyzing available information. Whilst there are commonalities, a tension between the legal profession and statutory social work exists. This tension has the potential to interfere with information presented to the Court and thus to impact on judicial decisions. This presentation will explore commonalities and differences of knowledge and processes between the two professions when dealing with situations related to child protection. Drawing upon a framework of levels of knowledge, which identifies public domain knowledge, shared professional knowledge and specialized knowledge, the presentation suggests approaches, which can be taken to minimize the tensions and potentially lead to better informed decisions.

Responding to Vulnerable Children: Developing Policy about the Care and Protection of Children

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Child protection arrangements in Australia are closely aligned with judicial processes and segregated from broad child welfare, family support or health and mental health promotion systems. Legislation provides clear structures and procedures for responding to child abuse, focused on immediate events and less on the long term personal, societal, health and behavioural outcomes for children. How effective is the Children’s Court is underpinned by notions of social responsibility, regulation and minimum burden as well as a strong individualist and individual rights basis to welfare policy that is evident in Australia. This presentation reports on the Victorian segment of a recently completed study which provided a national assessment of the institution of the Children’s Court across each of Australia’s eight states and territories. Judicial officers and key stakeholders were asked about the contemporary status of, and current challenges faced by, the child welfare and criminal courts in their jurisdiction and their degree of support for child welfare and juvenile justice jurisdiction reforms canvassed in Australia and overseas. However, tension between child protection and legal systems is challenged by how the problem of child maltreatment is framed and whether or not child abuse is understood as a problem of family conflict that demands sanction, or as a mix of social, economic and psychological difficulties that are responsive to services and public aid. The presentation outlines some of the reforms that have been introduced to respond to these challenges and how these have been informed by UNCRC and other systems principles.
Child Sexual Abuse: An Irremediable Hurt?

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The phenomenon in object results ubiquitous both regarding victims’ gender and socioeconomic conditions. The important consequences linked to what they suffered, either immediately or with adolescent or adult onset, are mediated by age and family support to trauma reprocessing as well as by frequency of repetition of the abuse or familiarity with the abuser. These factors appear to be of primary importance – both at a physical and a psychic level – and may be expressed in multiple manifestation. It would be impossible to ignore any alarm signals revealing suspected abuse suffered by a minor. Specific attention will be directed towards short- and long-term consequences, including post traumatic stress disorder, personality disorders, depression, substance abuse, as well as perpetuation of the same behavior. In this field, the dramatic lack of proper training of the professionals who work with minors on a daily basis (pediatricians, teachers, etc.), as well as poor treatment techniques, emphasizes the urgent need for prevention and early intervention.

Causing Parental Alienation is a Form of Child Abuse

William Bernet, *Vanderbilt University* (william.bernet@vanderbilt.edu)

Parental alienation is a serious mental condition that sometimes occurs when a child’s parents are engaged in a high-conflict separation or divorce: the child allies strongly with one parent and rejects a relationship with the other parent without legitimate justification. In some instances, parental alienation is brought about by the indoctrination of the child by the preferred parent against the rejected parent. If the preferred parent has indoctrinated the child in a knowing, purposeful, persistent manner to hate and avoid the alienated parent, that behavior should be considered emotional or psychological abuse of the child. Although psychological abuse of a child is not currently included in the Diagnostic and Statistical Manual of Mental Disorders, it is included in the International Classification of Diseases. There is considerable international research to support this proposal that causing parental alienation should be considered a form of child abuse. The presenter will summarize the work of psychologists, psychiatrists, and legal professionals from various countries. In some instances, state and national governments have made it illegal to induce parental alienation in a child. Also, in some cases, the European Court of Human Rights has recognized the serious nature of parental alienation.
Parental Alienation in North America: A Review of 3,000 Cases from the United States and Canada from 1986 to 2011

Demosthenes Lorandos, Attorney-at-Law, Ann Arbor, USA (lorandos@psychlaw.net)

Reported cases concerning high conflict child custody and parental alienation (PA) from the ten Canadian provinces and fifty American states were reviewed. A database of more than three thousand cases from the twenty-five year time period 1986 through 2011 was compiled. Substantially larger than any previously published database, the material was scrutinized with additional refining criteria: if an independent evaluating expert testified on the subject of PA, whether or not the expert found PA, or if the court found on any basis that there was PA whether or not there was expert testimony, the case was included; if a court did no more than speculate concerning PA, or if the court’s action was to appoint an expert to examine the extent to which there may be PA, the case was not included for further review. This refining analysis yielded four hundred eighty-two cases of severe PA. Half of the cases involved fathers as target parent and half involved mothers as target parent. These cases were carefully reviewed and sixty of the cases wherein the court changed the child victims’ domicile were chosen as representative of the handling of severe PA cases in Canada and the United States. Jurisprudential trends such as the use of enhanced evidentiary criteria for the evaluation of the validity and reliability of differential diagnosis, the use of paid governmental or ancillary evaluative or support personnel, and the imposition of domiciliary change, fines and imprisonment are discussed.

Mental Health and Reviews into Child Death or Serious Injury from Maltreatment: An Analysis of Reviews from England from 2003-2011

Marian Brandon, University of East Anglia (m.brandon@uea.ac.uk)

The death of every child in England (and the serious injury of some children) through abuse or neglect is subject to a local multi-agency serious case review. The review should establish whether there are lessons to be learnt from the case about professional practice and decision-making. This presentation reports the patterns in a series of four government funded biennial analyses of these reviews carried out in England between 2003 and 2011 using both quantitative and qualitative research methods. Over time, a decreasing number of children were known to child protection agencies and more children and families were receiving only universal services at the time of the child’s death. Although the co-existence of parental domestic violence, substance misuse and mental health problems signal increased risks of harm to a child, they do not predict child death or serious injury. Most cases of parental mental ill health were known to primary health care practitioners rather than psychiatrists. Some cases had a profile of rapid deterioration in parental mental ill health with little warning for professionals. Although patterns are evident, the trajectory of each individual case is too complex to provide a check list of factors which might predict maltreatment related death or serious injury to a child. The anxiety generated by child death from maltreatment can mean that evidence from such reviews can be
misinterpreted and misapplied in practice. It is the individual differences in each child’s case that pose the most challenges for understanding and for decision-making.

21. Child Abuse III

Children Taken into Care or Custody and the “Troubled Families” Agenda in Britain

Carol Hayden, University of Portsmouth (carol.hayden@port.ac.uk)

This presentation takes a critical look at how current policy initiatives in Britain characterise and respond to “troubled families.” The presentation draws on current empirical research into the needs and issues in the lives of 196 children taken into care or custody in one city and the adults in their families. The research is being used to inform the development of a new service that will use Multi Systemic Therapy (MST) to work with “troubled” families. The developing MST service is part of a range of nationally promoted interventions and supports to “troubled” families. The presentation considers the evidence and value base for this type of intervention.

A Case of Matrilinear Transgenerational Parental Alienation in Sweden: Lessons Learned and Recommendations for Policy Change

Nils-Göran Areskoug, Strömstad Academy (nilsare@gmail.com)

This case of parental alienation between a father and his two children, born in 1973 and 1974, evolved across generations. An analysis of the case reveals a sequence of decisions by social and legal authorities that brought about alienation over more than 30 years, up to the final stage of “parentectomy.” Major factors that cause such failure include: (1) the inadequate level of expertise in this area among investigators and judges; (2) the mode of communication and interaction between social and legal agencies; and (3) the failure of harm prevention, including an inability to assess the probability of long-term effects on children during development. Authorities need to prevent aggravation of parental alienation by: (1) developing methods of coordinated efforts; (2) updating themselves on clinical research and scientific progress in the field; and (3) elaborating an epistemology for interdisciplinary interpretation that integrates insights from sociology, psychology, and psychiatry with the legal system. The system fails to protect children and parents from lifelong harm and victimization. The present inadequacies call for sweeping changes in Nordic family policy. A specialist multidisciplinary clinical competence center for inquiry, intervention, treatment, research, training, and public information is proposed to the Swedish government.
Parental Alienation Violates the Child’s Legal and Human Right to Family Life: An American-Swedish Case Study

Lena Hellblom Sjögren, Testimonia, Fagersta, Sweden (mail@testimonia.se)

The child belongs to a family system, with roots on both parents’ sides, even if the parents do not stay together. The child has a legal and a human right to family life. The European Court of Human Rights (ECHR) has recognized how these rights are violated in complicated custody conflicts when a child is alienated from one parent. In its decisions, the ECHR has supported the child’s legal and human right to family life and the child’s right to keep his or her identity. A case study will be presented that illustrates the violation of these rights. The father was an American and also a Swedish citizen, and the family had settled in the United States. After the mother and the couple’s three children, following a conflict, suddenly moved back to Sweden, a lower court in Sweden awarded sole custody of the children to the father. However, the mother appealed her loss of custody and asked to have the court decision overruled, which was granted. The mother continued to influence the children to not want to see their father, or have any contact with him or any member of his family. In March 2009 the appeals court gave sole custody to this Swedish mother. Their address is now hidden.

Compensating Uncertainty in Legal Decision-Making in Child Sexual Abuse Cases

Katarina Finnilä, Åbo University (katarina.finnila@elisanet.fi)

This presentation will explore the effects of two pitfalls in legal decision-making: compensatory punishment (i.e. the uncertainty about guilt is compensated by a milder sentence) and the conviction paradox (i.e. the threshold for evidence is lower in aggravated crimes than simple crimes), on child sexual abuse (CSA) sentences. The effect of experience and training on decisions will also be examined. Four case materials in which the strength of the evidence was manipulated for simple and aggravated CSA were given to 64 judges, 82 law students and 99 laymen. Participants were asked to decide on guilt or innocence and to report demographic data. Judges convicted more easily in simple than aggravated CSA cases when the evidence was weak. In the two other groups, no support for the conviction paradox was found. Law students would have given milder sentences for simple CSA with weak evidence than with strong evidence. In the other two groups, confirmation for the hypothesis of compensatory punishment was not found. For aggravated child sexual abuse, no confirmation for the hypothesis of compensatory punishment was found in any group. Training and experience affected sentences given, but did not have an effect on the two decision-making pitfalls.
**Justice Scalia’s Concept of Childhood and Children**

Aviva Orenstein, Indiana University (aorenste@indiana.edu)

The Supreme Court of the United States has frequently discussed the rights, entitlements, and responsibilities of children. Sometimes these cases are steeped in psychology of children, such as *Roper*, which held that because of their immaturity and lack of full brain development, people cannot be sentenced to death for a crime committed before their eighteenth birthday. In other cases, such as *DeShaney v. Winnebago County*, where the Court held that a state’s failure to prevent child abuse by a custodial parent did not violate the child’s rights, or Justice Scalia’s dissent in *Maryland v. Craig*, in which he opposed allowing children to testify about their molestation via closed circuit television, the obligations and rights of the adults take precedence and the discussion shifts away from the rights and interests of the children. The Court’s view of children does not merely change over time, but lacks a coherent perspective on the nature of childhood. Of particular interest is Justice Scalia, whose jurisprudence favors rules and respect for authority. Children are often stand-ins for debates and conflicts that trouble the justices. Occasionally, children are treated by the Supreme Court of the United States as property of their parents or pawns of ideological clashes rather than as citizens who have rights and need protection.

**Immunization and Innocence**

Sydney Spiesel, Yale University (sydney.spiesel@yale.edu)

Immunization has been one of the great bulwarks against illness – protecting against personal and epidemic disease – for more than a century. The public health importance of vaccines is so great that vaccination of children is often required by law. In 2006, the first vaccine intended to protect against selected strains of the human papilloma virus (HPV) was licensed in the United States. The four strains of papilloma virus covered by this vaccine are all mainly transmitted sexually and cause genital warts and cervical cancer and, in addition, various other precancerous and malignant conditions. Earlier field trials suggested that the vaccine was strongly protective, but only if given before exposure. The very existence of the vaccine and the recommendation that it be given early – before there is much likelihood of sexual exposure – led to a bipolar response in parents: some urgently demanded its use and others were outraged at its availability. The early enthusiasm of many public health workers for this vaccine led many to push that it be made mandatory, much like most other childhood vaccines. This recommendation was met with powerful and, ultimately, fatal resistance. Many parents have a hard time imagining their children as sexual beings, and I will argue that a crucial element in the character and direction of parental and social response has to do with competing images of childhood and, for some, a perception of loss of sexual innocence in the immunized child.
**Embryos or Infants? Emotional Attachments to IVF Embryos**

Jody Madeira, *Indiana University* (jmadeira@indiana.edu)

Patients undergoing in vitro fertilization (IVF) often have one or more frozen embryos remaining after an IVF cycle is complete. They often form emotional attachments to the embryos created in fertility clinic labs and cryogenically frozen. Patients have to make many decisions about what will ultimately happen with these frozen embryos with popular choices being to use them in further attempts to conceive, donate them to medical research, donate them to another couple, thaw and destroy them, or allow them to remain frozen forever. Patients’ perceptions of and feelings towards these embryos change depending on myriad factors, such as whether cycles are successful or unsuccessful, how many children are conceived, personal opinions ideal family size, religious and moral views, marital dynamics, and gender. This presentation examines the contours of these emotional connections through qualitative interviews with IVF patients in the United States. It will discuss under what conditions certain attachments form and what consequences these attachments have for the infertile patients, including deciding upon eventual dispositions for surplus frozen embryos.

**Self-Esteem and Narcissism in Adolescence: Relations with Self-Reported Delinquency in Forensic and School Contexts**

Rui Manuel Xavier Vieira, *University of Lisbon* (ruvie2@gmail.com)

The aim of the present study was to analyze the relative importance of self-esteem and narcissism constructs and to assess the association between these constructs and self-reported criminal behavior. With a total of 760 youths of both sexes divided in a forensic sample (n=250) and a school sample (n=510), comparisons were made with respect to the two constructs and a multiple regression model was employed, using self-reported delinquency as the dependent variable. The results indicate that the forensic sample is characterized as having low self-esteem and high narcissism when compared to the school sample, that the correlation between the two constructs is almost non-existant, and that narcissism is the variable that contributes the most to the prediction of self-reported delinquency.

**23. Clinical and Ambulant Emergency Psychiatry in Amsterdam**

**An Ultra Short Admission Unit to Provide Flexibility in the Admission Capacity in Amsterdam**

Hans Nusselder, *Arkin, Amsterdam, The Netherlands* (hans.nusselder@mentrum.nl)
Astrid Vellinga, *Arkin, Amsterdam, The Netherlands* (astrid.vellinga@mentrum.nl)
Working in acute psychiatry is often put under pressure by a shortage in admission capacity, especially in large cities. This shortage has increased considerably in the last few years because of the greatly increased amount of involuntarily committed patients, the cutting back on admission capacity and the altered norm for the maximum duration of a psychiatric patient’s stay in a police cell. In this context a Short Transitional Admission Unit (STAU) (“Tijdelijke OverbruggingsAfdeling – TOA”) in Amsterdam functions as a gateway to admission into all clinics. We will evaluate the role of a STAU as a component of acute psychiatry. The STAU must have the capacity for at least one admission at all times. This is realized by means of a “worst in, best out” system. This results in shorter stays in police cells and drastically decreased out-of-area placements. Patient characteristics and applied forced interventions are being reviewed in a sample of 5000 patients admitted to the STAU in the last 10 years. The establishment of an ultra short transitional admission unit as a gateway for admission to a clinic is effective as a buffer during a shortage in admission capacity.

**Involvement of the Patient’s Family in Psychiatric Treatment: The Necessity, a Model, and the Juridical Problems**

Jurgen Cornelis, Arkin, Amsterdam, The Netherlands (jurgen.cornelis@arkin.nl)

The notion that it is important to involve patient’s families in psychiatric treatment is now widely accepted. Research has shown that systemic therapeutic interventions are effective in different types of psychiatric illnesses. Experience shows that involving the family, for example in crisis situations, can lead to a breakthrough in treatment. Furthermore, family can give a wealth of new information about the problem and working with the patient and his family together helps treatment succeed in the long run. But in which way can we work together with the patient and his family? Different models are described in family therapeutic handbooks but most of them are difficult to apply, for example on psychiatric wards or in emergency rooms. In this presentation, a model for working with families will be presented, which is very easy to learn, which can be problem- or solution-driven and in which the social worker or doctor can be in the role of expert or process manager. By means of case material, the tension between privacy of the patient and accurate care when the family is involved will also be discussed.

**Compulsory Admission of Severely Mentally Ill Patients in Mental Health Care**

Jack Dekker, Arkin, Amsterdam, The Netherlands (jack.dekker@arkin.nl)

To our best knowledge, severely mentally ill patients can get optimal treatment from a medicinal perspective. However, the efficacy of medication is moderate and the use of it can result in multiple side effects that can possibly lead to polypharmacy and a shorter life expectancy.
Frequently, they are compulsorily admitted and often transferred to a different ward or institution. They are subject to discrimination and victimization by society rather than being the aggressors themselves. A large group probably had no permanent residence during the last decades and the majority of this group is likely to have a low social participation and integration. This presentation takes a closer look at the problems as mentioned and is based on a cohort study of 323 EPA patients in care (in Amsterdam) who were interviewed in 2005/2006 and again in 2010/2011 (224 out of 323 patients have participated in the follow-up assessment).

24. The Clinical, Forensic, and Ethical Pitfalls of the DSM-5

Mind, Brain, and the Nature of Psychiatry

Ronald Abramson, Tufts University (rona976@aol.com)

Psychiatry is the medical specialty that deals with the diagnosis, treatment, and prevention of mental and emotional disorders of the mind. The mind results from the activity of the organic brain. Activities of the brain can be objectively observed using the methods of physical science, but the activities of the mind can only be observed subjectively through introspection of one’s self or through empathic communication with another. In the early twentieth century, disorders of the subjective mind were the focus of mainstream psychiatry, and psychoanalytic thinking was the chief mode of understanding these disorders. However, problems in diagnostic reliability, scientific rigor, and advances in pharmacology and diagnostic imaging have led to a shift in emphasis to biological reductionism. Mental disorders are now defined as “brain diseases” whose criteria are listed in the DSM. The subjective dimension has vanished. Although biological reductionism may seem more scientific, excluding the subjective mind from consideration is not scientific at all and may in practice lead to clinical error. Cases will be presented that will document how exclusive reliance on DSM objective criteria led to mismanagement and put patients at risk.

The Diagnostic and Statistical Manuals’ Contribution to Stigmatization

Burton Norman Seitler, Consulting Psychologist, Teaneck, USA (binsightfl1@gmail.com)

This presentation expresses the point of view that formal diagnoses for emotional dilemmas label and scar human beings. Furthermore, such diagnostic categories are relics of an anachronistic, antiquated, and inaccurate medical model. This author argues that the medical model is unsuitable for use in attempting to understand the delicate, intricate, and complex entity known as the human mind, and that to attempt to employ medical/scientific sounding terminology only provides a superficial illusion of understanding someone rather than a genuine in-depth understanding of the individual, which can only be accomplished in an interpersonal,
psychosocial interaction, one that is not simply cursory. The Diagnostic and “Statistical” Manuals (DSMs) confuse and compound the issue by assuming that once we name something, we now know what it is and we therefore know how to treat “it.” Moreover, the term “statistical” in the Diagnostic and Statistical Manuals is a clever “spin” implying that a statistical analysis of data has taken place that has produced empirical results that are verifiable and replicable. Nothing is further from the truth.

**Limitations of the DSM in Clinical Neuropsychiatric Disorders**

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The purpose of the Diagnostic and Statistical Manual of Mental Disorders is to provide, in part, descriptive information on various diagnostic categories in order to allow clinicians the ability to diagnose, treat, and communicate about people with various mental disorders (paraphrased from Cautionary Statement, DSM-IV, APA). Among the large number of psychiatric disorders listed, some overlap with clinical neurology, including dementia, delirium, attentional disorders, and movement disorders. Although this descriptive information can be helpful, the underlying neurobiology and mechanisms of disease are not emphasized. Different diseases can result in similar clinical pictures on the surface, yet have major differences in causation, process, interventions, or prognosis. This presentation will provide a critical review of some neuropsychiatric conditions described in the DSM series up to DSM-V, and the potential impact on clinical care and risk management issues for the patient and clinician.

**Addressing Pharmaceutical Industry Undue Influence on Psychiatric Treatment in the Internet Age**

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The internet has allowed pharmaceutical marketing to become more salient than ever before. Its power to disseminate information has helped the public in many ways, but has also allowed for novel conflicts of interest – as when information misleads in order to promote a pharmaceutical company’s marketing efforts, and unduly influences psychiatrists’ prescribing. Such tensions are further complicated by the idiosyncrasies of the internet as a communication medium, challenging traditional bioethical principles intended to safeguard the physician-patient relationship. We analyze how the internet influences psychiatric treatment decisions, and how its characteristics, coupled with the nature of contemporary psychiatric practice, can leave users vulnerable to misinformation. We found that drug marketing can mislead across both established
and novel internet domains, including search engines, company websites, email lists, blogs, wikis, health information services, and mobile health software. We identify misleading internet informational and presentational trends common among these domains. Finally, we explore potential improvements, including independent evaluation, provision of unbiased information on commercial sites, warnings on search engine result pages that hyperlinked websites may contain misinformation, identification of misleading search engine results using algorithm, and implementation of rules regarding conflict of interest disclosure within resources that promote discussion among typically anonymous individuals.

**How the American Psychiatric Association’s Ties to the Pharmaceutical Industry Bind its Diagnostic and Treatment Guidelines**

Lisa Cosgrove, *University of Massachusetts Boston* (lisa.cosgrove@umb.edu)

This presentation will use the conceptual framework of institutional corruption as a lens through which to examine the intellectual and ethical crisis in organized psychiatry today. Taking the position that institutional corruption exists when there are a set of practices (both implicit and explicit) that create conflicted organizations (Lessig, 2011) – the main mission of the organization is deflected – it will be shown that “corruption” in organized psychiatry today is not simply the result of individuals with financial ties to industry. It is not about a few “corrupt” individuals who are hurting an organization whose integrity is basically intact. Although high profile cases, such as those involving ghostwriting of texts or peer-reviewed journal articles, shift attention to individuals, institutional corruption is a socio-political problem, not an individual one. Additionally, the analytic framework of institutional corruption is useful in that it encompasses ethical issues and concerns that “conflict of interest” may not. For example, serious questions have been raised about the integrity of the Diagnostic and Statistical Manual of Mental Disorders (DSM) and about the trustworthiness of clinical practice guidelines produced by specialty organizations such as the American Psychiatric Association (APA). This presenter will report on research addressing the quality of diagnostic and treatment guidelines produced by the APA. A central question of this presentation is: Insofar as institutional corruption distorts truth seeking, what scientific, diagnostic, and treatment truths get most distorted in psychiatry today, and what are the ethical and medico-legal implications of these distortions?

**25. Cognitive and Neurobiological Factors in Communication**

**Cortisol Concentrations and Workers Self-Reported Mental Health: Are They Related?**

Pierre Durand, *University of Montreal* (pierre.durand@umontreal.ca)

Alain Marchand, *University of Montreal* (alain.marchand@umontreal.ca)
The cortisol hormone is a biomarker of stress. One possible use of cortisol measurements in occupational mental health is to better calibrate mental questionnaires based on subjective evaluation. Sound cut-points may be established to scores based on subjective evaluation. Cases and non-cases may be more reliably estimated, as well as developing sound workplace preventive strategies to intervene on symptoms before they reach an undesired level. However, all of these assume a significant relationship between cortisol excretions and scores on mental health questionnaires. This study aims to model the relationship between three self-reported mental health outcomes (psychological distress, depression, and professional burnout) and cortisol concentrations by comparing non-working day to working day ones. Saliva samples were collected on 132 workers employed in 13 workplaces in Canada. Consenting workers provided 5 saliva samples a day (awaking, 30 minutes after awaking, 2 pm, 4 pm, bedtime) repeated 3 times (Saturday, Tuesday, Thursday) over a week. Multilevel regression models were estimated with saliva samples at level-1, days at level-2 and workers at level-3. Controlling for gender, age, marital and parental statuses, results revealed cortisol concentrations were not significantly associated with psychological distress, depression, and burnout scales. Implications and limitations of these results are discussed.

Mind the Empathy Gap: The Case for Communication Training in Healthcare

Kathleen A. Bonvicini, Institute for Healthcare Communication, New Haven, USA (kbonvicini@healthcarecomm.org)

Abundant research evidence in healthcare and medicine has informed us that the manner in which healthcare clinicians and teams interact with patients has significant repercussions. The quality of the interaction has direct effects on patient satisfaction, diagnostic accuracy, patient trust and their willingness to follow through with recommendations, informed consent, malpractice risk, and the likelihood of making a medical mistake. Of particular interest to attorneys, malpractice carriers, and risk managers is the research evidence linking poor communication with liability risk. The major reason behind a patient’s decision to pursue litigation against a physician is a perceived lack of caring or empathy by the physician. This very powerful and core skill of empathy is one most valued by patients, yet often lacking in clinician-patient encounters. Evidence has shown that physicians frequently miss opportunities to acknowledge their patients’ expressed feelings which may lead to a reduction in trust and confidence felt by the patient. In order to effectively address patient needs and preferences in the current healthcare environment, clinicians and healthcare teams require training in interviewing and communication skills to address behavioral and social influences and incorporate patients in decision-making. The changing needs of society with a strong focus on consumerism and patient empowerment have emphasized the need to provide clinician and team training to adapt to these changes. Communication training programs can provide insight into patients’ experiences,
provide skill practice for clinicians to effectively respond to patient symptoms, concerns, preferences and emotions, and lay a foundation of trust.

**Attachment and Mentalization in Doctor-Patient Relationships**

Ninel Beketova, *Institute of Doctor-Patient Relations, Moscow, Russia* (nelbeketova@me.com)

There is a vast amount of research that shows the main source for law suits in medical practice is miscommunication. In this presentation, I will explain how miscommunication has roots in attachment theory by John Bowlby and discuss the mentalization approach by Peter Fonagy and Antony Bateman. The main premise of Bowlby is that we need attachments for our survival and that we have a special type of behavior which drives us, which he called attachment behavior. It activates during distress and its purpose is to drive us to find a person who will help us and provide us with relief. We can see the activation of attachment behavior in doctor-patient relations. What happens with reflective functioning and mentalization during this activation will be discussed. For example, low mentalization is a key factor for misunderstanding and even harm in relationships. Knowledge of the attachment and mentalization processes during communication in doctor-patient relationships and some techniques of improving mentalization will help clinicians to build better relationships with their patients.

**What Are You Really Saying?**

Monica Broome, *University of Miami* (mbroome@med.miami.edu)

To improve the outcomes of communication, it is essential to understand important underlying principals. New methods of technology in medicine have opened new areas and expanded other areas of research of the brain to demonstrate why we do what we do when we communicate with each other. There is now extensive evidence that nonverbal communication is a key factor in understanding what is really being said and increases the odds of getting to the heart of the matter. Communication is influenced by multiple factors, including but not limited to: nationality, culture, ethnicity, race, age, gender, and class. Understanding nonverbal communication gives an advantage because some basic core expressions and mannerisms transcend those factors and are universal. This research is used in many fields to detect whether someone is telling the truth, for example. What we say with our words is only about 7% of our communication, as the majority is nonverbal communication. It is important that we understand what is really being said by understanding what is communicated to us on the nonverbal level, because nonverbal communication is a more reliable indicator of what the person is truly experiencing and expressing. When there is a discrepancy or incongruity in what a person says and their nonverbal cues, nonverbal trumps verbal. This presentation will offer some basic neuroscience, basic concepts of nonverbal cues, and offer practical suggestions for picking up cues to what a person is really saying.
Community Treatment Orders (CTOs) have been available in some countries for many years now but are relatively new in others and have not been introduced in many. They remain controversial to this day with strong opinions expressed on both sides by healthcare professionals and service users. The heated ongoing debate is at least in part due to the lack of a clear evidence base regarding their acceptability and effectiveness. The evidence base is quite substantial but hard to interpret and often unclear and/or contradictory. This presentation provides an overview of the most important studies from different regions of the world with recent advances in our knowledge about the key questions of effectiveness and tolerability. It looks to ways in which we can build upon this base to understand these legal mechanisms and their effects in a more sophisticated way.

Use of Leverage Tools in Outpatient Mental Health Care in England

Ksenija Yeeles, University of Oxford (ksenija.yeeles@psych.ox.ac.uk)

Research in coercion is not only restricted to legal detention. Patients often perceive their outpatient treatment as coercive. The MacArthur Coercion Group study in the United States reported that up to 50% of outpatients had experienced leverage (pressure to adhere to treatment). The present study aimed to explore the use of leverage tools in outpatient care in England and how it might vary between different clinical groups, and to compare levels of use with the United States sample. Researchers conducted structured interviews with psychiatric outpatients. Data on the use of specific leverage (access to accommodation, financial assistance, criminal justice system and child custody), patient social and clinical characteristics were collected through interviews and medical records. A total sample of 417 participants was recruited in outpatient services. Overall, 35% of the sample reported experiencing leverage. The most common leverage used was access to accommodation. Reported levels of leverage were lower in England compared to the United States (35% v 51%). Psychosis patients report a higher level of experienced leverage. Use of informal coercion seems to be routinely spread across mental health services in England and the United States.
What Patients and Family Carers Think about Community Treatment Orders: A Qualitative Study from England

Jorun Rugkåsa, University of Oxford (jorun.rugkasa@psych.ox.ac.uk)

As a result of the deinstitutionalisation of psychiatric services, new forms of involuntary community treatment have emerged internationally. Community Treatment Orders (CTOs) were introduced in England and Wales in 2008 via amendments to the Mental Health Act (1983) and permit patients to be treated in the community following involuntary hospitalisation. Aimed at the most unwell “revolving door” patients, the intention behind the orders was to improve treatment adherence in the community. Little is known, however, about the clinical and social outcomes of CTOs. This presentation reports from in-depth qualitative interviews with a purposive sample of 40 service users and 25 family carers from across England. Findings suggest that participants have mixed views about CTOs, with some reporting that their views had changed over time. Many participants found it difficult to pinpoint the impact that the CTOs had on their lives, and some felt they lacked information about what they could expect. Our findings add to the currently limited understanding of CTOs and provide a new perspective on the impact and effectiveness of this new treatment form by giving voice to the people whose lives it affects the most.

Lives Less Restricted: Patients’ Views of Compulsory Community Treatment in Scotland

Donald Lyons, Mental Welfare Commission for Scotland, Edinburgh, Scotland (donald.lyons@mwcscot.org.uk)

The Mental Welfare Commission for Scotland has an overall safeguarding role for people with mental disorders. We visit people subject to compulsory treatment to monitor the care they receive and to ensure their needs are met and their rights protected. The Mental Health (Care and Treatment) (Scotland) Act (2003) introduced compulsory community treatment in Scotland in 2005. Many stakeholders had anxieties about this measure. They were concerned that more people would be subject to longer term compulsion and that community resources would be insufficient to meet their needs. The Commission reviewed the cases of people who had been subject to community compulsory treatment for two years or more. We met as many of those people as possible to hear their views. We wanted to determine how the principles of the Act were being applied. Most people thought the order had been of at least some benefit. Care and treatment were generally good and focused on wider measures to improve quality of life, not merely ongoing medication. Lack of progress toward employment and lack of strategies towards revoking the orders were matters of concern.
The Practitioner’s Experience of Community-Based Compulsory Treatment Orders: A Scottish Perspective

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This presentation will outline findings from a small-scale qualitative research project with Mental Health Officers (MHOs) in Scotland, which will explore their experiences of using community-based compulsory treatment orders in practice (CCTOs). In Scotland, CCTOs have been legally available since 2005, yet there has been limited investigation into their use. MHOs are experienced social workers with specific legal duties, which include making applications to the Mental Health Tribunal Scotland for CCTOs and playing key roles in the ongoing support and monitoring of service users following the implementation of orders. Central to this is ensuring patients subject to CCTOs are facilitated access to a range of interventions tailored to their particular needs, including education, training and employment. This legal requirement is based on the principle of reciprocity, recognising the importance of ensuring that restrictions of liberty are accompanied by meaningful follow-up care and support. Therefore, taking a social justice perspective, this presentation will report on the extent to which CCTOs are used to improve patients’ quality of life in the widest sense and in ways that go beyond traditional medical definitions of “treatment.”

27. Community Treatment Orders (CTOs)

Alberta’s Safe Communities Initiative: Highlighting Mental Health and the Justice System

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Addiction and mental health issues are risk factors related to an individual’s involvement in crime. Criminal behaviour is a complex social problem, and there are no quick or easy solutions. Alberta’s Safe Communities (SafeCom) utilizes a cross-ministry and multidisciplinary approach with staff seconded from Justice, Health, Education, Human Services and Aboriginal Relations. SafeCom’s mandate is to build capacity for coordinated community based responses to crime prevention. In addition to Alberta’s Crime Prevention Framework and the Alberta Gang Reduction Strategy, SafeCom implemented a number of initiatives that span the continuum of care to address risk factors and build capacity for coordinated community based responses to addiction and mental health issues, including: Police and Crisis Teams; Integrated Justice Services Project; promoting community and police partnerships in innovative crime prevention pilots through the Safe Communities Innovation Fund; increased addiction and mental health beds; enhanced addiction and mental health services in correctional facilities; Life Skills Substance Abuse Prevention Program for Aboriginal Children and Youth; and Immigrant and Refugee Youth Mental Health Project. Lessons learned from SafeCom’s approach, which
resulted in an increased emphasis on prevention, including addressing risk factors for criminality, especially addiction and mental health issues, will be shared with participants.

**What are the Consequences of Incarceration and the Impact on Family According to Inmates? An Analysis of Pre-Release Re-Entry to Society Data**

David R. Montague, *University of Arkansas at Little Rock* (drmontague@ualr.edu)

During the 2011 International Congress on Law and Mental Health conference in Berlin, several scholarly panels addressed the lack of effective programming for those who are incarcerated in various parts of the world. This lack of programming is an important reality in that it ties directly to the various legal systems which advocate rehabilitation, but unfortunately either do not have resources or choose not to allocate more resources toward such programming. In the United States, the country with the highest rate of incarceration, such programming is essential in dealing with what some call a “revolving door” of recidivism in which former inmates return to prison. To address this phenomenon, a study was completed within the state of Arkansas in the United States in which several years of such rehabilitative programming were evaluated in terms of the “tools” provided to those incarcerated in order to improve their chances of not returning to prison. What makes this study so unique is that it was completed at the request of the program mentors of this prison’s Inmate Leadership Council to help understand this all-volunteer program, made up of facilitators from within and outside the prison. Therefore, this unsolicited data set is from an official community reentry to society program and takes the form of homework assignments completed by the participants representing various modules of learning, e.g. financial literacy, conflict resolution, and the impact of incarceration. It is hoped that this research can add to the global discussion on effective formats for providing rehabilitation for prisoners and therefore strengthen policy discussions on the legal structure dealing with incarceration.

**Only a Modest Proposal? The Constitutionalisation of Human Rights and Supervised Community Treatment in England and Wales**

Nicola Glover-Thomas, *University of Manchester* (robert.thomas@manchester.ac.uk)

In England and Wales, Supervised Community Treatment (SCT) provides a framework for the management of patient care in the community under the Mental Health Act (2007). Its introduction has generated significant levels of debate, with proponents arguing that a legally mandated community treatment programme enables and empowers patients. Opponents have argued that such mechanisms instead provide a legitimate means of discriminating against the mentally disordered. The decision to use supervised community treatment is open to significant professional discretion, yet despite this the legal position of the regime adopted in the United
Kingdom is largely directed by the constitutionalisation of human rights under the Human Rights Act (1998). This has considerably restricted supervised community treatment and raises real dilemmas about how useful such a provision can actually be in practice. This position differs considerably from similar regimes in Australasia. This presentation considers the original expectations for SCT and its likely impact on the psychiatric care landscape. Of particular focus will be the limitations that spring from the entrenched human rights culture that prevails in the United Kingdom generally.

**Law and Social Work: How Collaborations Can Better Serve Students and Clients**

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Low income clients seeking civil legal services are rarely in need of only legal assistance. Instead, the issues that drove them to seek an attorney typically overlap into multiple mental health and social service needs. This presentation will explain how a newly piloted clinical partnership between a school of social work and a school of law enhanced the mental health outcomes for clients of the civil legal clinic. The clinic historically served the legal needs of low income clients in an urban American community. In 2012, an interdisciplinary collaboration involving law and social work students and faculty from both fields was implemented in order to provide holistic services to clients. The presentation will describe the model, including how the clinic is structured and the roles for students and faculty. Next, preliminary data on client satisfaction and mental health outcomes will be discussed. Students’ perceptions of the interdisciplinary nature of the instruction and services will also be presented. Finally, benefits of providing services for clients in a holistic manner will be explored. The clinic has been found to address both student learning needs and the needs of clients in the local community.

**28. Components of Mental Health Courts Influencing Clinical, Criminal Justice, and Recovery Outcomes**

*It Is a Different Kind of Thing: Treatment Issues and Gender in an Emerging Mental Health Court*

Stephanie Hartwell, *University of Massachusetts Boston* (stephanie.hartwell@umb.edu)

Mental health courts are emerging as an alternative to incarceration for individuals with mental health issues that come before the courts. They are related to specialty police training, jail diversion, and court clinics, and offer mental health services in non-traditional settings. While
each of these tools appears to be theoretically sound, they are also last resort measures that require empirical evidence of effectiveness and efficacy not just in general, but specifically across the populations they convene and serve. We know very little about the participants of mental health courts, particularly relating to their clinical, criminal history, and background characteristics. This presentation examines all referrals and participants (n=57) in a start-up (July 2011) mental health court in Massachusetts with an eye towards treatment issues and gender. There exists a vast literature on gender variation across the criminal justice system from crime commission to the mechanisms through which females come in to contact with the criminal justice system (reasons for committing crime, types of crime) and are subsequently processed. Attention to gender-sensitive programming across criminal justice jail diversion tools has been lacking. This presentation examines the literature and uses a mixed method approach to explore early trends in gender related treatment issues for mental health court participants.

The Role of Housing in Mental Health Court Graduation and Post-Program Criminal Recidivism

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Studies have shown the role of homelessness in criminal justice involvement and violence, but few have focused on the role of MHCs in providing support to attain housing stability or the role of being housed as a protective factor for post MHC completion re-offending. Over an eight year period, 770 adults were diverted through the Bronx Mental Health Court (MHC) into community-based treatment and wellness supports. This presentation first describes the role of the MHC in client housing stability and the relationship of housing stability to graduation and in-program offending (controlling for pre-offending, MHC entrance substance use, homelessness, demographic characteristics, and time at risk). Findings are then presented for housing stability and being permanently housed at MHC exit as a predictor of 12-month, post-MHC criminal justice involvement (re-arrest, re-offense severity, and days re-incarcerated), controlling for demographic characteristics, pre-MHC offending, graduation, substance use at time of mental health court completion, and days at risk. Given the increasing emphasis on provision of housing to criminal justice specialized court and reentry populations, it is important to understand the role of housing in MHC and its contribution to recidivism reduction.

An Exploration of Networks among People with Serious Mental Illnesses in the Criminal Justice System

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Existing literature supports a reduction in recidivism and increase in service use among mental health court (MHC) participants, but there is no empirical support for factors promoting outcomes, and how MHCs influence participants’ lives is nearly non-existent in the literature.
Using mixed-methods, this presentation explores MHC participants’ experiences and one possible factor associated with outcomes: networks. The qualitative component explores participants’ experience with networks while in the MHC. The quantitative component investigates the role network factors play in treatment engagement and recidivism. Participants in two mid-western MHCs (n=80) completed a structured interview involving survey questions and empirically-tested measures. A purposive sub-sample (n=26) completed 60-minute, semi-structured interviews. Two salient themes emerged from the qualitative analysis: 1) peers are critical components of their network in the context of treatment; and keeping involved in activities related to recovery (i.e., working at halfway house, taking a leadership role in AA) helped ensure that their networks were full of people with similar goals; and 2) the importance of perceiving that providers care and that they are working collaboratively toward shared goals. The quantitative analysis supports the importance of network factors in recovery. Density is positively associated with treatment adherence and having friends and family who use drugs is negatively associated. Density was not associated with recidivism.

**Perceptions of Reintegrative Shaming in Mental Health Court**

Bradley R. Ray, *Indiana University-Purdue University at Indianapolis* (bradray@iupui.edu)

Despite differences in geographic regions, teams, and the mix of treatments and services available, studies consistently find that mental health courts (MHCs) can be successful in reducing re-offending. Social scientific theories offer an excellent way for researchers to explain what it is about MHCs that, in spite of their differences, reduces subsequent criminal behaviors. This study suggests Braithwaite’s reintegrative shaming theory as a possible theoretical explanation. According to the theory, reintegrative shame is disapproval of behavior, not a person, which is communicated in a respectful manner, and concludes with a ceremony or gesture that decertifies the offender as deviant and welcomes them back into the community. In contrast, stigmatizing shame involves labelling offenders as deviant and casting them out of the community. The key prediction of the theory is that stigmatizing shame increases subsequent criminal behavior while reintegrative shame reduces subsequent criminal behavior. Survey items designed to measure the theory’s key concepts in a criminal justice context were administered to 34 MHC participants immediately following their graduation ceremony. The results show that participants who completed the MHC process were more likely to have experienced reintegrative shaming than stigmatizing shaming. We argue that despite differences among MHCs, those who graduate from a MHC have a reintegrative shaming experience that affirms they are not defined by their deviant behaviors, they are respected, and they have been forgiven and welcomed back into the community; thus, they gain or renew confidence in themselves which reduces the likelihood that they will commit a crime.

**29. Conflict and Compromise: Research and Practice in Immigration Assessments in Australia**

*Family Violence or Marriage Breakdown: Visa Implications*
Australia has aligned “family violence” provisions of the Migration Regulations with the Family Law Act. It is defined as “conduct, whether actual or threatened … that causes the alleged victim to experience reasonable fear for, or be reasonably apprehensive about, his or her own well-being or safety.” However, if a claim of “family violence” is not supported, or a marriage has broken down without “family violence,” cancellation of a visa is likely to occur, with return of the “sponsored” person to their country of origin. Such outcomes may have severe repercussions, including serious mental health concerns and real threat to one’s sense of safety and security. A series of cases will be presented to illustrate the complexity of the assessments undertaken by psychologists in such matters, while attempting to search for “evidence.” This presentation also aims to explore the conflict that can occur between legal representatives attempting to use an available mechanism for a person to remain in the country and the psychology profession. Finally, implications for professional practice will be discussed.

How to Assess “Character”? Implications for Migrants, Refugees, or Asylum Seekers Whose “Character” is being Questioned

When a person is charged with certain offences and not a permanent resident or citizen of Australia, the “character test” may be applied. If there are supportable concerns regarding “character,” the individual may be returned to their country of origin against their will, subsequent to a court determination of a criminal matter or period of imprisonment. This has serious mental health and other implications for the individual and their systems, such as children and other family members. Additionally, a person may have little in the way of identity or supports in their country of origin, particularly if they had not lived in that country for many years and, when they did, conditions may have been chaotic, dangerous and destructive, with civil conflict or discrimination leading to re-location for “protection” or as a “refugee.” Assessments of “character,” including risk for re-offending, are complex and often contested. Psychologists must negotiate the assessment of psychological vulnerability or impact, as well as considering the safety to the Australian community in terms of potential “risks” that an individual poses should they remain in Australia. A series of cases will be presented to illustrate the issues involved, including “risk assessment” and complexity, leading to suggestions for practice.

The Child in Immigration Assessments: Relocation, Trauma, and the Shattering of Identity
Children have a most invidious situation in refugee and immigration assessments. They are dependent on their family, but often form the focus for a family’s attempt to stay in a country, hence creating a terrible burden of responsibility in the child. The presentation explores the research literature on identity, attachment and the impacts of trauma on children, and relocation in the context of a case study of the Subcontinent children seeking to exercise the right to remain in Australia after their parents have been denied a visa. The case study is particular poignant as the unique stressors of the protracted battle to stay in the country led to family breakdown. The case study explores the impact on the children of having to choose which parent to support, and which to “abandon” in the resulting Family Court battle, contiguous with the Federal Court Visa appeal.

**Just When You Thought Things Could Not Get Worse: Being an International Student in Australia when the Unexpected Happens**

Liz Mackdacy, Consulting Psychologist, Sydney, Australia (lackdacy@lscpsych.com.au)

Some young people arriving in Australia on Student Visas wish to return to their country of origin on course completion with knowledge and skills to assist them in gaining rewarding jobs and supporting their families. Some wish to remain in Australia upon completion of their courses. In both cases, unexpected difficulties can emerge to put their studies and visa at risk. These include: unexpected illness; mental health concerns; cultural clashes; falling in love; sexuality; “drama” back home, such as deaths, divorces and economic strain; wrong course choices; and so on. Cases will be presented to illustrate the complexity encountered by psychologists when assessing such matters, against the possibility of visa cancellation and impacts such as returning home as a “failure” and with serious mental health concerns.

**30. Considerations on Setting the First Canadian Examination on Forensic Psychiatry**

* A Retrospective on the Canadian Forensic Subspecialty

Graham Glancy, University of Toronto (graham.glancy@utoronto.ca)

Last year the Royal College of Physicians and Surgeons of Canada finally granted subspecialty status to Forensic Psychiatry, the culmination of a 20 year process. It was decided that there would be no “grandfathering,” in other words everybody had to take the exam. Council appointed a committee who, with consultation with the College, set about writing an exam.
Members of the committee will discuss and reflect on this process. Three members of the examination committee of 5 have followed this process from beginning to end. The Royal College of Physicians and Surgeons, in conjunction with the Canadian Academy of Psychiatry and the Law, appointed the committee to set the first examination. In the initial stages of planning for subspecialty, we were unclear on the type of examinations that would best measure the standard of competence required to be a forensic psychiatrist. We discussed various methods of examination including an oral presentation, presentation of one or more reports that have been prepared, or a viva voce examination. Having been given subspeciality status by the college, we were able to use the resources of the Royal College and its vast resources and experience in qualifying specialty and subspecialty credentials over the decades. The college has looked into extensive research into the content of examinations in postgraduate medicine and education in general and has settled upon short answer questions as the preferred mode of testing competency at this level. My colleague Dr. Bradford, the previous President and elder statesman of our Academy, will describe the process of setting this examination.

The Rationale for a Subspecialty in Forensic Psychiatry

Pierre Gagné, University of Sherbrooke (pierre.gagne@usherbrooke.ca)

The demand for the involvement of psychiatrists in civil and criminal litigation has sharply increased over the last decade in Canada. Among the possible contributing factors are: mandatory expert evidence in specific cases, contested expert evidence, and growing recognition of the acknowledgment of the impact of mental disorders on faulty decision-making. In order to meet statutory requirements, government decrees have at times led to the creation of designated forensic centers within health centers, often without psychiatrists trained in forensic psychiatry. This situation has led to the de facto appearance in the courts of ill prepared physicians and growing dissatisfaction within the legal system. Prior to the creation of a subspecialty in forensic psychiatry, universities lacked clear guidelines as to what should be included in the teaching program of psychiatry to meet with the requirements of the forensic sector. Although several universities across Canada over the past fifty years have established local programs that have formed very qualified forensic psychiatrists, there was no official recognition by our national organization (The Royal College of Physicians and Surgeons of Canada). This in turn has allowed psychiatrists with minimal or no training at all to proclaim themselves as experts and be considered so by their legal counterparts. The creation of a subspecialty in forensic psychiatry should ensure our legal and correctional partners that forensic opinions and treatments provided by psychiatrists with specialized training and certification will meet high standards of competency. The new certification program should bring to an end the imbroglio regarding the status of expert and should help to restore the image of psychiatry not only in court but in the public opinion.

Trials and Tribulations of Compiling the Questions for the First Forensic Psychiatry Subspecialty Examination in Canada
The trials and tribulations of compiling the new subspecialty examination in forensic psychiatry for the Royal College of Physicians and Surgeons of Canada have been significant. For many years there was resistance to support sub specialisation in psychiatry. Some of the leaders of Canadian psychiatry also had concerns that sub specialisation would lead to a fragmentation of psychiatry and the loss of the status of general psychiatry. Forensic psychiatry started lobbying at least 20 years ago to establish the subspecialty. The motivation included ensuring the ethical and scientific standards of forensic psychiatry would be entrenched. Further, the credibility of forensic psychiatry and general psychiatry was “on trial” whenever psychiatric court testimony was quoted in the Canadian media. When the Canadian Psychiatric Association and the Canadian Academy of Psychiatry and the Law successfully lobbied the Royal College for subspecialty recognition, the next challenge was to establish the syllabus; training requirements, and the examination for with the subspecialty of forensic psychiatry. The Royal College has short answer questions (SAQs) as the format for the examination. The SAQ format is regarded as a valid method of evaluating a higher order of knowledge on a given subject. The impression is that SAQs are easier to compile than multiple choice questions (MCQs), but this is not the case. This presentation will discuss the challenges presented in compiling the first subspecialty examination in forensic psychiatry.

31. Correctional Mental Health in the United States

The “Choosing Wisely” Movement: Is Psychiatry Ready?

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Technological and scientific advances have made the current practice of medicine enormously complex. Along with progress, however, this evolution has come attached with a hefty price tag as well. In recent times, there has been growing concern among medical professionals about medically wasteful and futile procedures, the growing problem of health care fraud and the magnitude of their economic impact. In early 2012, nine specialty medical groups in the United States launched a movement known as “Choosing Wisely;” this movement, involving approximately 350000 physicians, identified 47 medical procedures and treatments widely used in the practice of medicine, and recommended that these not be used routinely. When this began, psychiatry was not one of the fields affiliated with this movement. Diagnosis in psychiatry is still largely based on clinically elicited signs and symptoms, and the identification of clinical syndromes. For most disorders, we still do not have any reliable or sensitive pathognomic tests, and clinicians implicitly rely on information obtained from the patient/client. In addition, there is increasing awareness of malingering and the potential for psychotropic diversion and abuse, especially in certain treatment settings. The Choosing Wisely movement is timely, and psychiatry must join in now.
The Correctional Mental Health Experience: The Proof of the Pudding

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Centorrino et al (2004) reported that patients prescribed antipsychotic polypharmacy received higher medication doses and reported more adverse effects than patients who received monotherapy while the clinical improvement rates were similar in both groups. Pandurangi & Dalkilic (2008) in their review of eight RCTs and 66 case reports found no empirical basis for general recommendations regarding the use of particular types of polypharmacy. Mindful of the likelihood of psychotropic abuse or diversion in a correctional facility, our team at the Fresno County Jail instituted a program to improve diagnostic practice, and decrease the possibility of abuse/diversion of medications. Five specific medications were progressively phased out of the formulary from August 2007 through November 2007. Medications required, but not on the formulary, were still available using a non-formulary request process. Evaluations were comprehensive, and included a consideration of malingering in all cases. Staff from a variety of disciplines were educated about the program. After an initial increase in requests for mental health services, there were no untoward incidents or adverse outcomes in the long-term. In 2011, we systematically analyzed available data to see what the impact of the changes were, in a retrospective study design. The variables looked at were ones that reflected clinical status, crisis calls, safety cell placements, and hospitalization (involuntary holds) but that management had no direct control over. The findings and implications resulted in substantial savings for the correctional facility without compromising quality of care and will be discussed in greater detail during the presentation.

Correctional Mental Health in the State of Illinois

Jagannathan Srinivasaraghavan, Southern Illinois University (jagvan@gmail.com)

The State of Illinois is the fifth largest state in the United States with a population of nearly 12.8 million. There are nearly 48,000 prisoners in twenty-seven adult prisons, all but three serving adult males. The majority of the prisons are moderate to minimum security, three are maximum security, and one closed supermax prison. There are nearly 7,700 security staff and 3,400 non-security staff. Health care and mental health care are provided by contractual services. A severe reduction of public hospital beds, as well as a shortage of community mental health care, has resulted in the criminalization of psychiatric disorders – approximately 15-25% of prison inmates suffer from one or more psychiatric conditions. The challenges faced in trying to deliver adequate and optimal care for these inmates vary on different factors including the type of prison environment, prevailing culture, availability of professionals and leadership support. A general overview of the health care services in Illinois prisons will be discussed.
A Comparison between Federal and State Correctional Systems in the United States

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Michael Ahrens, Consulting Psychologist, Marion, USA (dahrens3@frontier.com)

The first presenter has worked for nearly twenty-five years for the United States Federal Bureau of Prisons and over five years for the Illinois Department of Corrections. The second presenter retired from a twenty year career with the Federal Bureau of Prisons, was employed for nearly fifteen years for the Indiana Department of Correction, and is currently working with the Illinois Department of Corrections. They will compare and contrast differences among these three large penal systems. The Federal Prison System is regarded as the “finest correctional system in the world” and it serves as a model for all fifty states. Professionalism, correctional programming (rehabilitation), quality health care and sound correctional practices are emphasized. The Illinois Department of Corrections is presently in a state of transition, but heretofore is based on a traditional concept of security, restrictive environments and incapacitation. The Indiana Department of Correction has been embroiled in litigation regarding its mental health services delivery with both the American Civil Liberties Union and Department of Justice Civil Rights Division. Differences among the three correctional systems will be seen in the following topics: classification procedures, training standards, policy implementation, mental health care protocols, organizational structure, case management and demographics. High visibility topics such as suicide prevention, sexual assault prevention/intervention, civil commitment of sexually violent inmates, and the management of the mentally ill will also be compared.

32. Creating a Trauma-Sensitive Family Court

Seven Deadly Sins in Family Court

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When parents are unable to make decisions about who will have responsibility for the various functions that occur with children after divorce, they often turn to the family court judge to make the decisions. In most countries today some form of joint custody and decision-making is the presumption. If a parent does not believe that shared parental access to children is in the best interests of the child or even more importantly, detrimental to the best interests of the child, then the burden of proof falls upon that parent to provide proof to the court. A large number of these cases involve allegations of domestic violence or child abuse. Unfortunately, neither parents nor judges are appropriately equipped to make those decisions, so they often refer to mental health professionals, who are equally as unaware of the impact being forced into the custody or visitation with the abusive parent has on the child or the non-abusive parent. Attempts to equalize allegations of domestic violence with allegations of parental alienation continue to place
children (and sometimes battered women) in danger. The family court has difficulty in dealing with these cases and there is little recourse for families that become destroyed by inappropriate decisions due to systematic errors in the court system itself. Seven of these “deadly sins” or systematic errors will be discussed in this presentation. They include:

1. Presumptions that have no psychological data to support them and must be overcome by a great deal of evidence by the party that finds them inappropriate. These include “joint custody” being better than “sole custody” by one appropriate parent, the presumption that reunification of the family is in the states and family’s best interests, that the parent who is the friendliest to the other parent is best, or that the biological parent is always better than adoptive parents.
2. Adjudicators and evaluators have stereotypical bias usually against women who do not protect their children even if the abuser is the father.
3. Ignorance of child development and what children need at each stage.
4. Ignorance of what constitutes child abuse and how to alleviate the effects of exposure to domestic violence and child abuse even if they are not the target of the abuse.
5. Ignorance of the impact of living in a home where the father psychologically or physically abuses their mother.
6. No legal standing for children. While guardians ad litem are helpful to the court to learn about the best interests of children, they cannot substitute for a child’s lawyer who can represent the wishes of a child, especially one who is being forced into visitation against his or her will.
7. There are few incentives for system change. The appellate courts are rarely involved, as they are beyond the financial access for most women or children who have been so scarred by the decisions that continue their abuse.

**Risk Assessment in Family Court Parenting Evaluations**

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The lack of research on risk assessment in family court parenting evaluations supports what Michael Perlin would label, “pretextualism” or the belief by mental health evaluators and the legal profession that appropriate risk assessment to protect children and women is being done. We assume that we are using well trained evaluators using well validated instruments that courts use to make their valid determinations about access to children. Yet, the data prove differently. After the MacArthur studies demonstrated that violence prediction was not particularly useful, the criminal justice field moved to using risk assessment instruments that take into account five different areas; demographic, sociological, psychological, biological and contextual variables. Yet, as good as these studies were, they did not look at these factors to assess how much risk there is in domestic violence perpetrators, who use violence and abuse in a context of power and control. Currently, there are several actuarial approaches to assessment that can be used to assess for risk for violence and for sexual abuse. However, it does not appear that any of these are routinely used in family court even when there are reports of physical and sexual violence. The Power and Control Inventory (PCI) is currently being developed specifically to assess for the psychological aspects of domestic violence. We have used the psychological power and control
issues that have been raised in the assessment of domestic violence and sexual abuse of women and children, developed a 5-point Likkert Scale, and have been pre-testing it on several different groups of batterers and other violent offenders. The goal is to be able to use this PCI in assessment of risk for domestic violence to assist courts in making better custody decisions.

**Conducting Family Court Research with Community Partners**

Tara Jungersen, *Nova Southeastern University* (tj290@nova.edu)

Community partners who work with high-conflict, traumatized families within the therapeutic jurisprudence system are cautious to participate in outcome research. Without accurate data describing successful and unsuccessful interventions, both internal and community support for therapeutic family courts is jeopardized. Action research is required to collect practical and useful data to be used to track the efficacy of family court proceedings. However, community partners have historically been hesitant to partner with researchers. Primarily, the effort required to participate in outcome research taxes an already-strained social service system. Additionally, appreciation of the importance of research on the part of agency employees is difficult, as the perceived cost/benefit to the partnering agency, clients, and employees ostensibly appears inequitable. Finally, agencies working with high-conflict, families with a history of complex trauma advocate for the privacy of families, and discount the benefits of inquiry that can be therapeutic in nature. This presentation will describe these and other barriers to effective community research, and provide strategies for data collection and analysis that maximizes input and benefit to all involved parties.

**Murder-Suicide in Family Court Cases**

Vincent B. Van Hasselt, *Nova Southeastern University* (vanhasse@nova.edu)

Family Court Judges often see litigants who are at the highest risk for murder or suicide, but rarely are aware of the high risk. Research states that the most likely time for a murder or a suicide to occur is when the family where domestic violence exists begins to separate and terminate the relationship. It is not unusual for these cases to result in a murder-suicide with the batterer killing his wife and children and then killing himself. South Florida has been called the murder-suicide capital of the nation. This presentation will outline the latest statistics that are kept by the counties and reported to the state. Dr. Van Hasselt, who is both a professor and a police officer, trains hostage negotiators for the F.B.I. and other law enforcement groups. He will describe cases that have been reported and their relationship in the family court. Many judges were warned that the man threatened to kill the woman and sometimes the children, but these warnings were ignored. In some cases, the woman was told that she could not obtain a restraining order until the husband did “something;” threats were insufficient for a particular judge even though the law permits issuance of such a stay-away, no contact order. In other cases, exchange of the children at unsupervised visitation gave the man access to the woman, when he
then killed the children, then her, and finally himself. In two of the most recent cases, the man killed the children after threatening the woman that he would, and then killed himself. Family court judges need to be aware of the high risk of murder-suicide in these cases to better protect all involved.

33. The Crisis Intervention Team (CIT) Model of Police Response to Persons with Mental Illness: Outcomes, Barriers, and Future Directions for Research

The Costs and Potential Cost Savings of Implementing the Crisis Intervention Team (CIT) Program

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While the Crisis Intervention Team (CIT) Model is a very useful model, implementing and sustaining CIT requires substantial, ongoing resources (e.g., select officers receive 40 hours of training). Additional innovative, acceptable, and feasible pre-booking diversion approaches are needed. In this presentation, a new form of linkage between police and mental health, which requires minimal officer training and minimal burden for the local mental health system, is described. The new model consists of three steps: (1) Individuals with a serious mental illness and a criminal justice history provide consent for a brief disclosure of their MH status to be included in a registry in the state’s criminal justice information system; (2) When an officer has an encounter with an enrolled patient and runs identifiers as a routine background check, the officer receives an electronic message that the person has special mental health considerations, and to call a 1-800 number for more information from a Linkage Specialist; and (3) The Linkage Specialist provides brief telephonic assistance to the officer, thinking through observed behaviours and potential dispositions. This systems linkage model could potentially be used as a stand-alone service-level intervention.

Crisis Intervention Team (CIT) Training, Emotionally Disturbed Person Call Schema, and Use of Force

Casey Bohrman, University of Pennsylvania (caseybohrman@yahoo.com)

A primary goal of the Crisis Intervention Team (CIT) Model is to improve safety in encounters between police officers and individuals experiencing mental health crises. Officers are trained to recognize mental illness and utilize de-escalation techniques to reduce the need to use force in these encounters, thus reducing the risk of injury for all involved. In this study, we asked CIT trained, non-CIT trained and probationary officers (n=147) to rate four emotionally disturbed
person call scenarios on a number of subject and situational characteristics, subject behaviours, and their own expectations, attributions and actions they would take in the scenario. Using latent class analysis, we identified 2-3 schema for each call type. Schema class was primarily differentiated by factors related to level of risk in the scenario (e.g. resistance, subject under the influence of drugs or alcohol, age). While CIT training did not predict officer schema, it did have implications for whether officers indicated they would need to use physical force. Controlling for officer schema, we examine the effect of CIT on officers’ endorsement of the need to use physical force to maintain control of the person with mental illness. Implications for policy, practice and research will be discussed.

**Future Directions for Crisis Intervention Team (CIT) Research**

Amy C. Watson, *University of Illinois at Chicago* (acwatson@gmail.com)

The research on CIT to date suggests the model is having some positive effects on improving police response to mental health related calls. CIT training has been shown to improve officer knowledge about mental illness and treatment, increase self-efficacy for responding to mental health crisis calls, and decrease stigmatizing attitudes about mental illnesses. Research suggests CIT officers may be less likely to use force and be more likely to direct persons with mental illnesses to psychiatric treatment than their non-CIT counterparts. Some research also suggests that CIT may reduce arrests of persons with mental illnesses by diverting them to treatment. Hence there is growing support for CIT as an effective approach to improving police response to persons with mental illnesses. However, there is still much we do not know. For example, how do community context and accessibility of mental health services impact CIT effectiveness? How does CIT impact the experiences of persons with mental illnesses in police encounters and their longer term mental health service engagement and criminal justice outcomes? This presentation will describe research underway in Chicago that seeks to address these questions. Other important next steps for CIT research will also be discussed.

**The Interface between Mental Health Nursing and Police in New Zealand**

Anthony O’Brien, *University of Auckland* (a.obrien@auckland.ac.nz)

Police in New Zealand have played a role in community response to people with mental illness since the earliest days of European settlement. In more recent times community-based mental health nurses have had significant involvement with police. Nurses working crisis teams may assist police to resolve incidents by advising on detainee’s current involvement with mental health services, arranging assessments, advising on hospital admission processes, and in seeking police involvement in situations requiring police powers. The Mental Health (Compulsory Assessment and Treatment) Act (1992) (The Act) formalised some aspects of the relationship
between mental health nurses and police within the statutory role of Duly Authorised Officer (DAO). The Act provides for DAOs to call for police assistance in the process of assessment or return to hospital. Police have also employed nurses in “watch house” roles, to provide triage and assessment of people arrested, with the possibility of mental health referral in some cases. This presentation will review the relationship between mental health nurses and police in New Zealand, including response to crises occurring in community settings, and the operation of DAO role. Evaluations of mental health nurse watch house roles will also be reviewed. New Zealand has no dedicated mental health and police teams, as collaboration occurs on a case by case basis. The presentation will also consider what New Zealand could learn from the international experience with police and mental health collaborations.

### 34. A Critical Exploration of Pressing Ethical, Clinical, and Spiritual Issues in Acute Psychiatry through to Community Care

**Can Emergency Psychiatry be Person-Centred?**

Louise Campbell, *Clinical Ethics, Limerick, Ireland* (louise.campbell@gmail.com)

Recent years have witnessed a shift towards a “person-centered” model of healthcare provision. Person-centred care purports to put the patient at the centre of his or her own treatment and to frame treatment decisions in terms of the preferences and needs of patients. A more radical interpretation of the concept of person-centered care draws attention to the centrality of a non-directive therapeutic relationship, built over time on trust, empathy and reciprocity. The purpose of this presentation is to explore the relevance of these concepts in the context of emergency psychiatry and to ask whether and to what extent an authentic therapeutic relationship can be developed in a setting which exacerbates the ethical tension between preventing harm to the patient and promoting a process of participatory decision-making.

### A Holistic Community Program to Address Metabolic Syndrome through Patient Empowerment with Demonstrable Success

Jacqueline Duncan, *Waypoint Centre for Mental Health, Penetanguishene, Canada* (jduncan@waypointcentre.ca)

In the industrialized world, 25-34% of the population are suffering from Metabolic Syndrome, a condition which has been identified to be a precursor for Cardiovascular Disease, Type II Diabetes Mellitus, Arthritis, Dementia, and some forms of cancer. Metabolic Syndrome is being identified in up to 70% of clients suffering from Serious Mental Illness (SMI) as a result of genetic factors, social determinants of health, and the use of psychotropic medications. This presentation will describe a highly successful out-patient intervention program which ascribes its
success to: (1) being inspired, driven and moulded by clients with lived experience; (2) being manned by staff who are committed, enthusiastic, energetic and compassionate; (3) utilizing a combination of individualized interventions and psychodynamic group interventions’ and (4) utilizing visual aids, demonstrations, illustrations, role modeling and repetition to ensure that information is understandable in such a way that clients can make informed choices.

Findings of a Needs Assessment and Environmental Scan of Mentally Disordered Offender Needs and Programs in Saskatchewan, Canada

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The intents of this research on the needs of offenders with compromised mental health were to acquire a baseline of information of the current needs of mentally disordered offenders (MDOs) in the province of Saskatchewan to inform future research and to identify best practices and gaps in service delivery. This mixed methods province-wide study conducted in 2010-2011 was commissioned by the Centre for Forensic Behavioural Sciences and Justice Studies, a recently approved research centre at the University of Saskatchewan. The methodology of the study was triangulated to include a literature review of government documents and peer reviewed literature, together with statistical and thematic analyses of the responses of family members of offenders and frontline personnel. Findings of the study showed that although national and provincial initiatives are in place to address the needs of MDOs, Saskatchewan has unique demographic needs. Indigenous peoples in our province represent 17% of the population compared to 3.8% nationwide. Indigenous populations in Saskatchewan are overrepresented in the criminal justice system at rates thirty-five times higher than the mainstream (CSC, 2009). Mental health and addiction assessments and services were found not to be accessed by indigenous offenders at a level consistent with their level of need.

Mental Illness and the Continuum of Care in A Multicultural Milieu

Rosie Macri, Ontario Shores Centre for Mental Health Sciences, Whitby, Canada (rosie.macri@gmail.com)

The Global City: Newcomer Health in Toronto is the title of a recent study (Nov. 2011) which claims that “Toronto is home to virtually all of the world’s culture groups and is the city where more than 100 languages and dialects are spoken on a daily basis. While immigrants make up 50% of Toronto’s population, 66% of all births in Toronto in 2006 were to immigrants.” Multiculturalism is therefore an indispensable aspect of Toronto’s ever-changing demographics. A significant aspect of mental health care is sensitive communication, which requires adequate translation and interpretation to facilitate meaningful dialogue around all aspects of care in order
to enhance the quality of life experience. The limitedness of medical vocabulary in many of the Asian and African languages along with the paucity and stigmatized aspects of the terms related to mental illness present a serious impediment in the communication process including alliance building. The continuum of care is disrupted by many factors, including a lack of post-discharge treatment adherence, rigidity in the legal systems related to the Mental Health Act, privacy and confidentiality issues and the economic burden on communities and families in ensuring effective follow-up and gains. This presentation will draw from case examples and illustrate these issues with suggestions to remedy them.

The Chronically Mentally Ill and the Emergency Department: A Difficult Relationship

Brian Furlong, Homewood, Hamilton, Canada (furlbria@homewood.org)

Frequent use of the Emergency Department (ED) by a small percent of patients with a severe and persistent mental illness has implications for the patient, the hospital and community resources. These “frequent flyers” are commonly perceived to be ruthless, misuse/abuse the system and unnecessarily utilize the ED for issues that could and should be treated in other places. This belief is further entrenched by objectives set by Ontario provincial health care policy direction, which aims to reduce ED visits. Issues complicating repeated mental health visits will be discussed including: (i) equating frequent use with abuse; (ii) co-morbid conditions not identified or treated; (iii) lack of follow-up post ED visit; and (iv) adverse clinical outcomes. Additionally, this presentation will bring forward some relevant ethical, political, philosophical and clinical questions that are important in the provision of services to this group.

35. Cultural Bias: From the Classroom to the Courtroom

Where Mental Health Meets the Law: Rethinking the Education of American Lawyers

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George Woods, Morehouse School of Medicine (gwoods@georgewoodsmd.com)

In May of 2012, George Woods, M.D. and Jennifer Johnson, J.D. started a continuing education series for lawyers in the United States. Where Mental Health Meets the Law is a comprehensive curriculum designed to provide attorneys with tools to inform advocacy when mental health is an issue in a case. The Supreme Court of the United States reasoning in death penalty cases reveals a dramatic evolution in thinking about the importance of understanding mental illness. Lawyers now have a duty to vigorously investigate all aspects of a defendant’s life. According to Justice O’Connor, understanding social history is central to the “moral inquiry into the culpability of the defendant.” At the same time, advances in brain science are helping explain the impact of
trauma, poverty, illness and abuse on mental health. The progress in both law and science related to mental health is pushing the criminal justice system away from the harsh trend toward mass imprisonment of people with mental illness. Many courts embrace the concept of therapeutic jurisprudence and recognize that quality mental health treatment results in enhanced public safety and better mental health outcomes for offenders. Although these changes have remained largely in the criminal courts, the concepts go beyond the realm of criminal law. Lawyers in many practice areas encounter clients, witnesses and family members with mental illness. Where Mental Health Meets the Law is an effort to bring the principles learned on the battlefield of capital case litigation to a wider audience and to raise the standard of practice for American lawyers.

**Courtroom Bias: Culture, Race, Religion, Maltreatment, Torture, Gender Discrimination, and Abuse**

Jacqueline K. Walsh, Attorney-at-Law, Seattle, USA (jackie@jamlegal.com)

Mark Larrañaga, Attorney-at-Law, Seattle, USA (mark@jamlegal.com)

Many capitaly charged clients have experienced bias throughout their lives. Their experiences of bias can be because of their cultural background, race, religion, maltreatment, torture, gender discrimination and/or abuse. In order to appreciate a client’s life experiences, it is necessary to learn about the events that shaped a client’s life and neurological impairments and mental diseases from which he or she may suffer so as to understand the lens through which he or she sees the world. Once knowledge about a client’s limitations is learned, the legal team can work toward educating the court, prosecuting authority and the jurors, so as to effectively challenge bias in the courtroom. In our presentation, we will discuss how to protect a client against bias in the courtroom and educate the court, prosecuting authority and jurors so as to evoke empathy for a client.

**Social and Emotional Learning in an American Inner City Charter School**

Kale Woods, Mercer School of Medicine (kalewds@aol.com)

Elias et al first described the quantitative success of teaching emotional and social development in order to achieve academic success, particularly in inner city communities (1997) this quantitative success is based on the recognition that schools are social places and learning is a social process. Nevertheless, race, trauma, poverty, and mental illness test social and emotional learning programs. This presentation will discuss the marriage and family therapy trainee’s learning experience developing social and emotional learning programs in an inner city San Francisco charter school. Kipp Charter Schools, based in San Francisco, with schools nationwide, has a history of innovative academic programs. Kipp Schools also have a history of
academic success in communities of historically poor academic success. This presentation will
discuss the developmental of Kipp, San Francisco’s social and emotional learning program,
starting with a diverse population of 7th graders. This group became one of the most cohesive
grades with multiple scholarships to the best high schools in the bay area. Methodology and
future directions will also be discussed.

36. Cultural Diversity and Mental Health

Culture in Forensic Psychiatric Evaluations

Chinmoy Gulrajani, Kings County Hospital Center, New York, USA (gulrajanic@gmail.com)

The borough of Brooklyn in New York has a population of two and a half million, making it the
seventh largest county in the United States. People living in Brooklyn represent 93 different
ethnic groups, 150 nationalities, and speak 136 different languages. About 37% of Brooklyn
residents were born outside the United States and a staggering 23% identify themselves as
neither white (Caucasian, non-Hispanic) nor black (African American) making this one of the
most diverse populations in the world. Furthermore, about 25% of Brooklyn residents describe
their ability to communicate in English as “less than very well.” Needless to say, this racial,
ethnic and cultural diversity is reflected in the criminal justice system and forensic psychiatrists
are posed with several unique challenges not encountered in other settings. This presentation
discusses the clinical issues that arise specifically during the forensic psychiatric evaluation of
defendants from the non-dominant population groups. Potential sources of error and bias in these
evaluations are highlighted by way of anecdotal examples. Evaluator and evaluee centered
factors that influence the outcome of evaluation are discussed. To conclude, recommendations
are made to avoid common pitfalls encountered in the course of working with individuals from
minority groups.

Shades of Violence against Women in an Increasingly Multicultural
Middle-Eastern Society

Siva Prakash, NMC Hospital, Dubai, United Arab Emirates (sprakash@eim.ae)

This presentation is based on an observational study of variants of violence against women in the
rapidly developing multicultural society of Dubai, a modern metropolis in the Middle-East. The
sample is drawn from psychiatric services at NMC Hospital – a large multi-specialty hospital in
Dubai. The sample is predominantly expatriates, a majority of whom are from South Asia. The
patterns of seeking help, religious, cultural, and social barriers to accessing services, and lack of
recourse to legal action are explored and different forms of violence including emotional abuse
and its impact on the victims are discussed. Deviant family and parental pressures are often
experienced by young women as tantamount to disenfranchisement; their right to make decisions
on important matters in life such as career and choosing a life partner are denied outright. Misuse of psychiatric services is not unusual – in a largely male dominated society gender issues are seen as irrelevant, and the expectation is that psychiatric services will uphold religious and cultural values, even as these result often in marginalizing women. The importance of cultural sensitivity on the part of service providers is critical, and interventions are based on a rational approach to bridging the gap. Therapeutic approaches to emotional abuse and violence are discussed in the cultural context. A high incidence of past sexual trauma is reported among the larger sample of women seeking help for depression and mood disorders later in life, emphasizing the need for additional intervention directed at this.

### Challenges in Providing Mental Health Care for Minorities in Australia, Including the Aboriginal Population

Mohan Isaac, *University of Western Australia* (mohan.isaac@uwa.edu.au)

Australia has a multicultural society with people from about 200 countries living here. The cultural diversity of the country is steadily growing. The 2006 census found that 23% of Australia’s population were born overseas and 16% of Australians speak a language other than English. This population is officially referred to as the CALD (culturally and linguistically diverse) population. In addition, 2.6% (575,552 persons) of the total Australian population are indigenous. Australia has also been taking in humanitarian migrants recently from areas of conflict that have torture and trauma backgrounds. Providing culturally sensitive and appropriate mental health services for these minority populations have posed major challenge for the federal, state and territory health services. It is well known that persons of CALD background experience a variety of barriers to access quality mental health care. There are an insufficient number of CALD mental health workers or workers who are culturally sensitive and competent to respond appropriately deal with the mental health needs of CALD population. There is evidence that alcoholism, substance misuse, mental disorders, suicides, domestic violence and unemployment are more prevalent in indigenous communities than in non-indigenous communities. Accessing of mental health and substance abuse services by Indigenous Australians is comparatively quite poor. The presentation will review the nature and extent of current mental health problems in CALD and Indigenous populations in Australia, highlight the various challenges in providing meaningful services to these populations and critically review the implementation of numerous steps taken by governmental and non-governmental agencies to deal with the challenges.

### The Role of Culture in Guantanamo’s Capital Cases

Scharlette Holdman, *Center for Capital Assistance, New Orleans, USA* (scharlette@mitigate.com)
In the Guantanamo capital cases, culture is critical to the defense team’s understanding and investigation of detainees’ cultural and religious beliefs, which will likely figure prominently in the government’s case at all stages of the proceedings and require rebuttal and correction if inaccurate or misleading. Culture is relevant to all phases of the Guantanamo proceedings, from building a relationship with the client to presenting claims arising from torture and cruel and inhumane treatment at the hands of the United States government. Culture affects pretrial investigation and litigation, resolution of the case, and guilt-innocence defenses as well as sentencing options. Finally, culture is inextricably linked to social history, and social history is the foundation of any competent, reliable assessment of an individual’s functioning and behaviour, and is also a critical component of assessing torture and its effects. Capital proceedings, by law and practice, require investigation, preparation, presentation, and consideration of any fact that may shed light on the offender and the offense, the frailties of humankind, and the infinite array of human conditions that affect behaviour and functioning. The consequences of torture and maltreatment affect each detainee differently and uniquely in accordance with their own attribution of meaning, culture, and life history of experiences and perceptions. Defense counsel have a duty to investigate, learn, and appreciate the intimate relationship between culture, torture, and culpability as a core organizing principle for representing Guantanamo capital defendants. This presentation outlines the standard of care for best practices in investigating, developing, and presenting a culturally competent capital defense.

Ethnopsychopharmacology and Culturally Competent Diagnosis:
Applications in Criminal Justice

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With the advances in ethnopsychopharmacology (how people of different race/ethnicity may respond differently to drugs) and pharmacogenetics (determining the underlying genetic coding which may explain these differences), we have discovered that the benefits (efficacy) and safety (adverse events) ratio of drugs which were discovered and developed in Caucasians may differ in people of different race/ethnicity. Some of these differences in response to treatment of psychotropic drugs may be attributed to differences in genetic allele frequencies, or the same genetic material impacted by further upstream genetic differences yet undiscovered. The clinical impact can be either an increase in adverse event burden or a decrease in the efficacy of certain psychotropic drugs in people of Asian and African descent. These findings have a direct impact on court-ordered involuntary medication in order to restore competency, and should be considered in any treatment plan. An additional factor for consideration in the criminal justice system is the evidence that African Americans are being over-diagnosed as having schizophrenia, while missing diagnoses of affective disorders, such as bipolar disorder. This over-diagnosis of schizophrenia and under-diagnosis of bipolar disorders, among others, has been documented in out-patient clinics, inpatient hospitals and among prisoners incarcerated within the criminal justice system. Factors which play a role in this misdiagnosis include racial/ethnic differences in symptoms and clinician bias, i.e., using different decision rules in forming diagnosis. Since a culturally competent diagnosis is the basis for treatment plans and mitigating factors, misdiagnosis of mental illnesses impacts criminal justice proceedings.
37. Current Challenges in South American Forensic Psychiatry

**Parental Alienation: A Controversial Concept**

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Recently, Brazilian legislation has innovated, trying to reduce litigation related to guardianship disputes. In 2008, shared custody was established. Two years later, a new law was created, defining civil and penal consequences when parental alienation is proved. Since then, mental health staff have been asked to attend to situations where there is evidence of psychological interference in the child’s or adolescent’s development by one of the parents. Richard Gardner defined a syndrome of which the most important aspect is avoidance behaviour of the child or adolescent toward the visitor parent, induced by a defamation campaign by the parent that retains custody. This law encompasses psychological evaluation, therapeutic attendance and expert counsel including diagnosis, evolution and guardianship definitions. However, diagnostic criteria are not yet well defined, parental alienation cannot be described as a disease or disturbance, opening polemic discussions, and delicate postures must be handled by psychiatric forensic professionals.

**Partial Criminal Responsibility in Brazilian Law: Its Foundations and Implications**

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Some episodic or accidental issues may occur during a criminal law procedure requiring a forensic psychiatric evaluation in order to elucidate whether the defendant suffers from a mental condition that modifies his or her criminal liability. The Brazilian Criminal Process Code states in Article 149 that when there is doubt about the mental integrity of the defendant the judge should order a medical-forensic examination. This procedure requires the existence of strong evidence of mental disturbance compromising the defendant’s capacities to comprehend the illegal act committed, and to behave according to this comprehension. The evaluation may diagnose mental conditions that modify criminal liability by undermining the defendant’s comprehension of his or her illegal action, and consequent behaviour, without completely abolishing the criminal liability. This condition is specified at the Brazilian Criminal Code under the term “semi-liability,” enabling the court to reduce the sentence by one or two-thirds, or to determine treatment under security measure. Traditionally, mental disorders that fit defendants as
“semi-liable” are personality disorders, drug addiction, and intellectual disabilities. Discussion will include extensions and consequences of diagnosing these mental disorders, sometimes implying insanity and sometimes having no effect on mental health, under Brazilian Criminal Law, based on forensic psychiatric evaluations conducted at the Mauricio Cardoso Forensic Psychiatric Institute, in Porto Alegre, Brazil.

**Psychopathology and Crime in Women: Assessment of Childhood Trauma**

Helena Bins, *Health Sciences Federal University of Porto Alegre* (helenabins@gmail.com)

**Introduction:** Childhood trauma (CT) is common in mentally ill women and in forensic populations, correlating with criminality, but has been insufficiently studied.

**Objectives:** Evaluate association of CT with psychopathology and antisocial behaviour in women, and assess the criminal and psychopathological profile of this population.

**Method:** A case-control study in 147 female subjects split in four groups: forensic psychiatric inpatients on Psychiatric Forensic Institute Dr. Mauricio Cardoso (IPFMC), psychiatric inpatients on Hospital Materno Infantil Presidente Vargas (HMIPV), convicted women in Madre Pelletier Women’s Prison (PFMP) and controls. The IPFMC group (mentally ill who committed crimes) was used as an index for pairing the remaining groups. MINI PLUS, BIS-11, CTQ and QSD were used. Data analysis used SPSS 18.0 (Fischer, chi-squared, Shapiro-Wilkis, one-way ANOVA, post hoc Scheffé, Kruskal-Wallis and Mann-Whitney).

**Results:** In IPFMC, the most prevalent diagnoses were schizophrenia (47%) and drug addiction (36.8%). In prison, APD (32.4%) and drug addiction (27%). In psychiatric hospitals, specific phobia (32.4%) and bipolar disorder (29.4%). The three groups had more CT than control (p<0.001). CT was significantly associated with mood disorders, antisocial personality disorder and crime in adulthood. Differences were observed among groups on CTQ total, physical abuse (CTQ-PA) and emotional abuse (CTQ-EA). There was a higher potential for maltreatment in the group with larger psychopathologies. CTQ-EA was an important risk factor for the main studied outcomes.

**Conclusion:** CT was positively associated with psychopathology and violence in the population studied.

**Arsonist Females: A Study of a Chilean Sample**

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There are few studies on arsonist females, though it seems to be an expanding feature in some countries. We found only one paper in Chile related to the matter, published in 1998.
Aim and method: To investigate socio-demographic, psychiatric, psychological and criminological variables in all arsonist women referred for mental assessment at the Medical Legal Service in Chile, over a twelve year period (1999-2011). Forensic psychiatric reports were reviewed (n=36)

Conclusion: The arsonist female pattern obtained corresponded to single middle age women, with a low education level and no profession, with at least one Axis I diagnosis and with an Axis II personality disorder in half of the cases. Affective disorders and acute emotional problems (i.e. anger, frustration) appeared to be key background factors in the commission of arson. The firesetters displayed reactive behaviour and formed their criminal intent under the influence of an emotional state. Forensic psychiatrists who assessed the defendants perceived most of them (66%) to be mentally insane or to have set the fire under the influence of an extreme emotional disturbance.

38. The Death Penalty

Death Qualification and Predictions of Future Dangerousness Testimony in Death Penalty Trials

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Previous research examining the jury selection process in United States death penalty trials has demonstrated that death qualified jurors (jurors who are allowed to serve on capital cases) tend to be more conviction prone and more likely to endorse aggravating factors during the sentencing phase. Research has also shown that death qualified jurors are less likely to effectively evaluate expert scientific testimony. This research extends these findings by examining the impact of death qualification on perceptions of future dangerousness testimony in a mock jury experiment. Mental health practitioners frequently make predictions in death penalty trials regarding a defendant’s future dangerousness. These predictions are typically based on either clinical expert testimony (which refers to an expert’s personal opinion and past experience) or a more scientific actuarial expert testimony (where actuarial evaluations are based on empirically verified risk factors that predict future dangerousness). Participants in the study were “death qualified” and presented with information about the sentencing phase of a capital trial, in which an expert witness presented evidence based on either a clinical or actuarial assessment of the defendant. The results indicate that, in addition to death qualification, other interpersonal differences are relevant to the persuasiveness of dangerousness testimony.

Deadly Predictions: The Inability Of Capital Juries To Predict Future Violence

Mark D. Cunningham, Consulting Psychologist, Dallas, USA (mdc@markdcunningham.com)
Applying an intuitive analysis, the Supreme Court of the United States in *Jurek v. Texas* (1976) affirmed that capital juries are able to identify those capital offenders who will commit serious violence in the future. The capability of capital juries to accurately make these judgments as a means of deciding which capital offenders should receive the death penalty has been widely endorsed in both statute and case law in the United States. Three recent investigations have tested this confidence by retrospectively reviewing the postconviction disciplinary records of three samples of offenders who faced death penalty sentencing: 1. Federal capital offenders (N = 72, M = 5.7 years postconviction); 2. Texas former death row inmates (n = 111; M = 9.9 years death row, M = 8.4 years post-relief); and 3. Oregon capital offenders (n = 115, M = 15.3 years postconviction). For each of the samples, jurors’ predictive performance was no better than random guesses (i.e., no improvement over base rates), with high error (false positive) rates, regardless of the severity of the anticipated violence. It is concluded that the confidence of legislators and courts in the violence prediction capabilities of capital jurors is misplaced.

**The Role of Neuropsychological Assessment in Characterizing Individuals with Intellectual Disability**

Joette James, *George Washington University* (jdjames@childrensnational.org)

The cognitive assessment of individuals with intellectual disability is often thought to be simple and straightforward, and in *Atkins* cases, a simple manner of administering intellectual and adaptive measures. This presentation will explore the idea that the neurocognitive functioning of individuals with intellectual disability is actually complex, and accurately characterizing their neuropsychological strengths and weaknesses can be challenging. The presentation will focus on the use of specific neuropsychological instruments to characterize fundamental day-to-day weaknesses associated with low intelligence, such as vulnerability to becoming overwhelmed and difficulties with managing information quickly and effectively when it is complex. In addition, the nature of cognitive strengths in individuals with intellectual disability and the circumstances in which strengths are most apparent will be discussed.

**Risk and Protective Factors in the Lives of Twenty Capital Defendants**

Jennifer Wynn, *LaGuardia Community College* (jwynn7@nyc.rr.com)

A standard mitigation tool used in capital cases for evaluating defendants’ moral culpability is the risk and protective factors model. Developed by the United States Department of Justice, Office of Juvenile Justice and Delinquency Prevention, the model is based on a meta-analysis of 66 studies conducted over 30 years that identified correlates of delinquency, violence and criminality. The research identified factors that predispose a person to criminal behaviour (risk factors) and factors that buffer against criminal behaviour (protective factors). The research also identified a critical factor known as the cumulative factor: the number of risk factors which,
when compounded, increase significantly the likelihood of criminal behaviour. This presentation will apply the risk and protective factors model to the lives of 20 capital defendants (with whom the author worked as a mitigation specialist) to further explore the validity and usefulness of the risk and protective factors model in assessing moral culpability.

### 39. Decisionally Impaired Older Persons: Challenges and Opportunities for Interprofessional Collaboration

**Interprofessional Collaboration on Behalf of Older Persons with Compromised Decisional Capacity: Defining and Developing Core Professional Competencies**

Marshall B. Kapp, *Florida State University* (marshall.kapp@med.fsu.edu)

Issues arise with some frequency concerning the cognitive and emotional ability of an older individual to make certain legally significant decisions for him or herself. In confronting these issues, the professional involvement of both attorneys and physicians (and other health care professionals) may be needed: the attorney as the legal representative of the older individual or some other party who is interacting with that individual, and the physician as a provider of factual information, an expert opinion, or some sort of case management for the older individual. The individuals with compromised capacity, as well as others who are engaging in some kind of financial or personal relationship with that party, ordinarily are best served by effective interprofessional collaboration among members of the different involved professions. However, the level of interprofessional collaboration encountered in dealing with the legal issues that arise when the decisional capacity of an older client/patient is questioned often leaves much to be desired. This presentation will define and suggest strategies for developing, through innovations in medical and legal education, core competencies for physicians and attorneys that are essential to improving the level of interprofessional collaboration on behalf of older individuals whose cognitive and emotional condition purportedly compromises their capacity to make certain legally significant decisions.

### A Reconfiguration of Interprofessional Collaboration for Specific Retiree Populations: Successful People with Mental and Education-Related Disabilities

Alison Barnes, *Marquette University* (alison.barnes@mu.edu)

The future of mental illness and personal decision-making will unfold in a culture in the developed world with two newly vocal groups of people with mental disabilities. One group includes highly effective and intelligent people with chronic mental illness who nevertheless...
found the strength to conduct challenging lives and full relationships. Most have spent time “in the (mental illness) closet” to avoid stigma and virtually inevitable limiting expectations regarding their capabilities. A growing number have decided to reveal their conditions and struggles. A second group includes people now in preretirement who were recognized and accommodated from primary through higher education. Many group members are likely to assert claims for assistance to maintain their health care and lifestyle choices in spite of the physical and mental losses that may attend old age. How these expectations might be treated is a topic for discussion by scholars and policymakers who wish to give individuals fair and effective protection from discrimination and unwanted interference in their lives. This presentation acknowledges such claims and discusses how a new configuration of professionals might facilitate recognition both for the good of the individuals and for society which might continue to benefit from the wisdom and expertise of such capable people.

Reducing Social Disconnectedness and Perceived Isolation among Older Adults for Better Health Outcomes: Could a Mandatory Chronic Disease Registry be a Beneficial Tool?

Alina M. Perez, Nova Southeastern University (amp@nova.edu)

Among United States residents ages 65 and older, 10.9 million, or 26.9%, had diabetes in 2010 and an estimated 50% had pre-diabetes. Uncontrolled diabetes is the leading cause of kidney failure, blindness and lower limb amputations resulting in disability and decreased functioning among those with the disease. Effective management of diabetes requires compliance with medication, exercise and dietary regimes. Studies show that among the older population, social and psychological factors such as social disconnectedness and perceived isolation may impact the ability of older individuals to comply with medical treatment, resulting in poorer health outcomes. In addition, depressive symptoms among the most isolated older adults are found to be associated with decreased willingness to exercise and with an increase in health-risk behaviours, including smoking and alcohol use. In 2006, The New York City Board of Health implemented a mandatory diabetes registry which required laboratories to report all hemoglobin A1C levels of diabetic patients to the city’s Department of Health and Mental Hygiene. The department would then contact those patients whose Hg A1C values were indicative of poor diabetes control and their physicians, to suggest modifications to their course of treatment. This presentation will explore the possible benefits of such a registry as: (1) a tool to improve the health outcomes of diabetic older adults who also experience social disconnectedness and/or perceived isolation; and (2) an opportunity for interprofessional collaboration in elder care.

Clinical Correlates of Impaired Decision-Making in Older Adults

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The ability to make decisions necessary for physical, mental and financial well-being is essential, and impairment with this complex capacity puts older adults at risk. They are more vulnerable to abuse, financial and physical mishaps, and even institutionalization and reduced quality of life. Reasons for impaired decision-making include acute illness and delirium, dementia, adverse medication effects, abuse, and mood or affective disorders. Presentation of this problem may be subtle or insidious, although at times it is clearly evident. Professionals may see unique facets of impaired decision-making in their encounters with older adults in the work or social setting. This presentation will characterize various medical and psychosocial problems, as well as psychiatric disorders contributing to impaired decision-making. Manifestations of this problem as it relates to the elder interacting with various professionals will be discussed.

### 40. Developments of Prison Mental Health Care in the Netherlands

**Development of Prison Mental Health Since 2008**

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As a result of the acceptance in 2004 of a motion of the Dutch Senate asking the government to improve the connection between mental healthcare in prisons and in free society, an interdepartmental workgroup was installed. The advice of this workgroup, together with recommendation number 17 of the temporary parliamentary committee of 2006 on detention under a hospital order, led the Ministry of Justice to initiate the “Vernieuwing Forensische Zorg” programme. This programme, among other things, aimed to develop five Penitentiary Psychiatric Centres throughout the Netherlands. In 2009, those centres became operational. In this session we will describe the process of developing a psychiatric facility within a prison and with that “going concern,” the development of a quality control system and some general characteristics of the population. Treating psychiatric patients in a detention situation differs from treatment of the same patients in free society. The imprisonment itself has an effect of the development and course of psychiatric disorders and also on the possibilities in treatment. We would like to discuss the advantages and disadvantages of treating psychiatric patients within the prison system.

### Prison Staff Delivering Mental Health Care

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Working within a prison mental health facility requires specific skills. In this session, we will share our experience regarding recruitment and education of employees, and present on skills and qualifications necessary to work with this specific population. Five Penitentiary Psychiatric Centres were opened in the Netherlands in the last three years. In the process of recruitment and education, we encountered challenges, opportunities, and difficulties worth discussing with colleagues in prison and general mental healthcare. What are the implications of prison hierarchy for mental healthcare? While it is the prison directors’ responsibility to provide treatment for inmates with mental disorder, it is the psychologist or psychiatrist that decides what treatment. Prison mental health staff (nurses and trained wardens) co-operate with and are supervised by the psychologist. Healthcare law holds them personally responsible for their contribution in the treatment process. In prison, healthcare personnel is subject to both hierarchy and professional standards. In the Penitentiary Psychiatric Centre these influences are balanced by dual management on every level of the organization. The head of the ward and the psychologist join responsibility for the ward as a whole, safeguarding professional autonomy of practitioners within the necessary strict hierarchy of the detention setting.

Results of a Study on the Characteristics of Psychiatric Patients in a Prison

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Major mental disorders increase the risk of violent behaviour. A significant proportion of psychiatric patients end up in prison and receive treatment there, rather than in a mental healthcare institution. This group has histories of non-compliance, is elusive of healthcare, and is difficult to treat even in a mental health facility. To prevent recidivism and fine-tune treatment, more knowledge about this group is necessary. Their stay in prison is an excellent opportunity to learn more about the characteristics of this psychiatrically and behaviourally severely disturbed group of people. We present the findings of research into symptoms and aggression of men and women incarcerated in a penitentiary psychiatric centre.

Mental Disorders and Psychiatric Symptoms during Imprisonment and the Relation to Reoffending

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A large number of prisoners suffer from mental disorders and psychiatric symptoms. Little is known about the course and predictability of these symptoms and co-occurring problematic behaviour during imprisonment. This study aimed to gain insight into the course of symptoms and behaviour to predict which prisoners need attention or treatment. Factors which relate to the
course of psychiatric symptoms were studied over time. Furthermore, the effects of transferring prisoners to a psychiatric prison ward within prison was studied. Finally, the question of whether certain psychiatric complaints are related to reoffending were explored. All new arrival remand prisoners and new arrival prisoners on a psychiatric prison ward were studied. Their mental disorders were studied and every month psychiatric complaints were measured by both interviews and questionnaires. At arrival, prisoners who were admitted to a psychiatric prison ward were diagnosed with more mental disorders, specifically psychotic disorders and depression. Also, they were experiencing more intense symptoms and were causing more problematic behaviour. Within two months of admission, psychiatric complaints no longer differed between the groups. The short term results of admission to a psychiatric prison ward seem to be effective for mentally disordered prisoners. Long term effects, specifically in reoffending, were studied and will be presented.

**Continuation of Forensic Psychiatric Care: Transfer of Mental Care from Prison to Regular Psychiatry**

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Treatment in a regular (forensic) psychiatric setting is paramount. To achieve this goal, the Department of Justice and Security finances care within regular psychiatry. Often, a transfer of care is not possible. In those cases, treatment in our Penitentiary Psychiatric Centre is continued. There are many cases where continuation of care is still necessary although a judge decides that the patient must leave our prison facility. What works? Where are possibilities for improvement and fine tuning? In this part of the session, the ins and outs of the many possible transfers of care will be discussed.

**41. Dimensions of Risk Assessment**

*The Psychometric Characteristics of the HKT-EX Risk Assessment Tool in a Sample of 342 Forensic Psychiatric Patients in the Netherlands*

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In the Netherlands, the Dutch risk assessment tool HKT-30 (Historical-Clinical-Future-30) is increasingly used in forensic psychiatric practice. Currently, the HKT-30 is being revised in a large research project, for the purpose of which an experimental version of the HKT-30 has been created, containing more and other items: the HKT-EX. This study investigated some psychometric properties of the HKT-EX, namely the factorial structure, the internal consistency and inter-rater reliability. The study sample consisted of 342 forensic psychiatric patients, who had been discharged from any of the Dutch maximum-security forensic psychiatric hospitals between 2004 and 2008. The HKT-EX was rated by trained Masters level psychology students on the basis of criminal file information. To determine the inter-rater reliability, for 60 patients the HKT-EX was rated twice by two different raters. To determine the factorial structure, factor analyses were performed. The internal consistency was computed using Chronbach’s alpha. The intra-class correlation was used to assess the inter-rater reliability. Implications of these psychometric characteristics for the use of the HKT-EX risk assessment tool in forensic practice will be discussed.

Quantitative Analysis of the Quality of HCR-20 Risk Assessment Reports

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Background and Aims: The HCR-20 (Webster et al 1997) is a widely used guide for assessing the risk of violence in a variety of secure and community settings. There are however few, if any, quality control standards. In the absence of any existing HCR-20 standards, the authors sought to develop and pilot a quality assessment framework that could be used in the secure inpatient setting.

Methods: The McNeil et al (2011) Competency Assessment Instrument for Violence Risk (CAI-V) was modified for use in a low secure in-patient population. 51 recently completed HCR-20 reports were evaluated using this tool. HCR-20 reports were given an overall rating on an eight point scale ranging from 1 (“Unacceptable”) to 8 (“Advanced”), with a score of 6 achieving the “Competent” rating. Inter-rater reliability was checked both at the beginning and end of the study.

Results and Clinical Implications: Overall, 80% of the HCR-20 reports were rated as “Competent.” 90% of the reports achieved “Advanced” ratings for “Evaluating Present and Future Risk Factors for Violence,” “Communicates the Estimate for Violence clearly” and “Risk Factors for Violence are Addressed.” Two main areas were identified that needed improvement, “Considered Duty to Protect,” was not completed in 92% of reports, while “Obtained Collateral Information from Family or Significant Others,” was not completed in 90% of reports. These preliminary findings will be disseminated across the hospital and practice development points discussed with clinical teams before re-auditing in 3-6 months time.
Role of Dysfunctional Empathy in Violence among People with Schizophrenia

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This presentation will include a summary from a systematic review on empathy, schizophrenia and violence, and will explore the different components of empathy and their possible role in violent behaviour among people with schizophrenia and other psychosis. The evidence suggests that people with schizophrenia have dysfunctional empathy. Intact empathy has been associated with prosocial behaviour and has been considered a protective factor against antisocial behaviour and violence. The dysfunction of the components of empathy might play a role in the pathway to violence among people with schizophrenia and its further investigation may be worthy. Data from an ongoing longitudinal multicentre study will be presented. This data will include sociodemographic and psychopathological information from patients with psychosis recently admitted to both forensic and general psychiatric settings. Self reported empathy and recent violent episodes during the time of admission are explored among two subgroups of patients clustered according the frequency and severity of their historical violence. Preliminary results on empathy and recent violence differences between the two subgroups will be presented. The clinical and legal implications of this study will be discussed.

Are Negative Symptoms of Psychosis and the Deficient Affective Experience Different Concepts? An Exploratory Study in Chronic (Forensic) Psychiatric Patients

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Background: The Deficient Affective Experience (DAE) is described as being a predictor of violent behaviour in men recently discharged from forensic psychiatry as well as in general populations. Furthermore, schizophrenia, and possibly its negative symptoms as an emotional dysfunction, are also a cause for increased risk for violent behaviour. However, it is unclear in what way there is a correlation between these two emotional dysfunctions.
Aim: In this study, the aim is to explore the possible correlation between the DAE and negative symptoms of schizophrenia.

Method: Based on an interview and a review of institutional files, the DAE total score and facet scores were examined among different forensic and non-forensic psychiatric subgroups. Subsequently, (partial) correlation and rank order coefficients were calculated.

Results: The personality disordered subgroup showed a significant higher DAE total score, as do psychotic patients without a comorbid personality disorder. Forensic patients have a significant higher DAE total score, compared to patients in general psychiatry.

Conclusions: Based on few significant correlations between DAE total and facet scores and negative symptoms items, both appear not to be the same concept. This means that interpreting the DAE total score of psychotic patients in general psychiatry should be considered with caution.

42. Dimensions of Trauma

Forgotten Victims: Psychological Impact on Children Whose Parent has been Killed by the Police

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The Forgotten Victim Study is an empirical research project examining families torn apart by violence due to police misconduct, and focuses on children under the age of eighteen whose parents, most commonly their fathers, have been killed or seriously injured by the police. We are exploring the short- and long-term impact of both the acute and developmental Post Traumatic Stress Disorder trauma with these children, as well as in their families. We are interested in: gaining perspective on what support is needed to assist these forgotten victims, to enhance the limited research on which to understand the short- and long-term impact on children, and to determine whether the mental health issues presented by children in this category are more or less severe than children whose parent dies from natural causes or by fatal accident. Through interview and direct survey with the child’s parent or caregiver, we have studied a group of fifteen children, and continue to include an average of 2 children each month. We have been actively studying this sample for approximately five years and the study is ongoing. The benefit of the ongoing nature of this study is that we are able to capture the stages of the coping process in relation to critical stages in their human development. The study has identified a range of marked coping mechanisms, from psychological intervention to divergent activities. The study is showing that the coping process is varied and impacted positively by the presence of a support network. The supportive network differs depending upon whether the deceased parent is perceived as a wrongdoer.

Is Participative Justice a Solution against Predatory Behaviours in Canadian Family Courts?
In the last few years, the stories of desperate fathers killing their own children before attempting to take their own lives have made the news. These fathers have complained that they had been misunderstood, if not mistreated altogether, by a blind judicial system that in the end gave them no choice but to seek relief by committing the ultimate act. This multidisciplinary presentation is an attempt at explaining such a rationale which leads to lethal actions. As it would have been impossible to obtain objective statements from the very actors involved in these cases (judges, lawyers, parents, etc.), we resorted to proxy analyses, grounded theory and to the retrieval of key documents provided to us by the Canadian Judicial Council (CJC). We show that judges are likely to play a considerable part in the desperate actions fathers take in order to express their helplessness.

Men Who Buy Sexual Services: Findings from a Swedish Population-Based Study about Prostitution

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In 1999, Sweden became the first country in the world to introduce legislation that prohibited the purchase, but not the sale, of sexual services. An evaluation of the effects of this legislation was conducted in 2010 on behalf of the Swedish government and concluded that the criminalization of the purchase of sexual services has helped to combat prostitution (SOU 2010:49). This presentation is based on data from a population-based study conducted in 2011 with 5,071 participants (49.2% males) aged 18 to 65 years about experiences of and attitudes towards buying and selling sexual services. Among male participants, 253 (10.2%) reported that they had bought sexual services at least once in their life. The prevalence rate is compared with rates from previous Swedish studies and possible trends over time are discussed. Frequency and circumstances of the purchase of sexual services are presented. Buyers and non-buyers of sexual services are compared with regard to socio-demographic variables, psychic symptoms (SCL-25), self-esteem (Rosenberg), sexual behaviour in general and problematic sexual behaviour (Sexual Addiction Screening Test).

Review of the Current State of Knowledge of Comorbid Mild Traumatic Brain Injury (mTBI) and PTSD in NATO Military Personnel who Served in Iraq and Afghanistan

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Comorbid mild traumatic brain injury (mTBI) and post traumatic stress disorder (PTSD) has affected significant numbers of the NATO soldiers who have served in Operations Iraqi Freedom.
and Enduring Freedom. The comorbidity of mTBI and PTSD have confounded physicians and researchers since well before the current military conflicts, but it is not until now that a large population of affected individuals that require proper assessment and treatment has made the scientific and clinical understanding of this elusive phenomenon an urgent necessity. This confluence of factors is bringing forth concerted and well-funded effort to study the phenomenon. This presentation will provide an overview of the current understanding of the prevalence, incidence, phenomenology, assessment, differential diagnosis, treatments, and prognosis of the comorbid mTBI and PTSD. The probable etiologies of this comorbidity will be reviewed. Finally, the implications for clinical practice and forensic import of the new insights into the mTBI/PTSD comorbidity in civil litigation will be identified.

### 43. Diminished Capacity and Incapacity in Criminal and Civil Law Contexts

#### The Defence of Diminished Capacity Short of Insanity

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Most western criminal justice systems have some form of “mental disorder” or “insanity” defence, based on the M’Naghten rules or other conceptual formulation, which results in an exemption from criminal responsibility. Some jurisdictions also have an intermediate finding, like diminished responsibility in the United Kingdom, which leads to a hospital order without an insanity finding. There are many jurisdictions, like Canada, which have no intermediate designation for accused persons who suffer from mental disorder, but cannot meet the rigorous insanity criteria. Most criminal law theorists agree that mental disorder short of insanity may be relevant to the issue of requisite intention. However, this theoretical acceptance rarely plays out in practice. The authors argue that criminal law theory makes room for a defence of diminished capacity and explore the kinds of psychiatric diagnoses which may satisfy this defence while not leading to a finding of insanity. Using this analysis of possible diagnoses, they formulate a legal test for translating the psychiatric evidence into a practicable defence.

#### Violent Incidents Against Care Workers in Psychiatry: Judicial Reaction or Not?

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Mental health professionals often encounter violence caused by psychiatric patients. According to the literature, the possibility of seeking legal action against violent patients has hardly been studied or discussed. Moreover, in daily practice there seems to be a lack of clear guidelines and policy, and incidents are handled in divergent ways. As a first step in the development of guidelines, systematic research on the prevalence and nature of violent incidents in psychiatry was carried out in the Netherlands. By means of a nationwide campaign, health care workers were requested to fill in a questionnaire on their personal experience with violent incidents caused by patients. The 1534 mental health workers who participated in this research were victims of a total of 2648 violent incidents in the past five years. In this presentation, the consequences of these incidents, including injuries, medical treatment and sick leave, are presented, as well as the possible judicial reactions, such as reporting to the police, prosecution and conviction. The hypotheses that only a tiny amount of all incidents are tried in court and that selection of these incidents is quite arbitrary, are discussed.

“I’m Not an Aid Worker, I’m There to Apply the Law.” Lawyers’ Experience of Their Work in Clinical Negligence: An Interpretative Phenomenological Analysis

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Professionals whose work entails extensive contact with clients who are traumatised may experience significant emotional difficulties and trauma symptoms themselves. However, there has been only limited research on such vicarious distress in legal professionals. Lawyers working in clinical negligence have been neglected despite their exposure to clients’ detailed and emotionally-charged accounts of alleged misadventure, and collation of graphic medical evidence and expert reports to build a case. Such interaction confers a significant emotional dimension to legal work. In the absence of previous research and to gain rich accounts of how such work is experienced and understood, a qualitative study was undertaken.

Methods: Five United Kingdom lawyers working in clinical negligence participated in semi-structured interviews which were informed and analysed using Interpretative Phenomenological Analysis.

Findings: Emergent themes comprised increased anxiety about own and family’s health, cynicism about health care delivery, rewards and drawbacks of the work, conflict between legal and counselling roles, and fear of revealing distress in the workplace.

Discussion: These lawyers disclosed pervasive issues relating to heightened affect and difficulties with emotional containment consistent with aspects of trauma and health anxiety. Recommendations are made to increase awareness of lawyer vulnerability and for training and professional support to mitigate potential distress.
Assessing Testamentary and Decision-Making Competence/Capacity in the Australian Context

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Australia lacks a satisfactory, national paradigm for assessing competence and capacity in the context of testamentary, enduring power of attorney and advance care directive documents. Competence/capacity assessments are currently conducted on an ad hoc basis by legal and/or medical professionals. The reliability of the assessment process is subject to the skill set and mutual understanding of the legal and/or medical professional conducting the assessment. There is a growth in the prevalence of diseases, such as dementia. Such diseases impact upon cognition which increasingly necessitates collaboration between the legal and medical professions when assessing the effect of mentally disabling conditions upon competency/capacity. Miscommunication and lack of understanding between legal and medical professionals involved could impede the development of a satisfactory paradigm. A qualitative study seeking the views of legal and medical professionals who practise in this area has been conducted. This incorporated surveys and interviews of 10 legal and 20 medical practitioners. Some of the results are discussed here. Practitioners were asked whether there is a standard approach and whether national guidelines were desirable. There was general agreement that uniform guidelines for the assessment of competence/capacity would be desirable. The interviews also canvassed views as to the state of the relationship between the professions. The results of the empirical research support the hypothesis that relations between the professions could be improved. The development of a national paradigm would promote consistency and transparency of process, helping to improve the professional relationship and maximizing the principles of autonomy, participation and dignity.

Addressing a Lack of Mental Capacity: Courts Authorising the Making of Wills for Living but Incapacitated Persons in Australia

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There will be occasions when a living person will not have the capacity (nor the intention) to make a will, sometimes meaning that after his or her death the estate will inevitably be distributed under the intestacy scheme or in a way which may be inappropriate or even perverse in the circumstances. In short, the person is alive, but is unable to make a will, although it can already be seen that the distribution upon death will be unsatisfactory. The hiatus created by a lack of basic testamentary capacity became a great concern in Australia during the 1990s. This presentation will briefly outline the reasons why law reformers and legislatures decided to give courts (and in some cases other authorities) the power to authorize/make wills on behalf of
incapacitated persons; briefly outline the structure and content of legislative provisions, including the fact that the person for whom the will is authorized must be alive at the date of the application; discuss the kind of situations to which the legislation may apply such as “lost capacity,” “nil capacity,” and “pre-empted incapacity;” discuss the concept of “lack of testamentary capacity” utilized in the legislation; the standard of evidence required to satisfy the court that the person lacks capacity; the standard of evidence which may substantiate the argument that the person will acquire or re-gain testamentary capacity; the kind of evidence which may assist the court in determining the person’s testamentary wishes in the absence of capacity; the extent to which (if any) the powers given to courts to authorize wills for incapacitated persons overlap with the powers accorded to protective authorities such as guardianship tribunals/boards and protective commissioners; discuss whether there are any inherent “dangers” for abuse under the legislation; and refer to some of the principal cases which have arisen under the legislation.

International Comparisons of Legal Frameworks for Substitute Decision-Making

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In this presentation four legal frameworks for substitute decision-making for people whose decision-making capacity is impaired will be reviewed and compared. The four jurisdictions that will be examined are Ontario, Canada; Victoria, Australia; England and Wales; and Northern Ireland. Some of the key areas of discussion will be the assessment of mental capacity and the interface between mental capacity and mental health law. Ontario has developed a relatively comprehensive, progressive and influential legal framework over the past thirty years (Bartlett, 2001), but there are some issues about the standardisation of mental capacity assessments and how the laws work together. In Australia, the Victorian Law Reform Commission (2012) has recommended that the six different types of substitute decision-making under the three laws in that jurisdiction need to be integrated and simplified. In England and Wales the Mental Capacity Act (2005) also has a complex interface with mental health law. In Northern Ireland it is proposed to introduce a new Mental Capacity (Health, Welfare and Finance) Bill that will provide a unified structure for all substitute decision-making. The presentation will identify key strengths and limitations of the approaches in each jurisdiction and propose possible ways that further progress can be made in law, policy and practice.

44. Diversion from the Criminal Justice System: Initiatives in the United Kingdom and Australia
Criminal Justice Mental Health Liaison and Diversion Services: Current Practices and Future Directions

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Criminal Justice Mental Health Liaison and Diversion services, designed to divert people with mental illness away from the criminal justice system, have proliferated in England and Wales over the last twenty years. They are universally regarded to be a “good thing,” but there is no robust body of research evidence to support the belief that they improve the health, social or criminal outcomes of people who are in contact with them. The Department of Health commissioned the Offender Health Research Network to review current practices around liaison and diversion and make a number of recommendations for future service development. Site visits and telephone conferences were undertaken with 21 schemes using a semi-structured interview schedule. This presentation will identify their referral process, methods of screening, assessment and onward referral, and outline the problems identified with service provision, funding, core tasks, and inclusion/exclusion criteria. We conclude that liaison and diversion schemes provide a service for clients who are not always well served by mainstream services, but there appear to be opportunities for service improvement through a standardisation of approach; a national model of practice; improved data collection; and more consideration to the conduct of ongoing evaluations into service impact and outcomes.

Developing Criminal Justice Mental Health Pathways in South London

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South East London contains some of the United Kingdom’s most socially deprived boroughs, with high rates of mental health issues. Since 2008, there has been a focus on improving mental health care pathways for people in contact with the criminal justice system. This presentation will detail this process, starting with improvements to prison-based care services for people with serious mental illness, moves to enhance services at local courts, complemented most recently by a new wave of services in police custody areas. Throughout, there has been a distinct emphasis on multi-agency working, with health agencies partnering with others such as HM Court Service, HM Prison Service, police, probation services, the voluntary sector and health service managers responsible for commissioning care. Quantitative evaluation and research work will be presented from each of the limbs of the criminal justice system and the project’s overall efficacy will be discussed, with recommendations for future work.
Mental Health Screening in Police Custody in England: Developing a Screening Tool and Referral Pathway

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There are many reasons why people end up detained at a police station, some of which are mental health-related. A large proportion of this group would benefit from being diverted from the police and court systems altogether, and instead receiving treatment from health and/or social services. In the United Kingdom, Criminal Justice Mental Health Liaison and Diversion teams are largely reliant on referrals made by police for mental health assessments. The aim of this project was to improve current practices surrounding the identification of mental health problems for people in police custody, through increasing access to timely and appropriate referrals to mental health professionals. The study incorporated a mixed methodological approach including a review of existing screening procedures, interviews, a delphi consultation exercise and action learning groups, which included the perspectives of the police, mental health professionals and service users. Upon completion, the project generated a referral decision tool, to be used by non-mental health trained staff to determine whether a detainee in police custody should be referred for further assessment and possible diversion. The integration of this tool will refine the referral pathway and increase the chances of a person accessing health and social care services from police custody.

Health Screening of People in Police Custody: The HELP-PC Project

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There is a significant amount of health morbidity among police custody detainees. Chronic and acute physical disorders, serious mental illness, substance misuse, elevated suicide risk and intellectual disability are all overrepresented. In England and Wales, the Police and Criminal Evidence Act (1984) confers responsibility for the welfare of custody detainees to the custody Sergeant. In a previous study it was established that police screening procedures miss significant amounts of health morbidity and detainees at risk. In a recent study, we developed and piloted a revised screening tool for police custody sergeants within London’s Metropolitan Police Service (MPS). This presentation will outline the development of a new police custody screen including the results from the pilot. Additionally, recommendations will be made for future changes to current police custody screening procedures.

An Evaluation of the Police and Community Triage (PACT) Initiative

Stuart Thomas, Monash University (stuart.thomas@monash.edu)
The Police and Community Triage (PACT) team is a pre-trial diversion program operating in Victoria, Australia. PACT was developed against an operational background which aimed to: (a) improve police responses to people who experience a range of social, welfare and health problems and are involved in repeated contacts with the police through ensuring they are appropriately linked to appropriate community services; and (b) reduce their repeated exposure to the police. A pilot phase of this initiative commenced in early 2011 in three police service areas encompassing six police stations. This presentation will outline the PACT model then provide details of outcomes arising from the first twelve months after its implementation. Views of operational police involved and stakeholder experiences of the initiative will be presented and discussed in relation to the opportunities that creative partnerships can provide for improving the outcomes for complex needs clients.

**45. Eating Disorders**

*Isolated Health Professionals Working with Isolated Women*

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Eating disorders (EDs), the third most common chronic disease of adolescence and a leading cause of disability in women, affect approximately 2% of men and 4.8% of women. Unaided, a significant number (10%) of women with an ED will die from complications. Accessing help is, however, particularly difficult for those living in rural areas and provinces, including Atlantic Canada, given the current healthcare climate of fiscal restraint and limited resources. The resulting lengthy waiting times and lack of varied treatment options, when combined with prevailing public stigmatization toward those with EDs, impede help-seeking and treatment success. Although the dissatisfaction with treatment services on the part of those seeking help is well documented in the professional literature, the voices of those who provide ED care and services are largely silent. To address this knowledge gap, we explored the perceptions and knowledge of Atlantic Canadian allied health professionals who care for clients with ED. Analysis of qualitative semi-structured interviews with social workers, dietitians, personal trainers, and others revealed their overall sense of feeling unprepared in decision-making. The analysis presented important sub-themes, including isolation, lack of both experience and employer support to gain practical educational experiences, and limited evidence-based practice guidelines. The findings that provide insight into the needs of healthcare providers are useful to enhance existing and develop treatment and prevention initiatives.

**Overweight and Mental Health in Children and Adolescents**

Cornelia Thiels, *University of Applied Sciences Bielefeld* (cornelia.thiels@fh-bielefeld.de)
**Aim:** To study associations between BMI, socio-demographic variables and mental problems in youngsters.

**Method:** 1057 pupils aged 10 to 17 years completed the Youth Self-Report (YSR) and the Eating Disorder Inventory for children (EDI-C). At least one parent of 874 of these pupils completed the Child Behaviour Checklist (CBCL) and the Anorectic Behaviour Observation Scale (ABOS). Teachers completed the Teacher Report Form (TRF).

**Results:** BMI-defined underweight, normal weight and overweight groups did not differ in SES, age or gender. The CBCL, TRF and YSR mean scores for overweight subjects were significantly higher than for underweight pupils. The lowest CBCL, YSR and TRF mean scores were found for participants with a normal BMI. EDI-C total scores above the >90th percentile were found in 13.8% or 18.6% of overweight pupils. The same was true for 5.1% or 8.4% of normal weight and 3.6% or 5.3% of underweight participants. ABOS total scores above the >90th percentile were found in 16.0% or 17.6% of overweight and obese pupils. The same was true for 8.5% or 6.9% of normal weight and 14.3% or 15.8% of underweight youngsters.

**Conclusions:** Overweight prevention policies are necessary because of the physical but also the mental risks.

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**How Law and Public Policy Can Impact the Childhood Obesity Epidemic in the United States**

Jamie Chriqui, University of Illinois at Chicago (jchriqui@uic.edu)

This presentation will review the public policy strategies that are being implemented across federal, state and local jurisdictions in the United States to counter the childhood obesity epidemic. Specific focus will be placed on examining the associations and/or impact that such laws and policies are having on affecting the obesogenic environments within which children are living as well as their association with and/or impact on Body Mass Index (BMI) and related behaviours/risk factors. Specific legal/policy strategies to be discussed include laws and policies at the state, local, and/or school district levels related to: (1) physical activity including, but not limited to, those related to physical education and safe routes to school; (2) restricting the availability of foods and beverages sold outside of meal programs (i.e., “competitive foods”); (3) school district wellness policies; and (4) beverage and food taxes. Examples of the disparate impact of such laws and policies on lower income and racial/ethnic minority populations also will be discussed.

**The Silent Struggle: Secret Keeping as a Covert Action within Eating Disorders and Issues**

Kathleen M. Pye, University of New Brunswick (kathleen.pye@unb.ca)
Eating disorders and issues are a complex range of mental illnesses, which have the potential to result in significant psychological, physiological, emotional, and social harm. Those with eating disorders and issues may be subjected to societal shame and blame. Often perceived as self-inflicted, the stigmatizing nature of eating disorders and issues result in many concealing their illness, choosing instead to struggle in silence. Early recognition and appropriate intervention is vital to the recovery process, yet the secrecy associated with eating disorders and issues prevents disclosure to potential social supports, including family, friends, and health professionals. Research directed at deepening the understanding of the behavioural, emotional, and social processes involved in secret keeping within eating disorders and issues is vital to ensure the health and well-being of those who struggle. An innovative qualitative paradigm, contextual action theory (CAT), proposes that human actions are socially constructed and goal-oriented, best understood in the context of everyday experiences. By adopting this framework, secret keeping can be understood as a covert action that is socially constructed between the secret keeper and those within the individual’s social system. The aim of this study was to examine secret keeping in the context of eating disorders and issues through an action theoretical lens. This presentation will outline findings from this examination, specifically the nature of secret keeping in the context of eating disorders/issues will be discussed.

46. The Effectiveness of Correctional Interventions with Special Populations

Examining the Relative Effectiveness of a Halfway House Program for Offenders with and without Mental Illness

Sarah M. Manchak, University of Cincinnati (manchash@ucmail.uc.edu)
Paula Smith, University of Cincinnati (paula.smith@uc.edu)

Most interventions for offenders with mental illness (OMIs) emphasize psychiatric services delivery as a means to reduce recidivism (Skeem et al., 2011), but strong empirical evidence undermines this model. Mental illness is a weak predictor of criminal behaviour (see Andrews et al., 1990; Bonta, et al., 1998), and symptoms lead to criminal behaviour in a small proportion of crimes (~8-10%; Junginger et al., 2006; Peterson et al.). This evidence suggests a need to revisit the “what works” question for reducing OMIs’ recidivism. In the present study, we examine 6,090 offenders across 44 correctional halfway house programs in Ohio State. We compare the effectiveness of specific programs (e.g., substance abuse, anger management) and program-level characteristics (e.g., program leadership, staff characteristics, and quality assurance) for OMIs versus non-disordered offenders, as measured by new convictions over a two year follow up.

Juvenile Court Effectiveness: Youth with Co-Occurring or Substance Use-Only Disorders
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Edward J. Latessa, *University of Cincinnati* (edward.latessa@uc.edu)

Studies of the effectiveness of juvenile drug courts have yielded mixed findings. A study of juvenile drug courts, funded by the Office of Juvenile Justice and Delinquency Prevention, was recently completed in the United States. The study combined evaluations of the processes used by nine juvenile drug courts with outcome evaluations of their respective effectiveness in reducing recidivism and/or the improvement of other important outcome measures. While these results generally advance our understanding of how varying drug court practices impact the effectiveness of juvenile drug courts, this presentation will outline differences in findings between youth with co-occurring disorders and youth with only substance use disorders to determine if youth with co-occurring disorders can be well served in drug courts. The possible implications for drug courts and mental health courts will be explored.

**Separate but Equal? Understanding the Impact of Gender Responsive Treatment in Correctional Settings**

Edward J. Latessa, *University of Cincinnati* (edward.latessa@uc.edu)

There is much debate in corrections about the best method for treating and managing female offenders. Generalists argue that there is limited empirical evidence that the method for reducing recidivism differs for males and females. Those in the gender specific camp argue that the pathway to criminality differs for females, thus treatment for female offenders should vary from that of males. This presentation empirically examines program characteristics associated with recidivism reduction for females versus males in community correctional programs. Over 25,000 offenders participating in more than 100 programs are examined. Results contribute to the gender-responsive literature that helps guide effective treatment for male and female offenders.

**Effective Practices in Community Supervision (EPICS) for Families**

Jennifer Luther, *University of Cincinnati* (lutherjr@ucmail.uc.edu)

Research shows that relapse prevention programs that train significant others in cognitive-behavioural approaches are three times as effective as programs that do not. Family EPICS gives officers a unique opportunity to build on the application of evidence-based supervision in order
to increase the success of their clients. Officers teach family members of individuals under supervision to understand, model and support pro-social choices. In this way, community corrections officers bolster external support systems. Training officers in Family EPICS includes a two-day classroom workshop, followed by one-on-one field coaching with feedback and booster trainings. The Ohio Department of Youth Services has implemented Family EPICS within three jurisdictions and is planning to roll out the program in two additional jurisdictions by the end of 2012. Initial feedback from officers and families has been promising. Participants report greater collaboration and understanding. Community supervision now has a tool to work with families toward more effective relapse prevention.

### 47. The Elderly: Care and Social Policy

**Use of Social Commitment Robots in the Care of Elderly People with Dementia**

Elaine Mordoch, *University of Manitoba* (elaine.mordoch@ad.umanitoba.ca)

Globally the prevalence of elderly people is rising with an increasing number of people living with dementia. This trend is offset with a prevailing need for compassionate caretakers, traditionally taken from a demographic that is currently declining in many societies. A key challenge in dementia care is to assist the person to sustain communication and connection to family, caregivers and the environment. The use of social commitment robots in the care of people with dementia has intriguing possibilities to address some of these care needs. This presentation discusses the literature on the use of social commitment robots in the care of elderly people with dementia. The contributions to care that social commitment robots can potentially make and cautions around their use are discussed. Future directions for programs of research are identified to further the development of evidence based knowledge in this area.

**Physical Health Monitoring in Aged Persons Mental Health Bed-Based Services**

Robyn Garlick, *Melbourne Health, Melbourne, Australia* (robyn.garlick@mh.org.au)

Mental health consumers die on average up to 25 years younger than the general population. While those with serious mental illness largely die of the same conditions as the general population – cancer, heart disease, stroke, pulmonary disease, and diabetes – they develop these conditions much earlier. Cigarette smoking, obesity, and diabetes are treatable causes of physical illness and death among psychiatric patients, much the same as in other groups, but factors such as diet, exercise, misuse of illicit drugs, psychotropic medications, and poor access to general practitioners can contribute further to this problem. Poor motivation, compliance and adherence to treatment due to their mental illness may also play a part. The role of the psychiatric nurse is
to promote health. There is a clear national and state policy expectation that physical health monitoring will occur but no clear legal framework. A literature review was undertaken of common physical health illnesses in mental health consumers. Then incident reports, unusual events, and near misses were reviewed for any physical health aspect. This was followed by a training needs analysis on physical health issues of five residential and three acute units’ clinicians within Aged Persons Mental Health. From these three areas topics were utilized to develop an education program for clinicians. The analysis, education program and evaluation are to be presented.

Local Models of Right Preservations: Caring for the Elderly

Lois Condie, Harvard University (lois.condie@childrens.harvard.edu)

Rights preservation relevant to elderly individuals is formulated in federal and state statutes, administrative policies, and institutional policies and regulations. Carrying out these statutes, policies, and regulations typically remains a local endeavor. Ancillary to these policies and regulations are the efforts of government and non-governmental organization to help facilitate the preservation of rights of elderly individuals. This presentation applies a previously developed organizational system for local models of rights preservation to the needs of elderly individuals. Cross-national models and procedures are described for preserving dignity, establishing thresholds for seeking care, establishing respectful models for seeking guardianships and conservatorships, ensuring safety and security of elderly individuals, respecting cultural norms regarding individual and collective responsibilities, and preserving the individual rights of elderly individuals in the context of caregiving organizations. Cross-cultural comparisons are offered as examples of suitable models in light of local norms and economic conditions.

48. Ethical Implications of an Economic Framework for Mental Health Care in the Netherlands

Ethical Aspects of Evidence Based Guideline Development

Jan A. Swinkels, VU University Amsterdam (j.a.swinkels@amc.uva.nl)

In the development, implementation and use of evidence based guidelines, moral and ethical issues are at stake. When forming a guideline working group, there are possible conflicts of interest to deal with. Can we trust guidelines, without external judgement (i.e. the AGREE instrument) and patient involvement? To what extent is it still ethical to follow guidelines? Informed consent for treatment is necessary but depends strongly on the information given. The reimbursement system also plays a role in implementing and following guidelines. In this presentation, these problems will be addressed and solutions proposed in an interactive manner.
Market Oriented Mental Health Care: Ethical Dilemmas

Jack Dekker, VU University Amsterdam (jack.dekker@arkin.nl)

The concept of market driven mental health care for patients with serious mental disorder has implications that are questionable from an ethical point of view. Market driven ethical treatment guidelines can suggest cessation of treatment for patients after two “no shows;” however, patients with serious mental disorder often need outreach treatment that continues despite long periods of no show or lack of compliance or commitment to treatment. In this presentation, the practical implications of this new development will be discussed and alternatives will be proposed.

Ethical Implications of the New Mental Health Legislation in the Netherlands

Remmers van Veldhuizen, Centre for Certification ACT & FACT, Groningen, The Netherlands (remmersvv@hotmail.com)

In 2013, the Dutch Parliament will discuss a new proposal for an “Involuntary Mental Health Care Act.” This is an ambitious effort to manage the problem of involuntary care and treatment in a way that is acceptable for all parties involved. The innovations in this Act intend to: give more voice to patients and to families; facilitate stepped care and treatment and support; safeguard legal positions and security; and create a more community based MHC system and a more comprehensible MH ACT. The aim is less involuntary care and – if needed – more acceptable involuntary care. This is a large difference from the former MH Act, which was focused primarily to involuntary admission. In this presentation, some ethical aspects of this legislative innovation will be discussed. Important topics include respecting and restoring patients’ autonomy (outpatient commitment), the facilitation of “self binding” and the concept of reciprocity.

Equity of Mental Health Care: Moral Implications and Future Developments

Christina M. van der Feltz-Cornelis, Tilburg University (c.m.vdrfeltz@tilburguniversity.edu)

In medicine, autonomy of the patient, beneficence of the physician, non-maleficence of the physician and justice are four leading ethical principles and several Medical Associations as well as Psychiatric Associations have published Codes of Ethics in which the physician-patient relationship is considered to be at the heart of medical and psychiatric practice. In recent
developments, the patient’s perspective is taken into account more often, i.e. in Shared Decision-Making and patient preference as leading principles in the choice of treatment in mental health care. The economic framework of mental health care should follow the principle of equity even more in a time of economic recession. If ethical decisions are taken that make it impossible to sustain medical treatment for economic reasons, unethical injustice in the division of means would result. Therefore, viability and economic sustainability have ethical implications in and of themselves. However, ethical decisions should also be based primarily upon sound moral values and their acceptability in a given cultural context. Limitation of access to mental health care based upon economic considerations, as imposed by the government of the Netherlands due to the economic recession, poses specific ethical challenges, as it intrudes upon the patient-doctor relationship and the equity of division of means. Moral implications of the influence of pharmaceutical companies and governmental policies are described and possible solutions on micro-, meso- and macrolevels are suggested. For an ethical approach to the economy of psychiatry, not only should the principle of equity be followed, but allocation of money or resources should always lead toward an ethically sound destination.

49. Ethical Dimensions in Psychiatry

_A Framework for Trustworthiness in the Medical Profession_

Katinka Morton, _North Western Mental Health Program, Parkville, Australia_ (katinka.morton@mh.org.au)

The importance of trust for the medical profession seems beyond question. There is a growing sociological literature examining the factors which influence levels of interpersonal and institutional trust in the medical profession. Trust without the guarantee of trustworthiness is associated with risk, however. Although there is undoubtedly much trustworthy conduct within the medical profession, there has been little attempt to define what trustworthiness is in this context. Philosophy’s interest in trust and trustworthiness has been relatively recent, but there are now a spectrum of descriptions of trust and trustworthiness. In this presentation I examine the available considerations of trust and trustworthiness. I argue that it is only one form of trustworthiness that is appropriately considered for the doctor patient relationship. I define these standards in the doctor patient relationship, and present a “Framework of Trustworthiness for the Medical Profession.” I argue that understanding these expectations is crucial both as a normative standard for conduct and in considering appropriate responses to unprofessional conduct.

_Ethics of Psychiatric Expert Opinions in the Area of Uncertainty_

Samuel Wolfman, _Zefat Academic College Law School_ (s.wolfman@wolfman-law.com)

Many psychiatrists submit expert opinion testimonies in courts, regarding causality between the stress involved in a tort case and a psychiatric disease developed after stressful events. They
either support the plaintiff claiming a causal relationship, or the defense undermining the significance of such stress, or claiming that different signs of the disease had been observed in the plaintiff long before the alleged stressful event. Another area where psychiatrists submit expert opinion is in labor law cases regarding the question of causality between stress at work and psychiatric disease developed – allegedly – after work or military stressful conditions. In light of statutory arrangement compensating such disabled, a negative psychiatric opinion may result in depriving such severely disabled individuals from any financial support. This presentation shall discuss the ethics of psychiatrists testifying in the above cases with absolute certainty — not only in clear-cut cases, but also in ambiguous and vague cases. As such testimonies may determine the financial fate of such disabled mentally ill for the rest of his/her life and as the real etiology of many psychiatric diseases is still not fully understood, there are definite ethical questions as to such absolute certainty and the place for some humbleness of such experts.

The Ethics of Research Involving Victims of Crime

Rita Shackel, University of Sydney (rita.shackel@sydney.edu.au)

A myriad of ethical issues arise in the conduct of research that involves victims of crime, especially vulnerable victims e.g. children and victims with a disability. The risk of retraumatisation of such victims is an ethical concern widely recognised by researchers working in the field. This presentation identifies and discusses the main ethical issues that arise in the conduct of research with victims of crime, focusing particularly on especially vulnerable victims and the ethical issues that specifically arise with regards to: (i) the expectations that victims have of researchers and the ethical responsibilities that such expectations give rise to; (ii) the expectations of participants and duties of researchers that flow from utilising particular research methodologies; and (iii) the potential ethical issues and conflicts of interest that might arise when the line between research participation and therapeutic benefits becomes blurred. This analysis draws on relevant published literature and includes an analysis of data obtained from victim services websites and relevant government and other institutional protocols relating to the conduct of research involving victims of crime.

The Role of Empathy in Legal-Psychiatric Assessments

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Empathy has a well respected position in psychiatry and psychotherapy treatments. However, in the area of psychiatric assessments for legal purposes the role of empathy is controversial. To further the understanding of the sources of this controversy two issues will be presented and
discussed: in cases of persons accused of serious crimes, the judiciary in Israel tends not to accept psychiatric-legal assessments which have been prepared by the accused’s therapist, on the assumption that the therapist may not be objective enough. The court prefers assessments by experts who do not have a prior professional relationship with the accused. This issue is controversial from the ethical point of view and the ethical aspect will be the focus of this presentation. This subject is particularly problematic in the implementation of the Israeli Law of Diminished Punishment (section 300/a) in cases of murder committed by persons suffering from severe mental disorders. The case of a mother who killed her only child will be discussed for explanatory reasons – the discussion will be centered on the role of empathy in the preparation of legal-psychiatric assessments assessments and the ethical issues this generates.

**Thick Value Concepts and The Pursuit of a “Pure Scientific” Understanding of Psychopathy**

Simon Barnes, *University of Manchester* (simon.barnes@postgrad.manchester.ac.uk)

Given the dangers to society posed by psychopathic individuals, it is unsurprising that a great deal of public money has been devoted to understanding psychopathy. One of the striking things about psychological criteria for psychopathy is that they typically contain numerous “thick” value terms (broadly, evaluative terms like “courageous” or “cruel” whose corresponding concepts, unlike those of “thin” terms like “good” or “right,” have significant descriptive content). The Psychopathy Checklist-Revised, for example, requires raters to judge the extent to which a person exhibits “glibness,” or is “grandiose,” “callous” or “manipulative.” The presence of these terms raises questions about the extent to which values may be intrinsic to the concept of psychopathy, and whether they can be “factored out” as our understanding deepens. In this presentation, I consider a number of different philosophical perspectives on the so-called “fact-value distinction,” and show how they are relevant to research into psychopathy. I conclude that it seems unwise to pursue a “pure scientific” understanding of psychopathy.

**50. The Expert Witness as Defendant**

*Board and Malpractice Liability for Expert Witnesses*

Eric Y. Drogin, *Harvard University* (edrogin@bidmc.harvard.edu)

Expert witnesses – including those in the mental health sciences – often consider themselves immune to board disciplinary proceedings and malpractice suits, usually due to some combination of local custom, statutory exemption, and traditionally favorable case law. In recent years, however, all three of these notions have shifted perceptibly in the direction of increased liability exposure in many jurisdictions. This presentation will review patterns of litigation, codified rules, and appellate decisions that are continuing to transform the landscape of modern
witness practice in terms of mounting risk for expert witnesses. Is the “standard of care” an illusory notion when the role of the expert witness arguably does not involve the provision of treatment or traditional clinical assessment services? If applicable practice definitions do not address forensic evaluations or courtroom testimony per se, to what extent is the purview of the board or the court limited as a result? Attendees will learn practical tips for responding to a board summons or subpoena, strategies for collaborating with counsel prior to and during a hearing or a trial, and critical aspects of transitioning from the role of an expert witness in another person’s case to the role of a fact witness in one’s own case.

**Professional Society Peer Review**

Donald Meyer, *Harvard University* (donald_meyer@hms.harvard.edu)

Psychiatric and psychological experts are often required to testify about a respondent healthcare professional’s retrospective mental state and prospective fitness for duty. This calls for the expert witness to parse the degree to which educational deficiency and mental illness were substantial contributing factors to any alleged past misconduct, and to offer recommendations for prospective mental health treatment as well as any educational and supervisory remediation of diagnosed disorders or deficiencies. Unlike adjudication of malpractice – in which the goal is to make an injured party whole by financial compensation for negligent harm – the goal of peer review is to protect the public by serving as an overseer of the quality of the profession. In the United States, “peer review” has been statutorily defined as “an action or recommendation of a professional review body” that is “based on the competence or professional conduct of an individual physician” in a fashion that may have a negative effect upon “clinical privileges” or “membership in a professional society.” This presentation examines the mental health expert’s role in professional society peer review, with particular attention to forensic examination, courtroom testimony, and a recent spate of appellate decisions highlighting critical differences between malpractice litigation and administrative adjudication.

**International Perspectives on the Expert Witness as Defendant**

John Williams, *Aberystwyth University* (jow@aber.ac.uk)

A watershed event in the history of the expert witness as defendant was ultimately precipitated by the *Sally Clark* case (UK, 1999). A mother was convicted in this matter of murdering two of her sons when the prosecution’s pediatrician expert, Sir Roy Meadows, opined that “one sudden infant death is a tragedy, two is suspicious and three is murder, until proved otherwise.” This witness had incorrectly assumed that there were no genetic or environmental factors affecting the likelihood of “cot deaths,” and testified that there existed only a one in 73 million chance that two such deaths might occur in the same family. An appellate court ultimately quashed the defendant’s murder convictions. Initially struck off the medical register when the General Medical Council (GMC) concluded that he had “abused his position as a doctor,” Dr. Meadows
won a high court appeal to overturn this ban when it was determined that he had “acted in good faith” despite having opined in error. The effects of this series of events are reflected in a decade’s worth of statutory innovations and appellate decisions in jurisdictions throughout the world. This presentation will provide a comparative overview of international perspectives on expert witnesses as defendants.

“Cold Case” Issues for the Expert Witness as Defendant

Alan Clarke, Aberystwyth University (ahc@aber.ac.uk)

The last two decades have witnessed an increasing shift amongst policing organizations in the United Kingdom and North America toward utilizing a more formal process of periodically reviewing their long-term unsolved cases, to establish whether any new “investigative opportunities” might have arisen. Originally based upon somewhat ad hoc and innovative responses, and used for only a small number of individual cases, these “cold case” reviews have progressively established a more defined and coherent methodology for “fixing” the past. The resulting technological and procedural refinements have enabled other organizations – including professional licensing boards – to delve into matters that until recently would have been considered decidedly low-yield options for identifying malfeasance. In particular, biologically based inquiries (concerning, for example, sexual transgressions) and database oriented inquiries (concerning, for example, billing and communications improprieties) have dramatically extended the reach of board investigations that address the activities of expert witnesses and other professionals. Empirically grounded studies of the police practices used when conducting cold case reviews of unsolved homicides illuminate key features of what is termed “retroactive social control” (RSC). This presentation will identify implications of RSC for what can arguably be considered the “policing” function of professional licensing boards regarding the expert witness as defendant.

The Personal and Professional Experience of the Expert Witness as Defendant

Thomas G. Gutheil, Harvard University (gutheiltg@cs.com)

Dealing with the considerable stress occasioned by being the subject of litigation requires attention to a number of factors in order to prevent the legal process from wreaking havoc with work, family, and physical and mental health. The core principle in this regard is to preserve those aspects of life that promote well-being while allowing for the disruptions that occupying the role of defendant will inevitably produce. Expert witnesses who are being sued often lose the thread of appropriate time management in several observable and preventable ways. Rather than filling time, the defendant’s goal should be clearing time. The three activities most likely to be affected and disrupted by the stress of litigation are paradoxically the most essential to
preserving and promoting one’s viability as a legal client: diet, sleep, and exercise. The sued expert cannot afford to abandon vacations, hobbies, and leisure activities, friends, and family during the pendency of litigation. This presentation will focus upon identifying the most effective and clinically supportable ways for providing services to – and for persevering as – the expert witness as defendant.

51. Fetal Alcohol Spectrum Disorder (FASD) and the Law: The Need for a Targeted Therapeutic Response

The Colliding Directions of Science and the Law in Response to FASD

Mansfield Mela, University of Saskatchewan (mansfield.mela@saskatoonhealthregion.ca)

Fetal Alcohol Spectrum Disorder (FASD), a consequence of prenatal alcohol exposure, is emerging as a significant issue in many parts of the world. The relationship between prenatal alcohol exposure and subsequent involvement with the law intersects across several domains including antisocial behaviour, criminal activity and violent/sexual offending behaviour. Apart from the concerns of those accused with FASD offering false confession, the reliability of witnesses with FASD and inculpatory behaviour by some FASD affected persons when facing criminal charges are a few of the interfaces that the law requires scientific methods of psychiatric inquiry to weigh in. With insanity statutes and fitness standards set in the background of functional psychotic disorders, scientific understanding is required for the accommodation of the FASD deficits in the application of the law. As governments begin to craft effective responses, and provide services to people affected by this disorder, it is prudent to examine the state of current knowledge and to do so with a particular emphasis on the unavoidable collision between medicine, and hence the science of FASD, with related sociological, legal and economic challenges; this allows for support of the cross-infiltration of ideas, and thereby ensures that the provision of services to persons affected by FASD is handled in a manner which is not only purposeful and supportive, but is also effective within the broader societal context. Advances of science can sometimes be misaligned with the evolution of law. Concepts of moral responsibility may be difficult to separate from societal values, but – when premised from scientific circles – fairness, the base tenet of the law, may result as a welcome outcome.

How Criminal Courts Can More Effectively Respond to the Adult FASD Offender

Larry Anderson, Provincial Court of Alberta, Edmonton, Canada (larry.anderson@albertacourts.ca)

The adult criminally accused person who is affected by Fetal Alcohol Spectrum Disorder (FASD) is in need of special responses and handling throughout the process of criminal justice.
This presentation considers, in the context of the current status quo, how trial judges may consider and respond to the special circumstances of a person affected by FASD as they appear before the Court, from the time of first appearance through to conviction and sentencing. It also suggests how case management and a more integrated set of agency support activities may contribute to more effective outcomes.

The Trial Judge’s Perspective: Creative Sentencing and the Adult FASD Offender

Peter Ayotte, Provincial Court of Alberta, Edmonton, Canada (peter.ayotte@albertacourts.ca)

The presence of Fetal Alcohol Spectrum Disorder (FASD) in a convicted offender presents a specific and special challenge to the trial judge. In Canada, the stated principles of sentencing include preservation of the rule of law, the enhancement of public safety, denunciation, deterrence, retribution, incapacitation through physical separation, rehabilitation, the promotion of individual responsibility including recognition of victims and the harm committed or resulting from criminal acts, and finally, reparations for the harm endured by victims. These purposes are expressly set out in Section 718 of the Criminal Code. In addition, the dominant statutory principle in Canada is proportionality. While the enumerated principles of sentencing must be duly considered, the sentence must be “proportionate to the gravity of the offence and the degree of responsibility of the offender.” This is prescribed by Section 718.1 of the Criminal Code. With these principles and strictures in mind, when the offender is affected by FASD, the judge should consider the offender’s ability actually to comply with the terms of the sentence. To facilitate this, an effective sentence should involve a variety of agencies and community members, to give assistance to the affected offender so as to promote his or her management and response to the terms of the sentence. In this way, the affected person is aided by the terms of the sentence, rather than being merely punished or worse, subjected to a set of requirements which he or she will most likely fail to adhere to or effectively manage.

The Challenges Facing Social Services and Corrections: FASD Sufferers as Inmates and when Supervised by Community Corrections

E. Sharon Brintnell, University of Alberta (sharon.brintnell@ualberta.ca)

Fetal Alcohol Spectrum Disorder (FASD) necessitates a planned, targeted and programmed response by corrections agencies and officials. Persons subject to the jurisdiction of corrections, as inmates, probationers or parolees who are affected by FASD present a variety of behavioural, cognitive and other problems, as well as a set of behaviours that absent knowledge and training tend to trick or confuse corrections and social services staff and officers into making assumptions about that person’s ability to respond to commands or control requirements, all of which require organized and planned programs, handling and programming. These require education and
training of corrections personnel, and policy direction and coordination. In addition, there is a need for interaction with the Courts, and all justice system actors, to ensure that FASD is taken into consideration throughout the process of the administration of justice.

**Future Possibilities: FASD and Therapeutic Justice**

Neil C. Skinner, *Provincial Court of Alberta, Edmonton, Canada* (neil.skinner@albertacourts.ca)

Fetal Alcohol Spectrum Disorder (FASD) presents significant cognitive disability, and related and co-morbid conditions and behaviours in those persons affected by it. These and other symptoms and characteristics result in real and unavoidable barriers to the ability of an affected individual to interact effectively with the justice system (and virtually all other institutional settings in modern society) such that recognition and a purposeful and integrated response are warranted. In criminal justice, the normal manner (and associated governing legal principles and practice) through which accused persons are dealt with serves to exacerbate the circumstances faced by an accused person affected by FASD, and for convicted offenders, particularly the manner in which those persons will respond to the Court and participate in the process. The result, without a new and targeted response, is inevitably problematic, for the individual and the community. There is a solution however, which is founded on principles of therapeutic justice, and which is informed by a variety of established alternative court procedures, including problem-solving courts, therapeutic jurisprudence and non-adversarial justice.

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**52. Fetal Alcohol Spectrum Disorders (FASD) and Criminal Justice**

**Growing International Awareness of FASD in Legal Settings**

Kathryn Kelly, *University of Washington* (faslaw@u.washington.edu)

People with FASD vary in terms of the severity of their physical or cognitive symptoms, but they all exhibit poor judgment, are impulsive and lack social skills. As a result, youth and adults with FASD are very likely to end up in jail or prison, for offenses ranging from minor to the most serious. Until recently, the majority of youth and adults with FASD went undiagnosed in the legal system, but that is beginning to change. Several Bar Associations in Canada, the United States and elsewhere have passed, or are considering, policy statements regarding FASD offenders, and legal training programs on the topic have been proliferating. These developments are discussed at length in this presentation.

**Screening and Diagnosing FASD in the Criminal Justice Setting**

Natalie Novick-Brown, *University of Washington* (natnovickbrown@gmail.com)
It is believed that a significant percentage of youth and adults in the criminal justice system have undiagnosed FASD. Yet, most attorneys fail to recognize the possibility of FASD in their clients. This presentation describes a multidisciplinary methodology that has been successfully used in the United States to screen for and evaluate FASD within the forensic setting. Grounded in the FASD literature, the methodology involves comprehensive neuropsychological testing, cross-validation of results with multiple methods including neuroimaging, differential diagnosis, and, ultimately, clear testimony to the court regarding how the FASD influenced offense conduct.

**How Lawyers Can Use FASD to Seek Lesser or Alternative Sentences**

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A diagnosis of FASD can be critical in convincing both prosecutors and judges to consider diverting criminal defendants from severe criminal charges or sentences. Using actual case illustrations, this presentation will show how declarations or testimony by experts knowledgeable about FASD can be used to put together a case for legal incompetence, for reduced criminal culpability, or for non-penal treatments, such as supervised community living placements. The key ingredient in such an effort is telling a story that humanizes the defendant and reframes his or her behaviors in more sympathetic terms, as reflecting brain damage caused by exposure to alcohol in the womb.

**FASD as a “Common Sense Deficit Disorder”**

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The reason why FASD is an important mitigating factor in a criminal case is because it allows an attorney to reframe offending behaviors as “dumb, not bad.” People with FASD behave in the interpersonal realm essentially as if they have intellectual disability (ID), even when their IQ is too high to qualify for that diagnosis. People with neuro-developmental disorders, such as both FASD and ID, have an absence of “common sense,” defined as ability to recognize social or physical risk. Examples from actual criminal cases are used to illustrate this point. Just as some civil agencies provide a “brain damage waiver” allowing people with FASD to access developmental disability services regardless of full-scale IQ, courts should provide the same protections to people with FASD that they currently provide to offenders who qualify as intellectually disabled.
The features and biophysical, psychological and neurological characteristics of Fetal Alcohol Spectrum Disorder (FASD) are the subject of this presentation. The structure of the 2005 Canadian Guidelines for Diagnosis (based on initial guidelines from the United States) will be presented, with a particular emphasis on the cognitive assessment and features of adults with FASD. Although some of the facial and medical features may or may not be present, the cognitive symptoms of FASD may be the most significant in the person’s life. While the diagnostic process includes verification of prenatal alcohol exposure, post-natal risk factors, and a medical evaluation of the individual’s facial features and growth, the neuropsychological evaluation is often the lengthiest part of the assessment. A review of the neuropsychological assessment process will be provided, as well as a discussion regarding typical suggestions for intervention in the adult population.

Fetal Alcohol Spectrum Disorder (FASD) affects the patient across his or her lifespan. The presentation usually varies with age and is related to alcohol being a risk factor for birth defects, behavioural disorders, and learning disorders. The individuals have issues related to mental health, addiction, employment and housing. There is a high correlation between FASD diagnosis and risk of interaction with the justice system. These effects of FASD on the individual present a variety of, and as the person ages, a changing set of challenges for the health care provider and for supporting agencies and literally all public bodies, which the FASD patient will or may interact with throughout their lives. This presentation considers the manner in which a primary health care network may effectively handle patients who are affected by the disorder, and why innovative responses are not only desirable but also necessary.
Fetal Alcohol Spectrum Disorder (FASD) requires significant and targeted public information and educational resources and campaigns as a core mechanism for prevention of this tragic debilitating condition. Among essentially all forms of biophysical disability and mental disorder (with the exception of substance abuse as defined in DSM-IV), FASD is entirely preventable. FASD is also unique in that it is irreversible and non-responsive to curative treatment or therapy. When these features of FASD are coupled with its incidence and prevalence, the need for preventative education is undeniable. This presentation examines strategies for effective education and an integrated approach to prevention. As one example, the Canadian Prevention Framework describes four levels of FASD prevention: (1) raising awareness for the whole population; (2) discussing alcohol use with all girls and women of childbearing age; (3) reaching and providing specialized care and support to girls and women who use alcohol during pregnancy; and (4) supporting new mothers with alcohol problems.

The Economic Burden of FASD to the Legal, Health, Education, and Social Systems

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Fetal alcohol spectrum disorder (FASD) refers to a range of physical, cognitive and behavioral impairments caused by prenatal exposure to alcohol. The brain trauma caused by alcohol to the developing fetus is irreparable, lifelong, and devastating for the individual, the family, and other caregivers. In Canada, one out of every one hundred newborns is affected by fetal alcohol spectrum disorder. An individual with FASD is also at high risk for a number of secondary disabilities and negative outcomes, including homelessness, alcohol and drug abuse, infectious diseases (such as HIV, hepatitis C and tuberculosis), unemployment, mental illness, dropping out of school, family and placement breakdown, and involvement with the criminal justice system. A majority (60%) of individuals affected by FASD come into conflict with the law. FASD also comes with significant costs to society for health, social, educational, justice and correctional services. Most individuals with FASD require extensive support throughout their lives for social assistance, special education, health care, and other services. The annual total cost of FASD in the province of Alberta is conservatively estimated at $575 million. The cost of FASD in Canada is estimated to be $7.6 billion in 2009 dollars.

Policy Framework for a Multilateral Response to FASD: The Alberta Ten Year Plan

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Over 23,000 Albertans have Fetal Alcohol Spectrum Disorder (FASD). The social and economic impacts of the disorder directly or indirectly touch every citizen. FASD has a devastating and
life-long impact on individuals and communities across the province. Drinking alcohol during pregnancy can cause irreversible brain damage to an unborn child. Those with the disorder often need support throughout their life coping with challenges associated with health and mental health problems, addictions issues, learning difficulties, and involvement in the justice system. The incidence and prevalence of Fetal Alcohol Spectrum Disorder (FASD) among the Alberta population necessitated a planned and integrated cross-Ministry response by the Government of Alberta. This presentation reviews the development of the Alberta 10-year FASD Plan and its implementation to date. The strategic plan was designed as a direction-setting document to provide a broad framework for the coordination, planning and delivery of relevant FASD services across Alberta. Development of the plan engaged community partners and federal government agencies responsible for FASD initiatives.

54. Forensic Adolescent Psychiatry: Criminal Responsibility and Treatment Procedures

*The Relationship between Neuropsychological Functioning and Psychiatric Disorders in Children*

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Over the last decades, increasing evidence has emerged suggesting that psychiatric disorders are not only associated with genetic, environmental, and personality factors, but are also strongly related to neuropsychological functioning. Certain profiles of cognitive functioning and impairments appear to both predispose the development of psychiatric disorders and affect their course. The research on this subject has predominantly focused on ADHD, disruptive behavior disorders, autistiform disorders, bipolar disorders, and schizophrenia, corroborating their association with certain neuropsychological dysfunctions. However, their specific role, as well as their relation with other psychiatric symptoms, has remained largely unclear. In addition, little is known about the effectiveness of treatment or training of these neuropsychological dysfunctions. In spring 2012, a longitudinal study was launched to explore the relationship between certain profiles of neuropsychological functioning and the development and course of psychiatric symptoms, and investigate the effects of neuropsychological training. All children between six and eighteen years old who were referred to an ambulatory care setting for psychiatric treatment were assessed both psychiatrically and neuropsychologically. Psychiatric symptoms, intellectual functioning, attention, inhibition, visual and verbal memory, planning, processing speed, verbal reasoning, abstract reasoning, cognitive flexibility and coordination were measured. Participating children will be followed up to age twenty-five. In this presentation, results of the first year of the study will be discussed.

*DBT in an Outpatient Forensic Setting: Report of a Pilot Study*
The literature of the last twenty years shows that cluster B personality disorders, and especially borderline personality disorder (BPD), have become a population of interest for researchers and clinicians. The development of evidence based treatment programs has resulted in a less negativistic attitude towards treatment of these patients even when they suffer from comorbid problems, like substance abuse (van den Bosch & Verheul, 2007). Unfortunately it seems that this positive development has not extended to forensic borderline patients. Over the last 15 years only 1 study could be found that focused on effectiveness of treatment of BPD patients in forensic settings (Bernstein and Arntz, 2009). Forensic borderline patients seem to be considered as a specific subtype of borderline personality disorder. Sociodemographic data, process data and treatment data of borderline patients from an outpatient general psychiatric program, an outpatient substance abuse program and outpatient forensic psychiatry were compared. Results will be shown. The conclusion of expanding evidence based treatment programs to all borderline patients, including forensic psychiatric patients, seems justified.

**Intellectual and Neurocognitive Functioning in Relation to the Development and Course of Delinquent Behaviour: Results from the Pittsburgh Youth Study**

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In her influential theory of offending, Moffitt (1993) differentiates between life-course persistent and adolescence-limited offenders, which she proposes each have a unique etiology and course. The origin of the life-course persistent trajectory of offending is believed to lie in the interaction between a child’s dispositional liabilities, in particular innate or acquired neuropsychological and neurological deficits, and a disadvantaged developmental environment. Adolescence-limited offending, on the other hand, appears to emerge in otherwise healthy, normally developing individuals and is considered virtually normative. A third, low-level chronic trajectory of offending was more recently identified (Moffitt, 2002). Its antecedents and correlates have remained understudied, yet preliminary findings suggest that this group may also be characterized by neuropsychological impairments (Raine et al., 2005). Using data from the longitudinal Pittsburgh Youth Study, the present study examined the differential neuropsychological correlates and antecedents of the life-course persistent, adolescence-limited and low-level chronic trajectories of offending. Measures of verbal and spatial IQ, verbal and visuo-spatial memory, verbal fluency, cognitive flexibility and sustained attention and clinical symptoms of inattention and impulsivity were collected and compared between groups. Significant group effects were demonstrated, independent of the potential confounding
influences of ethnicity, substance use, head injury and psychosocial adversity. Both the life-course persistent and low-level chronic groups of offenders showed intellectual and neurocognitive impairments when compared to the adolescence-limited group of offenders and a non-delinquent control group. Differences were most apparent on verbal IQ, sustained attention and impulsivity indices.

**The Psyche of Women Who Commit Neonaticide: A Psychological Study of Women Who Kill Their Newborn Children**

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Neonaticide occurs when a biological mother takes the life of a newborn child within 24 hours of its birth. It has been practised in all eras and in all cultures, mostly either because of harsh living conditions, such as poverty and scarcity of food, or in order to dispose of unwanted (deformed, illegitimate or female) newborns. In this day and age, neonaticide is committed by relatively young, somewhat emotionally childish women and is characterized by keeping the pregnancy hidden from the environment for fear of discovery, and after delivering the child taking its life either actively or passively. The mother then continues with everyday life. In a time when contraceptives and abortion are available, such a crime provokes not only revulsion and indignation in society, but also calls forth incomprehension and raises many questions about the personality of the culprit, her background, her environment, a possible motive and whether these kind of cases can be prevented. In this study, we researched the existing literature on neonaticide and made an overview of the most important findings in order to answer the aforementioned questions. Limitations in the current literature are discussed and new research topics are proposed.

**Criminal Responsibility and the “Legal Self” Approach**

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The question of how criminal responsibility should be understood and implemented in forensic psychiatric assessment is still unanswered. What capacities must agents possess in order to be candidates for moral or legal responsibility? Is free will relevant with respect to criminal responsibility? Juth and Lorentzon (2010) proposed to replace the concept of free will with the concept of autonomy and conceived the assessment of criminal responsibility in terms of decision-making processes. Hirstein and Sifferd (2010) argue that these processes are directed at prefrontal executive functions and call the set of executive processes “the legal self.” In this presentation we discuss this “legal self” approach to criminal responsibility. What defines the
“legal self,” and is this legal self concept of help in answering the question of criminal responsibility in the practice of forensic psychiatric assessments? By presenting some case reports in which legal principles are implicitly directed at the executive processing capacities of agents, we try to evaluate the clinical applicability of this “legal self” approach.

55. Forensic Psychiatry I

**Risk Assessment in Forensic Psychiatry: The Importance of Protective Factors for the Subjective Experience of Commitment and Self-Control**

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*Background:* In the context of forensic psychiatry, the assessment of risk of future violence implies a major challenge to mental health care professionals. Admissions, discharges, or transfer to outpatient psychiatric care bring risk assessments to the fore. In the near future, the clinic of Forensic Psychiatry in the Region of Scania, Sweden, will implement the use of Structured Assessment of Protective Factors for violence risk (SAPROF). This tool will be combined with the currently used assessment tool The Historical, Clinical and Risk Inventory (HCR-20) to achieve a more balanced estimate of risk of violent relapse.

*Aims:* The aim of the present study is to analyze the care processes in Swedish forensic psychiatric treatment concerning patients’ experiences of risk assessments, focusing on aspects such as autonomy, participation and influence. The aim is also to investigate the health professionals’ perception of the importance and usefulness of protective factors in risk assessments as part of the treatment program.

*Methods:* The study will utilize a content analysis approach using data collected by semi-structured interviews and surveys with patients and staff as informants.

*Expected results:* Increased knowledge and insight into the patients’ perceptions are expected to be useful for the development of risk management. This in turn may clarify the strengths and positive outcomes, thus leading to an increased quality of care.

**Care Processes in Forensic Psychiatry**

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*Background:* Complications (negative events) during and after forensic psychiatric inpatient treatment periods were analysed as part of the care processes in Swedish forensic psychiatric treatment study. The study cohort is a population-based, consecutive series of offenders sentenced to involuntary forensic psychiatric treatment in the region of Malmö, the third largest city in Sweden and the capital of the region of Scandia. The cohort is reasonably representative
for Swedish forensic psychiatry. A total of 99 court-ordered treatment periods were assessed from 1999-2008 and were followed for up to nine years of involuntary care.

Aim: The aim is also to compare differences between the persons sentenced to forensic psychiatric treatment with and without an approval of the court (“special release inquiry”/SRI) and to predict time in treatment from demographic, clinical and treatment related variables.

Methods: Baseline data included multi-axial psychiatric diagnostics, neurocognitive tests, social investigations and crime-related data. Complications in the form of substance abuse, non-compliance during temporary leaves of absence, absconding, violence in the treatment setting or in the community, and non-compliance with court rulings and treatment plans will be described and related to baseline data and aspects of the care processes. A Cox Proportional-Hazards Regression Analysis will be performed to predict length of stay. Independent variables will include time-dependent care process related events as well as clinical and other background data. Furthermore, a nursing care perspective will be applied, discussing ways of dealing with complications during this kind of high-security treatment.

Expected results: There is a significant difference in terms of length of stay between patients sentenced to forensic psychiatric treatment with and without SRI. The importance of clinical and criminological background variables as well as care and compliance related variables for the length of stay will be investigated.

Clinical Data from the Swedish National Forensic Psychiatric Register

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Background: The Swedish National Forensic Psychiatric Register (SNFPR) is, to the best of our knowledge, one of the only nationwide forensic psychiatric patient registers in the world.

Aims: The overall aim is to describe the content of the Swedish National Forensic Psychiatric Register (SNFPR) for Swedish forensic patients. The subjects are people who, in connection with prosecution due to criminal acts, have been sentenced to compulsory forensic psychiatric treatment in Sweden.

Methods: The mean, frequency, percentage, and standard deviation of the variables were calculated and stratified by gender. Differences in scores among pairs of groups were assessed using t-tests. Analysis of variance (ANOVA) was used in the comparison of more than two groups. Differences in frequencies were tested with chi-square tests.

Results: In 2010, 1,476 Swedish forensic patient were assessed in the SNFPR; 1,251 (85%) were males and 225 (15%) were females. Almost 60% of the patients had a diagnosis of schizophrenia, with a significantly higher frequency among males than females. As many as 70% had a previous history of outpatient psychiatric treatment before becoming a forensic psychiatric patient with a mean age at first contact with psychiatric care of about 20 years for both sexes. More than 60% had a history of addiction, with a higher proportion of males than females. Furthermore, as much as 38% of all patients had committed the crimes under the influence of alcohol and/or illicit drugs. This was more often the case for men than for women. Both male
and female patients were primarily sentenced for crimes related to life and death (e.g., murder, assault). 70% of all forensic patients in Sweden had been sentenced for prior criminal acts. Finally, the most common prescribed pharmaceuticals for both genders were antipsychotics, although more women than men more often had been prescribed other pharmaceuticals, such as antidepressants, antiepileptic, and anxiolytics.

**Clinical implications:** The goal of this study is to provide a systematic clinical picture of patients sentenced to compulsory forensic psychiatric care, including gender differences. This gives clinicians an opportunity to reflect upon and challenge their traditional treatment methods.

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**The Role of Prison-Based Substance Use Disorder Treatment in the Prevention of Criminal Relapse: An Overview**

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Substance use disorders (SUDs) are common in prison populations, and several studies have demonstrated that substance use is a risk factor for future criminal recidivism. Despite this, the literature describing the support for SUD treatment in the prison setting is still limited. While there is considerable documentation favoring opiate maintenance treatment in opiate addiction, including in the prison setting, the findings regarding other SUDs are less stable. Also, substance use is a well-established risk factor for violent crime, although this association may not be consistent across different substance-use patterns. Despite this knowledge, there is a paucity of research addressing the potential role of SUD treatment in the prevention of relapse into violent crime. The present presentation aims to present the existing body of evidence for substance-specific SUD treatment in the prison setting, current knowledge about the role of SUD treatment in the prevention of repeated violent acts, and directions for future research in the prediction and prevention of violent crime in substance users.

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**56. Forensic Psychiatry in Holland and Belgium: Ethics and Practice**

**Moral Deliberation in Forensic Psychiatry**

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Staff in forensic psychiatry often has to decide about difficult dilemmas. They wonder what to do when they want to achieve “the good” or “the just.” These difficult choices are often related to moral issues. Questions that appeal to the good or the just bring up questions about what actually is good and just in this specific situation. One could argue that TBS-patients are ultimately dependent on the staff. Not only are they separated from society for treatment, it is also unclear how long this separation will last. Therefore it is important to make a well-considered balanced
decision that does justice to the patient, to society and to other persons concerned. Several methods have been developed for moral deliberation. Usually, a distinction is made between “problem”-orientated and “attitude”-orientated methods. Problem-orientated methods are often used to formulate a solution, or at least a decision regarding a dilemma. Attitude-orientated methods examine what moves people, what they find important. It is customary to decide on which method to use after deciding what the aim of the dialogue is. In forensic psychiatry both aims are important. Is it possible to develop a method of moral deliberation that combines problem- and attitude-orientated methods?

**The Use of Diverse Intelligence Assessment Instruments in Offenders: A Reason for Concern?**

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A wide range of assessment instruments are applied to detect intellectual impairments in both forensic research and practice. The question is whether all these assessment instruments measure the same underlying construct. In addition, Uzieblo and colleagues (2012) have recently argued that the assessment of intellectual capacities in forensic psychiatry appears to be informed by practical aspects rather than grounded in a solid theoretical model. It is often ignored that the different intelligence measures represent fundamentally different latent intelligence factors. In this study we will explore which intelligence assessment instruments are being used on a regular basis in a medium security forensic population in Belgium. Discrepancies in IQ total and index scores will be analyzed. Implications of the usage of different assessment instruments will be discussed in light of the Cattell-Horn-Carroll theory, a prominent psychometric theoretical model of cognitive abilities.

**Working to Results in the TBS**

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The number of psychiatric detention tbs has decreased since 2004 from 226 to 99. The most important reason is that the duration of the treatment has exploded (4 years – 2000 till 9 years – 2012). In court this dilemma has often been solved in a resourceful way. At the moment, half of the (un)conditional termination patients still are in the clinic. After one year, the conditional termination subsequently results in an unconditional termination. Treatment and testing risk by leave hardly see a qualified interaction. To come to a recognizable way of treatment for all the actors in the tbs-sector the treatment is aimed at the dynamic risk factors of the HKT-30. The physical journey and the leave route are fixed within four months, just like the exit target (also in terms of HKT-30). The competencies per discipline or module are balanced out against the risk
factors to support the decision of how to treat the tension between the actual score and target score. Therefore the treatment plan can be explained in fewer words – the professional understands the sense of “his” risk factor. This and more has been developed in the route card, valued by the lst (inspection) as best-practice.

**Side Effects of Androgen Deprivation Therapy in the TBS**

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The goal of Androgen Deprivation Treatment in sex offenders is to reduce the availability of testosterone. If the testosterone level declines, a man produces less estrogen. The resulting drop in estrogen production leads to mental and physical complaints. These are complaints that resemble climacteric complaints: mood swings with depressive complaints, sweat attacks (hot flashes) and osteoporosis. The decline in testosterone can reduce muscle mass and may cause complaints of fatigue. Using progestagene substances such as cyproterone acetate or MPA can cause weight gain and breast enlargement (gynecomastia) as adverse side effects. To prevent osteoporosis, patients use calcium tablets, vitamin D and a bisphosphonate. Bone density measurements by DEXA scan take place at regular intervals. The psychiatrist supervising the treatment will consistently make comparative assessments of the desired effects and the burdens of adverse reactions that may occur. When a patient has a desire to have sex with an approving adult partner, there will not be much resistance from the team that treats the patient. For a patient with hypersexuality or a patient with a non-exclusive paraphilic sexual preference, such a sexual desire can fit within a positive life plan. When such a patient starts a relationship with an adult partner one can consider a milder form of antilibidinal medication.

**Risk Assessment and Shared Care Planning in Out-Patient Forensic Psychiatry**

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The aim of forensic psychiatry is to prevent future violent or criminal behaviour. Therefore, risk assessment instruments have become popular for identifying and addressing risk and protective factors. In Dutch forensic psychiatric (TBS) clinics, risk assessment has even become mandated by the state as part of the release procedure for clients under coercive treatment. In out-patient forensic psychiatry no such requirement exists. Approximately 50% of clients receive treatment under some form of formal coercion, while the remainders are treated voluntarily. Within this setting the Risk Assessment and Care Evaluation (RACE) study (NTR1042) was carried out. RACE investigated whether the use of a dynamic risk assessment instrument (Short Term Assessment of Risk and Treatability (START); Webster, Nicholls, Martin, Desmarais & Brink, 2006) combined with shared decision-making, to increase client motivation for treatment, could prevent future violent behaviour. Results of this study will be presented.

57. Forensic Psychiatry in Pakistan

Evolution of Forensic Psychiatry in Pakistan

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There is an urgent demand for forensic psychiatric services in Pakistan. The current meager supply of psychiatrists with a forensic interest cannot keep up with demand. This important discipline provokes understandable anxiety relating to public outcry for certain types of forensic cases and for mitigating the risk to psychiatrists. Large institutions in Pakistan, although having mechanisms in place to address the mentally ill offender, can still learn from the experience of the West. There is little literature that looks at forensic psychiatry in Pakistan in terms of its current context and future plans. This presentation looks at appraising the current trends of forensic psychiatry in Pakistan. By doing so, the discipline can aim for higher standards in this field across multiple forums in Pakistan. There is an impending need to highlight this discipline within psychiatry and implement far-reaching goals, such as greater education of our psychiatry residents, judges and lawyers in order to smooth the transition for such patients between psychiatry and the judicial system. Greater public awareness is needed about mental illness and the forensic mentally ill. Regular sharing of forensic practices between institutions to learn from one another will allow standardizing practices across the country.

Legislation and Mental Disorder in Pakistan: Practical Challenges

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In Pakistan, all criminal offences are charged under the Pakistan Penal Code (PPC) which drew its origin from 1860 on behalf of the Government of British India as the Indian Penal Code. Currently, the PPC is now an amalgamation of British and Islamic Law. Until 2001, the laws in Pakistan relating to the mentally ill were guided by the Lunacy Act of 1912, which was inherited from the British colonial occupiers in the Sub-Continent. In collaboration with the international
and national mental health fraternity, a new legislation, the Mental Health Ordinance, came into effect in Pakistan in 2001. Most of the laws in the Mental Health Ordinance 2001 were adopted from the laws in the Mental Health Act (1983) of the United Kingdom. Since its promulgation and implementation, apart from administrative difficulties, the civil society also posed fears and apprehension in implementing the Mental Health Ordinance. In Pakistan, Islam plays a major role in determining the value system of Pakistani society, and the treatment of individuals who are mentally ill is greatly affected by the society’s strong religious and ethical values. Therefore, there are reservations while implementing and practicing the Mental Health Ordinance in Pakistan, and the society has reservations in categorization of mental health disorders and their definitions, treatment places that are outlined, as well as types of treatments that are limited in the ordinance. In some cases, select members of the public demand their own form of justice against the accused which, unfortunately, can have fatal consequences.

Forensic Child and Adolescent Psychiatry in Pakistan

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In Western countries, prevalence of psychiatric disorders in children and adolescents is known to be high. In developing countries like Pakistan, the prevalence and range of psychiatric disorders seen in children is similar to those seen in the West. It is known worldwide that it is important to detect emotional and behavioural problems early so treatment can be implemented. Having a mental illness elicits social stigma in all parts of the world. In a country like Pakistan, this stigma is rooted in a large population that has high rates of illiteracy and who prefer to consult faith healers and spiritual healers before visiting mental health professionals. There is a great shortage in Pakistan of trained and specialist mental health professionals, with pediatricians and neurologists covering a broad range of neuropsychological disorders. Professionals faced with developing children’s mental health services in Pakistan are faced with many challenges. Forensic psychiatry, where the interface of psychiatry and the law meet, is still in its infancy in Pakistan. Forensic child psychiatry services are virtually nonexistent. In this presentation, the existing services in child and adolescent forensic psychiatry in Pakistan will be reviewed. In addition, the challenges of developing such a service with limited resources in a developing country like Pakistan will be discussed. Future directions and plans for such a service will be elaborated upon.

Substance Use in the Pakistan Prison Population

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Current or past use/abuse of psychoactive substances appears to be more prevalent among prison populations worldwide. There are not many studies looking at the prevalence in Pakistan prison populations. The limited evidence available suggests that a significant proportion of inmates have drug addiction issues. Majority of drug addicts still have access to psychoactive substances
inside the jail. The data also support higher prevalence of communicable diseases among substance using prisoners and inadequate treatment due to either lack or diversion of necessary funds. There is apparent lack of harm reduction strategies and efforts for reformation. There appears to be a need for development of effective screening programs, education and treatment of substance using inmates. This is highlighted by marked rise in HIV seropositivity among intravenous drug users in Pakistan. Models of rehabilitation in prisoners, including use of opioid agonist therapies, vocational training and education could be adopted from other countries.

**Community Mental Health Services in Pakistan: Reducing Reoffending**

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Pakistan’s mental health policy was last reviewed in 2009 in a joint collaboration with the World Health Organization. According to the report, community based residential facilities and day treatment facilities are not available. The current literature shows that effective community mental healthcare can reduce the chances of violent and non-violent reoffending. Patients in Pakistan are most often looked after by their families with poor access to effective community mental health care. It is highlighted that drug dependence and abuse was on the rise and most patients were being treated by doctors with no mental health training. The findings suggested the need to develop feasible, cost-effective, community level interventions, which can be integrated into existing healthcare systems. A community service model in Lahore at a facility called Fountain House provides social, vocational, and residential services to individuals with chronic schizophrenia. This facility has been providing important community psychiatric services since 1971. There has been increasing awareness of psychiatric illnesses on both public and professional levels in Pakistan. There has been great emphasis placed on the education and training of medical and related professionals in recent years. A community research initiative concluded that efforts to integrate mental health into primary care need to be accompanied by educational activities in order to increase awareness, reduce stigma, and draw attention to the availability of effective treatment. It is therefore imperative to develop community mental health services to provide quality care to the affected individuals with mental health issues and support their families with possibly forming a joint partnership to reduce potential reoffending in the community.

58. Forensics in Practice

**Challenging Discharges**

John L. Young, Yale University (johnlmyoung@msn.com)
Forensic inpatients do not necessarily share in the trend towards decreasing lengths of stay experienced in civil mental hospital settings. The purpose of this presentation is to reflect on experiences gained through focused efforts (some of them successful) to transfer patients from a maximum security setting they no longer require. The obstacles to discharge are readily understandable. Aside from legal requirements, they include difficult medical problems, challenging mental disorders, and imposing physical size and strength. Not uncommonly a transfer is arranged only to fail within a day or two, confirming the conviction that the patient cannot be discharged. Outside institutions play a crucial role; several organizations must be involved simultaneously. Long and frequent meetings cannot be avoided and it may be necessary to revise plans midway more than once. Measures that can overcome these obstacles include administrative support and a critical mass of treating staff members willing to challenge some strong socio-cultural influences. A great deal of patience is required to engage sufficient willingness to repeat incrementally small steps in order to challenge prevailing assumptions. Creativity can help to support a gradual wearing away of physical and mental barriers. The rewards of success are immense for all concerned.

**Optimation in the Process of Obtaining Privileges During Therapy in Forensic Psychiatry**

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Relapse prevention through rehabilitation is one of the central tasks of treatment in forensic psychiatric hospitals. To prepare practically for the release of patients and their reintegration into society, graduated stages of liberalisation are allowed during the process of therapy. A positive prognosis therefore presents the essential condition of receiving such parole. The aim of this study (granted by the Ministry of Social Affairs Mecklenburg-Western Pomeranian) at the Hospital for Forensic Psychiatry in Rostock was to optimise the existing decision base for the granting of liberalisations during treatment in a forensic psychiatric hospital. Moreover, the placing of liberalisations should be arranged in a more effective and time saving way. Based on a detailed literature analysis, suitable prognostic tools were highlighted. In addition, on the basis of an employee survey, strengths, weaknesses and chances of the currently used checklist were revealed. Every employee who was involved in the therapeutic process of a patient had to fill out this checklist. The optimised and renewed checklist is compared to the “old” one with regard to effectiveness, time saving and the appearance of incidents during times of paroles, and these comparisons are discussed. The findings of a final employee survey regarding the practicability of the new checklist will also be presented.

**Murder as the First Criminal Episode for Schizophrenic Patients in Japan’s New Forensic Psychiatric Service under the Medical Treatment and Supervision Act**
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In Japan, a new forensic psychiatric service was established under the Medical Treatment and Supervision Act in 2005. This service covers only serious criminals such as murderers or rapists who have no or diminished criminal responsibility due to their severe psychiatric illness. Our hospital has a special unit and specially designed therapeutic programs for their rehabilitation. We treated 101 inpatients under the system from December 2005 to July 2010. 85% of them have a major diagnosis of schizophrenia, and 20% are confined for murder. Twelve cases of murder involved patients diagnosed with schizophrenia, for five of whom the homicide was their first criminal episode. Two of the five had received no psychiatric treatment at all prior to their offence, while two others experienced sudden relapses on the day of the offence leading to the murders. These patients have adhered to outpatient treatment plans and maintained fair conditions. We will report on their psychopathology.

**Multi-Disciplinary Teams’ Perceptions of the Effectiveness of Breakaway Training**

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Philip J. De Prez, Glyndwr University (p.drez@glyndwr.ac.uk)

*Introduction:* Breakaway Training is a 30-year-old mandatory training programme for the management of violence and aggression (NICE, 2006) and is defined as “a set of skills to help separate or breakaway from an aggressor in a safe manner” (p.7). It was originally created for the prison service but was adapted and has become widespread within independent and NHS mental health services (Rogers, 2007). Whilst previous research has focused on the quantitative elements of Breakaway Training (Rogers, 2006, Dickens et al 2009, Mott et al 2009) there has been little coverage of the more focused views of those at the centre of the training: the staff.

*Aims:* To ascertain staff views and opinions on whether Breakaway Training is fit for its purpose. To discover whether breakaway training has been effective for participants in previously encountered challenging incidences. To explore whether the various individual practitioners within the multi-disciplinary team have similar or varying experiences and views of Breakaway Training and to identify from the views of the participants any areas in their experience where improvements in training could be made.

*Method:* Themes that appeared to be paramount following the semi-structured interviews were analysed using grounded theory and were used to assess the perceived effectiveness of the Breakaway Training experience by the participants.
59. The Future Direction of Forensic and Criminal Justice Mental Health Services

Improving Prison Healthcare Services

Andrew Forrester, South London & Maudsley NHS Foundation Trust, King’s College, London, UK (andrew.forrester1@nhs.net)

Over the last 15 years, there has been considerable development and change within prison healthcare delivery in England and Wales. The principle of equivalence has been used as a guide to enable much of this change and has been adopted as an underlying theme in a range of policy documents that have assisted in setting the overall strategic vision. Partly as a consequence of this, prison mental health in-reach teams were introduced across the prison estate, aiming to provide the same services inside prisons as are also provided in the community. The policy background is discussed and local prison research is presented to demonstrate the process of change. The composition and effectiveness of the resulting services is described, including evidence confirming high levels of unmet need and clinical complexity, with a recurrent finding that many people access mental health services for the first time through criminal justice system contacts.

Prisoners Have a Right to Health

Tim Exworthy, King’s College London (tim.exworthy@kcl.ac.uk)

The “right to health” is an important international principle that applies to all. However, prisoners in many countries are known to receive sub-standard services. The concept of equivalence has been used to guide service development in England and Wales, and as a result there have been clear and well described improvements. However, there is increasing recognition that the limitations of equivalence may now have been reached and that the introduction of a new framework would be timely. One such framework, the AAAQ framework (i.e. available, accessible, acceptable and good quality) is described and its international transformative potential is discussed.

An Evaluation of Mental Health Services to a Local Court in South London

Chiara Samele, King’s College London (informedthinking@gmail.com)
Although there have been considerable improvements in prison healthcare arrangements in England and Wales in recent years, service provision across the other limbs of the criminal justice system has lagged behind. Lord Bradley’s review of people with mental health problems or learning disabilities in the criminal justice system (Department of Health, 2009) outlined some of the current difficulties and made wide-ranging recommendations for change. In South East London, many changes have taken place within criminal justice mental health services since then, and one particular case example, at a busy urban local Magistrates’ Court, is presented. Service design and activities are described, and a newly introduced partnership with a voluntary sector provider is discussed. The AAAQ framework (i.e. available, accessible, acceptable and good quality) is also used to describe service progression.

**What is the Price of Quality in Criminal Justice Mental Health?**

Sharon Wellington, *South London & Maudsley NHS Foundation Trust, London, UK* (sharon.wellington@slam.nhs.uk)

It is well established that individuals in the criminal justice system present with a wider range of unmet healthcare needs than the general population. In England and Wales, some have called for increases in funding to make up the short-fall, while others have called for services to be rebalanced in order to allow existing funding resources to be reallocated. In times of relative financial austerity and economic downturn, it is increasingly naive to think that money will be spent on offender health simply because it is the “right thing to do.” Instead, the future is likely to be one in which service evolution proceeds through a marrying of research ideas and business approaches. Services that are likely to succeed best are those that will be able to demonstrate clear outcomes that are of benefit to both society and the individual, including health economics benefits. Evidence for the longer term effectiveness of financial outcomes within service management is presented.

**60. The Future of Forensic Psychiatry**

*The 2010 Dutch Law on Court Experts, Experiences, and Current Affairs of the Dutch Register*

Esther M. van Ruth, *Netherlands Register of Court Experts, Utrecht, The Netherlands* (e.m.van.ruth@nrgd.nl)

The Dutch Expert in Criminal Cases Act took effect on 1 January 2010. It states that there is a register for court experts that guarantees and improves a consistent high quality of individual court experts working within criminal law. The NRGD is the first European register for court experts on a legal basis, with an independent position and structural funding. Registration of court experts provides lawyers, judges or public prosecutors with evidence of the individual high
quality of the registered experts they wish to appoint. With its focus on the knowledge, skills and professional attitude of the individual expert, the NRGD forms one part of the quality circle for forensic science, which is based on training and education, standards, certification and accreditation and continued professional development. The register develops objective, substantive and clear quality standards for forensic expertise in conjunction with experts and is open for applications from Dutch as well as foreign candidates. One of the fields of expertise open for application is Forensic Psychiatry and Psychology (FPP). For this field of expertise, around 500 experts will have been assessed by the summer of 2013 and re-registration requirements will have been set for 2014-2018, providing for a continuous system of quality assurance and improvement. This presentation will discuss the experiences of the register, procedures, the (re)registration standards for forensic psychiatry and psychology and the added value of the register for court expert quality assurance and improvement within the quality circle.

Dutch Standards for and Assessment of Forensic Psychiatrists and Psychologists

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One of the fields open for registration in the Netherlands Register of Court Experts is forensic psychiatry and psychology. The standards for this field of expertise were set in 2010 in conjunction with the field. Around 500 forensic psychiatrists and psychologists will have been assessed by the summer of 2013 and re-registration will start in 2014. The assessments of the NRGD have shed light, sometimes painfully, on the quality of forensic experts working within this field of expertise. Around 20% of experts do not (yet) meet the registration criteria and are denied registration. In the past three years, the assessors have come across a number of issues concerning the quality of psychiatrists and psychologists working within the context of the criminal law. On those bases, quality improvement initiatives have been made. Assessors, experts and institutions are working together to pinpoint elements for improvement and take action where needed. This presentation will describe the standards and re-registration requirements for this field of expertise, thereby providing the international public with a concrete example of standardization and the experiences with the assessment of experts. In addition, a number of points for improvement for the field that arose from the assessments will be discussed, as well as the effects of the register on forensic practice within this field of expertise.

Training and Continued Professional Development for Psychiatrists and Psychologists

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The Netherlands Institute of Forensic Psychiatry and Psychology (NIFP) is the centre of expertise for forensic psychiatry and psychology in the Netherlands. It is a national service of the Ministry of Justice, incorporated in the National Agency of Correctional Institutions. The NIFP provides independent psychiatric and psychological expertise (diagnosis, care and advice) to judicial and social chain partners. It provides feedback to sole practitioners who are appointed via the NIFP, making use also of generalized input from the NRGD assessments. It has a training scheme for new forensic psychiatry and psychology court experts which the NIFP aspires to have officially acknowledged, forming an additional method of promoting and assuring the high quality of court experts. In this way it contributes to the due course of justice, effective implementation of custodial psychiatric care and treatment as part of the quality circle of forensic science. In this presentation the quality stimulating initiatives taken by the NIFP for practitioners in the field will be discussed, as well as the role of the NIFP in the assurance of court expert quality for forensic psychiatry and psychology.

Round Table Discussions on the International Perspective of Forensic Psychiatry and Psychology

Michel M.A. Smithuis, The Netherlands Register of Court Experts, Utrecht, The Netherlands (m.m.a.smithuis@nrgd.nl)

In recent years, awareness of the importance of establishing quality standards for forensic expertise has increased significantly. Interest has come not only from forensic institutions and the science community, but also from the judiciary and politicians. With increased globalisation comes the call for international standards for court expertise, for instance through the EU Council initiative towards a European Forensic Science Area by 2020 (to be distributed at the session). Are there common grounds for international forensic psychiatry and psychology standards? Is the work done by forensic psychiatrists and psychologists defined in the same way in different countries? Are educational paths to forensic expertise comparable? Can there be an international register for forensic psychiatrists and psychologists? What is needed if an international system for quality assurance and improvement should be established? In round table discussions, the previous presentations will be put in an international light by the discussion leaders, each table focussing on one or two statements derived from the quality circle of forensic science, for instance, training and education, quality assurance through certification and accreditation and common grounds for standardization. In these discussions, participants can actively share their views on the need for and possible ways to come to an international system for quality assurance and improvement for the field of expertise of forensic psychiatry and psychology.

61. The Future of Forensic Psychiatry in the Netherlands
The Organization of the Forensic Psychiatric System

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The forensic referral system in the Netherlands is undergoing major changes. New acts on mental healthcare and forensic care are under consideration by the Dutch Parliament. Financial rules and regulations are changing quickly, and major budget cuts due to the financial crisis have become common since last year. Under these difficult circumstances, the forensic hospitals in the Netherlands try to improve the quality of forensic care. Joke Groeneweg, chairman of the National Forensic Psychiatric Chairman’s Counsel, will illustrate the new developments in forensic care in the Netherlands in this session. Much is changing with respect to legislation, organization-wise, budget cuts, capacity reduction, and the like. Among the new developments is the covenant between the ministry of justice and the mental healthcare branch organization, as well as changes to the funding system and performance indicators. Another development in the program Renewal in the forensic care is an initiative by the Ministry of Justice. The objectives of this program are: placing the right patient in the right place, creating enough forensic care capacity, high quality care focused on society’s safety and appropriate connections between forensic and regular mental health care.

Recent Changes in Legislation

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Several new acts on mental healthcare and forensic care are taken into consideration in Dutch Parliament. Within a few years, the legislation on these issues will be changed. The new acts will change the system of forensic regulations from the point of view of the inpatients, and the whole financial system of forensic care will change dramatically from a system of granting subsidies to forensic hospitals to purchasing forensic care on a yearly basis. This presentation focuses on the Dutch laws, regulations and reporting codes, the situation concerning the parliamentary handling and expected effect. More information will be provided concerning the consequences of these changed acts for the forensic care field. Examples of the most important changed acts in the field of (mandatory) mental health care are: law of mandatory mental health care, law of care and coercion, and law of forensic care. Since this year, the forensic care field works with reporting codes. One reporting code that all professionals work with is the reporting code “domestic violence.” How do reporting codes work? What do they imply for our work? What can we expect?

Finance: Dealing with Budget Cuts in the Netherlands
The economic crisis is everywhere. The financial situation in forensic psychiatry is also changing. The way the forensic psychiatric care in the Netherlands is financed is radically changing from input to output financing. The Dutch forensic psychiatric institutes are facing increased financial risks as a result of this change. These financial risks are increased by recent budget cuts (as a result of the crisis) and a major shift in the demand of clinical forensic psychiatric care in the Netherlands to less heavily secured facilities. This presentation will outline the aforementioned developments and the measures FPC de Kijvelanden has taken to decrease these financial risks and provide efficient and effective forensic psychiatric care. One thing stands out: the business end of our care for the patient has to be more efficient.

How Does the Forensic Sector Cope with the Political Changes?

Machiel Polak, Forensic Psychiatric Centre de Kijvelanden, Poortugaal, the Netherlands (machiel.polak@kijvelanden.nl)

The forensic psychiatric field copes with many political influences and changes nowadays. How do we cope? What does our future look like? In this presentation you will learn more about how we have prepared for the changing policies and budget cuts. The Ministry of Justice and the branch organization signed a covenant recently in which they agreed on the budget cuts due to the government cuts and the lower intake of patients in the heaviest form of forensic care in the Netherlands, the TBS patients. The individual care and safety needs of the forensic psychiatric patient will be the starting point. In this context, the process of treatment for a TBS patient will be shortened from an average treatment of 10 years to 8 years. Influence of the media on the imaging of our patients and business is high, while insights and understanding for the forensic psychiatric field is low. We have less patients and the treatment time will shorten. How do we cope?

62. Gender Violence Issues

Trauma Intervention in Jails with Different Populations: The STEP Program

Lenore E. Walker, Nova Southeastern University (drlewalker@aol.com)

Survivor Therapy Empowerment Therapy (STEP) is an empirically supported, 12-session, manualized group treatment program that has been adapted for a variety of populations in jails and prisons where group therapy is available on a limited basis. Although people with various mental health diagnoses can be treated with the STEP program, it specifically deals with the
impact from trauma – in particular, gender violence. First developed for battered women whose abusive partners were court-ordered into offender-specific treatment, STEP groups were found to be helpful in both helping the women heal from trauma and also helping them to understand the nature of domestic violence and the difficulty in their batterers’ changing their behavior and stopping their abuse. Women who volunteered to be housed in the domestic violence unit within the general population at a local jail were then offered the STEP program. As the jail required all women who were eligible who volunteered to attend the program, we sometimes had as many as 40+ women attending. Many were victims of sexual and psychological abuse both as adults and children. The STEP program was changed to deal with a variety of women victims of gender violence. We then attempted to adjust the program to work with girls in the detention center, but it was not successful there. Next, we began the program within the mental health clinic in the jails where it was successful with both the men and women housed there, in separate groups. Finally, we began to use STEP with men who were housed in a forensic hospital and declared incompetent to proceed to trial by the court. For these participants, they were also involved in competency restoration groups and medication. This presentation will describe the program and demonstrate comparisons with other trauma treatment programs in addition to the efficacy measured.

Training Graduate Students in Trauma Intervention

Tara Jungersen, Nova Southeastern University (tj290@nova.edu)

Knowledge of gender violence and its related trauma is imperative for students studying psychology, mental health counseling, law, and criminal justice; however, many students reach their graduate training with little awareness and even fewer skills related to trauma-informed practices. Very few graduate training programs have the luxury of offering a full course on gender violence and trauma interventions, therefore, this presentation will outline the most critical aspects of trauma-informed care that may be infused within a standard course related to mental health, violence, and gender studies. Important components of gender violence that graduate trainees must recognize include the cycle of violence, incidence rates of gender violence, risk factors versus warning signs, legal remedies, community resources, and the unacceptable proliferation of myths regarding intimate partner violence. Similarly, these correlates of gender violence must be viewed within a trauma-informed lens. Therefore, trainees must understand that survivors may display episodes of psychological numbing, dissociation, avoidance, hyperarousal, and masking symptoms such as substance abuse and depression. Furthermore, gender violence survivors are at high risk for complex trauma, where multiple traumas concurrently accumulate. These survivors not only withstand the trauma of the relationship abuse, they may also be exposed to the traumas of sexual abuse, child abuse/neglect, medical hardship, and the cumulative trauma of discrimination, socio-economic inequality, and other microaggressions. Finally, post traumatic growth, resilience, and other protective factors will be highlighted. Examples of both online and face-to-face instructional modalities will be provided, including in-class and online activities that engage students in the material.
Gender Violence in Greece

Christina Antonopoulou, University of Athens (cantonop@primedu.uoa.gr)

Unfortunately in Greece, the use of violence and coercion is an ordinary social phenomenon and given the current socio-economic degradation it is wrongfully applauded as the only survival tactic. People are so accustomed to the occurrence of violence in everyday life that the more subtle forms of psychological and emotional violence often go unnoticed. The practice and acceptance of violence – whether intentional or unintentional – follows a person throughout their lifetime and guides their inter-personal relationships. In other words, violence is a social reality, established and legalized by the state itself and deeply rooted in people’s attitudes. Moreover, large-scale research into gender violence has not gained momentum in Greece. It is important to note also that in academic circles in Greece, this type of research is not considered scientific and essential and thus research funds are not readily allocated. Attitudes towards gender violence in Greece continue to change along with other social and political changes that impact the Greek population. The old stereotype of the Greek man as the family’s leader being justified in beating his wife is still prominent in rural communities, but is steadily giving way in the more educated, urban areas of the population. When it comes to gender violence, the modern Greek person has values and attitudes that are misaligned with the scientific and technological advances of this century. There is a big gap between the socio-ethical standards in Greece and the global technological advancement. Given the current political and economic instability, the dispersion of violence has permeated the macro social structures, accompanied by a disconcerting rationalization that requires the scientific community’s attention in terms of its effects on gender violence in Greece.

Relational Stories: Moving Away from the Embedded Victim Metaphor of Gender Violence

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Over the last two decades, the narrative metaphor has taken hold of marriage and family therapy education, training and practice. Stories and narratives have become embedded in our clinical language, and of course, these hold different meanings for each of us. As students of narrative practices it is important to understand the structure and form of a story. Four components compromise any story: events, events that are linked sequentially, events that are linked across time, and events that contribute to a rudimentary plot. When folks are subjected to gender violence, it is often challenging for individuals to recall how they stood up against such injustices. Yet, in spite of those occurrences, people’s lives are also rich in lived experiences. For those exceptional experiences to become coherent they must be put into story form. In narrative practice, the story is the lens by which we make our worlds intelligible. Therefore it is important to understand the structure and elements that comprise any personal story. Moving from theory
to practice we will demonstrate how to constitute one of many possible personal stories of gender violence by linking events through time that create a survivor’s new personal narrative of healing. Michael White’s work, inspired by Jerome Bruner, leads to the understanding that all stories develop in twin territories of both action and meaning. This presentation will invite participants to identify questions that assist people in developing their own preferred stories. By weaving together these twin territories from sparkling events that are at odds with problem stories new stories will emerge.

**63. Healing In Human Trauma: Obstacles, Successes, and New Tools to Create Civil Society**

*Trans-Generational Aspects of Trauma: A Family Issue*

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Thomas Wenzel, *Consulting Psychiatrist, Vienna, Austria* (drthomaswenzel@web.de)

One confusing aspect in the actual conceptualization of Post Traumatic Stress Disorder (PTSD) is that it is an individual illness. That is, a person develops PTSD in reaction to events to which the person experiences helplessness and terror, and later well-characterized symptoms appear, such as reliving nightmares, avoidant behavior, persistent neurovegetative activation, etc. Converse to individual symptoms, we may expect PTSD to manifest itself at the group level – should the event concern communities that suffer extraordinary situations, such as war trauma and displacement. The Universities of Vienna, McGill, Pristina, and Kosovo, along with the Karolinska Institute, under the UNICEF banner and with the help of the Kosovar Internal Ministry have mounted a collaborative effort to establish PTSD salience at the group level within repatriated children and their families. Mental health of children (n=164) and their primary caregivers (n=131) were ascertained by extensive interviews and standardized questionnaires. PTSD caseness was found in 29% of children under the age 14, and in 30.4% of those above age 14 – almost every third child. More severe PTSD was present in at least one of the parents 64.5% of the time – almost 2 out of 3. Parent PTSD was 7-fold more prevalent in cases where the child met criteria for Post Traumatic Stress. We suggest that family PTSD may constitute a risk factor for PTSD in offspring, independent of major depressive disorder – but contingent on continuous exposure to traumatic triggers such as displacement – and that further research is needed.

*Reflection of Legal and Social Consequences on the Mental Health Conditions of Victims of Ethnic Cleansing in Georgia*

Mariam Jishkariani, *The Rehabilitation Centre for Victims of Torture “EMPATHY,” Tbilisi, Georgia* (mjishkariani@yahoo.com)
The main goal of this study was to evaluate the effectiveness of interventions in cases of victims of ethnic cleansing in Georgia, using multi-profile medical files and several PTSD-focused psychological inventories. Based on observations in 2011, n=413 victims were observed. Among them, 302 experienced traumas of ethnic cleansing and torture during war conflicts in Chechnya and in occupied territories of Georgia. Data analysis revealed 266 cases of physical disturbances were observed together with psychological problems (88% of 302). Although multi-profile treatment and rehabilitation were provided, legal redress was not achieved. In all cases, mental problems have wavelike dynamics with tendencies for chronic changes in personality. Correlations between trauma and stress-related disorders have been observed in many clinical studies, but studies on the reflection of legal redress on the dynamics of stress-related disorders were lacking. We conclude that legal redress is a significant and important factor for full recovery. Consequently, legal assistance should be considered an integral part of psychological rehabilitation. Research should address comparative study between those persons who have suffered war crimes, crimes against humanity and human rights violations who did receive legal redress and those who still have not had legal validation of their suffering.

**How Do You Know When It Is Torture?**

Barry H. Roth, *Harvard University* (broth@bidmc.harvard.edu)

The forensic psychiatric expert’s assessment of torture survivors who manifest Post Traumatic Stress Disorder and apply for refugee asylum is a paradigmatic example of the interface of psychiatry and the law. While it is necessary to acknowledge the utility of current dominant and well-established protocols, it is also imperative to note and correct their failures and limitations. This presentation illustrates a model which simultaneously comprehends and designates the negative dimensions of the humanitarian catastrophe of torture and brings forth monumental and profound positive strengths of character which sustain survivors. Cases drawn from two decades of evaluations of torture demonstrate this innovative update of mainstream medical-scientific practice. A reproducible and easily communicated heuristic model respects clinical variables and reports the interactivity of individual psychological factors with the cultural/political nexus. A consistent pattern emerged from review of country reports, survivor affidavits, interviews and forensic reports and testimony to the court. Ordinary means led to extraordinary findings which made it possible to incorporate and supersede previous paradigms that have defined torture and narrowly designated psychological ability to respond due to an illness-based mentality. Torture is a crime of specific intent – to deconstruct and shatter the human connections of their subjects. Survivors had the force of human ties to sustain them. Necessary and legitimate methods achieve valid examination and forensic reporting. Professionals have the force to do right – verifiable objective means nurture justice and social progress.

**Medico-Legal Reports of Torture Survivors: Psychological Aspects**
Lilla Hárdi, *Cordelia Foundation for the Rehabilitation of Torture Victims, Budapest, Hungary* (hardi@cordelia.hu)

The author summarizes her experiences as a psychiatrist on the use of the Istanbul Protocol being a proper tool in the documentation of torture. The purpose of these medical evaluations is to establish the facts related to alleged incidents of torture and to correlate findings with the patient’s allegation of abuse. The psychological evaluation is sometimes the most important part of the report. Torturers use special methods without leaving scars on the body. The interviewers must address whether the setting is suitable, comfortable, private and safe enough for the client to open up the facts related to torture. Gender issues, cultural and religious background have to be clarified prior to the examination. The psychologist and/or psychiatrist expert must handle the transference-countertransference phenomenon analysing wording and also non-verbal manifestations in the context of three persons. The trauma of torture and the shadow of the torturer appears changing reality into a traumatic space. It is a challenging task for the interviewer to handle the traumatic psychological issues of the participants in the examination.

**The Use of Organic Medical Evidence in Asylum Cases in the United Kingdom**

Frank Arnold, *Medact, London, UK* (arnold_frank@hotmail.com)

Doctors examining torture survivors can best reconcile potentially conflicting duties to courts and patients by addressing the various uses of their documentation. A) Evidence supporting a claim of torture: Physical injuries and scars, if well-described, photographed and analysed, can be strong evidence, particularly where an expert report is compliant with international standards (Istanbul Protocol) and explicitly considers alternative possible causes. B) Diagnostic pointer: Examination for a “scarring” report may be the first time that the subject has revealed the facts of their torture, especially in those fleeing countries and cultures which stigmatise mental illness. Examination may also reveal evidence of debilitating physical illness inhibiting recovery of mental health. Non-anatomic distribution of pain can suggest somatisation; significant head injury may explain apparent psychological inconsistencies. Other pathologies common in this population (peptic ulceration, panic attacks, sleep deprivation, TB or HIV) may be revealed. C) Therapeutic tool: Torture damages the sense of self. This is compounded when the survivor’s experience is disbelieved, for example by decision-makers in the asylum process. In some patients, learning the central conclusions of a “scarring report” can assist resilience.

**64. Historicizing Mental Health Law and Policy in Japan**

**Mental Health Services in Japan: A Historical Overview**

Yoji Nakatani, *University of Tsukuba* (yojinaka47@yahoo.co.jp)
This presentation will illustrate the development of mental health services in modern Japan, dividing it into three stages. (1) Despite the enactment of the first law dealing with the mentally ill in 1900, their condition continued to be gloomy through the first half of the twentieth century due to an extreme paucity of psychiatric facilities. The majority of patients were cared for by their family using a seclusion room in patients’ own homes — shitaku-kanchi (domestic confinement). Some patients were given folklore medicine in temples or shrines. (2) Beginning in the 1950s, custodial care developed with drastic growth in psychiatric hospitals and beds, prompted by government policy to encourage the building of mental hospitals through subsidies as well as by increased accessibility to medical treatment through the implementation of national health insurance. (3) Since the 1980s, harsh criticism against human rights violations in mental hospitals led the government to establish new mental health legislation putting an emphasis on community-based care. From a comparative view, Japan is unique in having pushed forward with hospital-centered psychiatric treatment while deinstitutionalization developed in most Western countries. Particularities of Japanese mental health services with regard to global trends will be discussed.

**Between Legality and Illegality: Folk Therapy for the Mentally Ill in Modern Japan**

Akira Hashimoto, *Aichi Prefectural University* (aha@ews.aichi-pu.ac.jp)

Following the Meiji Restoration in 1868, the Japanese government prohibited superstitious remedies and illegal confinement of the mentally ill in order to “modernize” or “Westernize” psychiatry. However, it was not easy for people to change their beliefs and customs, and most of them depended on folk therapy. As it was difficult to draw a hard line between legality and illegality, folk therapist practices were not fully controlled by the law. As a result, some practices continued as before and were even praised by medical doctors who recognized the “scientific” effectiveness of traditional remedies, although some practices were sharply criticized for their moneymaking activities or for human rights violations. However, during the course of the modernization of psychiatry, folk therapy needed to change to survive. Some religious institutions for folk therapy were successfully converted into modern mental hospitals, but others sooner or later disappeared. By showing several examples of traditional practices in this presentation, we will explore how folk therapy was dealt with in the context of mental health policy and law in modern Japan.

**Continuity and Discontinuity in the Treatment of the Mentally Ill in Japan**

Kazuko Itahara, *Osaka University of Health and Sport Sciences* (itahara@ouhs.ac.jp)
Laws regarding the treatment of mentally ill people first appeared in Japan during the Edo Period (1603–1868). Mentally ill people were treated in three ways. Some were incarcerated in a cell in their home after the municipal authorities were officially notified – this type of treatment was reserved for people who would inherit the position of head of their family and others of superior status within their family or community. Those of inferior status could be incarcerated in a prison following a request to public officials. Mentally ill people who could not be cared for by their family or community were incarcerated, with no supervision, in a facility for sick travelers maintained by members of the hinin, or outcast class. These mentally ill people assumed hinin status when incarcerated. The Meiji government, which sought to modernize Japan, was established in 1868 following the collapse of the Edo Shogunate. Although the treatment of mentally ill people changed with the advent of the Meiji government, it continued to draw significant influence from Edo-Period laws and the feudal caste system. Here, we examine the changes to laws concerning mentally ill people during the Meiji Period (1868–1912), focusing on the characteristics of the treatment of mentally ill people in modern Japan and the processes by which attitudes changed.

**Alternative Medicine for Mental Patients: The Case of Ganryuji**

Ai Miura, *Baika Women’s University* (a-miura@baika.ac.jp)

Alternative medicine for mental patients was in use in many parts of Japan even after the mental patient custody law was enacted in 1900. This law made confinement of mental patients possible in their family homes and some people believed alternative medicine to be more effective than mental hospitals. In the Ganryuji in Tamba City, Hyogo Prefecture, alternative medical treatment was being used (“water treatment using the waterfall” and “prayer based on Buddhism”) at the beginning of the 20th century. But Japan in the early 20th century was progressing inevitably toward war due to its social and international situation, and alternative medicine became unstable while confinement of mental patients was strengthened. This led to the establishment of Kora Mental Hospital, situated near Ganryuji, in 1937. It is notable that this hospital continued to use alternative medicine. Alternative medical treatments continued in the hospital until at least 1940. Traditionally, modern Western psychiatry had been in conflict with alternative medicine. This presentation will illustrate the case of Ganryuji and discuss how alternative medicine and Western psychiatry established a complementary relationship to one another there.

**65. History**

**The Treatment of Slaves as Human in Colonial New England**

William E. Nelson, *New York University* (william.nelson@nyu.edu)
According to the law of colonial Virginia, slaves were chattels — “considered,” according to the 1730 case of *Tucker v. Sweney*, “no otherwise than horses or cattle.” In colonial New England, in contrast, slaves were treated as human beings. One key example makes this point. In Virginia, slaves were not permitted to marry, but female slaves were encouraged to have sex, to reproduce, and thereby increase the wealth of their masters. In New England, on the other hand, black slaves like free white people were punished if they engaged in sexual activity or produced children outside of marriage. This presentation will focus on this as well as other differences in the treatment of slaves — differences that reflected New Englanders’ recognition of their slaves’ humanity. How can one account for this difference? The answer is not an economic one: New Englanders worked their slaves as hard and exploited them every bit as much as did Virginians. Rather, as I hope to demonstrate in my presentation, the answer lies in law and in the realm of ideas.

**Mental Degeneracy, Eugenics, and the Honeymoon Homicide of 1936**

Paul A. Lombardo, *Georgia State University* (plombardo@gsu.edu)

In April 1936, sixty year old bachelor farmer Dan Shine married his twenty-four year old housekeeper Pearl Hines. When Dan’s body was found only five days after the wedding, the cause of death appeared to be suicide, but within hours his bride was charged with murder. Pearl’s mother Minnie was the notorious head of a family that included seventeen other children. The degenerate ways of that “mentally deficient” clan were so infamous that a student at the state university made them the focus of her thesis. For the next year, newspaper articles and detective magazines described the trials that followed for Pearl and her accomplices. Other documents captured the aftermath of criminal proceedings, as Pearl’s siblings were sterilized to remove the potential for another generation of criminals. This presentation will analyze the “honeymoon homicide” and its aftermath. The episode demonstrates the resilience of eugenic mythologies about “problem families” and a theory of hereditary degeneracy that harkened back to Richard Dugdale’s 19th century book *The Jukes*, still used in this late 1930s true crime saga to frame popular understandings of crime, poverty, mental defect, and social disorder.

**Psychiatric Power and Practice in 19th Century State Asylums: Newcomer v. VanDeusen**

Mary deYoung, *Grand Valley State University* (deyoungm@gvsu.edu)

In 1874 Dr. Nancy Newcomer was committed against her will by her son-in-law to the Kalamazoo Asylum for the Insane in Michigan. Her behaviour, allegedly, had been erratic and emotional. Although a physician herself, she was unable to convince the medical superintendent, E.H. VanDeusen, that she was not insane. Indeed, her efforts to do so only strengthened his assessment that she was. As a result, she remained in the asylum for many months until her
discharge. Three years later, in a case watched with great interest by powerful asylum superintendents across the United States, Newcomer successfully sued VanDeusen for false imprisonment. Although the Michigan Supreme Court reversed the lower court decision after taking testimony from scores of family members, asylum staff and patients, the Newcomer case brought into medical, legal and public discourse questions about the nature of insanity, the negotiation of diagnostic labels, and the ways in which psychiatric practice and power were both constituted and resisted in state asylums. This presentation uses a Foucauldian perspective to analyze the contemporaneous discourse on the Newcomer v. VanDeusen case in the psychiatric and legal literature as well as in the newspapers which enthusiastically reported on it. Three of Foucault’s most potent concepts will be used to further that analysis: “disciplinary power,” or the tactical functioning of power; “confession,” or the ritual for the production of truth; and “subjectivation,” the construction of one’s own identity as subject to someone else’s control.

**From Petition to Litigation: The Transformation of Railroads’ Reimbursements for Personal Injuries in 19th Century America**

Robert Kaczorowski, *Fordham University School of Law* (rkaczorowski@law.fordham.edu)

This presentation discusses the manner in which railroads and individuals who suffered physical injuries resulting from train accidents handled claims for compensation for these injuries. The substance of the presentation and the corresponding paper’s tentative conclusions are based on my examination of the correspondence and official records of a variety of railroads from the 1830s and 1840s through the beginning of the twentieth century. The railroad’s records show that, in their early history, railroads reimbursed individuals for injuries they caused even when they were not legally liable to do so. Injured parties or their families “petitioned” a railroad officer for “relief” from economic hardship, and railroad officers often granted these petitioners relief in the form of “donations.” This is not to say that the individuals injured or killed by a railroad never filed a lawsuit or that railroads never chose to litigate these claims. It is to say that injured parties as often as not chose to petition for relief, and railroads often granted this relief without invoking the legal system of tort law. This process continued into the latter part of the nineteenth century when one sees in railroad records a transformation from petitions for relief to claims for compensation and demands for compensation based upon allegations of legal liability on the part of the railroads. The presentation will offer some tentative explanations for this unanticipated behavior.

**66. Homelessness**

**The Paradox of Military Training: Survival on the Streets among Homeless Veterans**

Susan L. Ray, *Western University* (slray@uwo.ca)
Introduction: Little is known about homelessness among Canadian Forces (CF) and Allied Forces (AF) Veterans. The purpose of this secondary analysis of the first national study on homelessness among Veterans of the CF and AF was undertaken to explore whether homeless veterans’ survival on the streets is helped or hindered by their military training.

Methods: An interpretative phenomenological approach was used as the methodological framework for the study. Although all 54 transcripts from the primary study were selected, 15 were chosen for secondary data analysis because these participants spoke extensively about their lives on the streets. The transcriptions were analyzed to identify common themes until an understanding of homeless veterans’ survival on the streets was attained.

Results: Military training as a double edged sword for homeless veterans is the overarching analytical interpretation that emerged from the analysis. Two subthemes emerged, which illustrate a paradox: military training prepares veterans for survival on the streets, and military training to defend oneself with aggression if necessary can make transitioning to civilian life difficult.

Conclusion: These differences of attitude and experience for homeless people with a services background contain messages for providers of services to homeless veterans. Health care service providers need to recognize, validate and respond to the effects, positive and negative, of life in the armed forces for homeless veterans in order to provide the best care. Building upon their strengths attained during their military training and education about conflict resolution and assertiveness are some of the implications emerging from this study.

From Welfare to Well-Being: Turning Things Around Among Homeless Veterans

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The intersections of resilience and vulnerabilities comprise the everyday life of homeless people, are affected by their past experiences, and are predictive of their future prospects. Very often interventions directed at homeless people see more failure than success. However, we contend that interventions often do not account for the contexts of homeless people’s lives, fail to embrace community capacity to support positive change, and lose sight of the resilience that can be mobilized, at both an individual and a community level. We present systematic research evidence, and clinical evidence, that demonstrates these intersections of resilience and vulnerabilities. These data on the health and well-being of homeless individuals emanate from an intervention and prevention initiative in East London, one that shuns a welfare approach to moving individuals from social exclusion to social inclusion, and embraces an approach focused on well-being. Our change process framework includes four primary elements: gateway interventions, unpacking, getting sorted out, and graduation. Within these elements, intervention practices and processes are described, including “swift” intervention, re-learning life skills, building trust, and transitions to new environments and new ways of viewing everyday life. Both
quantitative and qualitative survey and interview data are presented that speak to contexts and processes of change, including self-efficacy, community connections, and rejoining the community. In addition, clinical observations are included to provide case study information on processes of moving toward social inclusion.

**A Call to Arms: Exploring the Moral Imperatives of Social Enterprise within the British Banking System to Develop a Support Strategy for British Armed Forces Veterans**

Richard Mottershead, *University of Chester* (r.mottershead@chester.ac.uk)
Mark Douglas, *NatWest Bank, Wales, UK* (mark.douglas@natwest.com)
Michael German, *NatWest Bank, North Wales Borders, UK* (michael.german@natwest.com)

On September 29th, 2008 the Global Financial Crises heralded in an inevitable and some might say predictable “financial brush-fire” that saw the dramatic collapse of large financial institutions, the insolvency of banks and consequential bail outs by national governments attempting to stem further economic downturn in stock markets around the world. During this period, veterans were and still continue to be discharged into an economic climate with increasing unemployment and increased challenges in obtaining stability due to a down turn in the housing market and a new found reluctance by the banking community to provide mortgages without sizeable initial deposits. Within the United Kingdom, a study (Iversen et al, 2005) indicated that the number of veterans leaving the Armed Forces annually was 18,000 with a predicted increase by 2012 of 20,000. There is currently no formal training provided by the Armed Forces to assist with financial budgeting to prepare these veterans for a successful integration back into civilian life and to create a “locus of control” to empower them to meet their financial responsibilities. In recent years, there has been an increased focus by the Coalition government to increase the availability of appropriate mental health services for military veterans, particularly given the British military action in Iraq and Afghanistan. This has at the very least initiated an awareness that there is a need for a national strategy to improve the support available for veterans with mental health needs. However, this acknowledgment does not recognize that the “civvy street” that the veteran enters is “mined” with financial and employability dangers that they are inadequately skilled to disarm and that will inadvertently have negative repercussions on their mental well-being. The authors initiated a scheme of manoeuvre founded on a moral imperative (Kant, 1964) and embraced community based social enterprise to implement a national strategy to improve the well-being of Britain’s veterans – the first project of its type within the United Kingdom.

**Involuntary Hospitalization of the Homeless Mentally Ill from the Street**
The medicalisation of the homeless mentally ill, particularly the involuntary hospitalization of this population directly from the street, can be considered as a form of social control. There is no denying that some of the surveillance of the homeless and calls for intervention made to the mobile mental health outreach team can be interpreted as demands for a “clean up” of city centre streets. The involuntary hospitalization to psychiatric hospital of this socially excluded population directly from the street is one of the means of entry into medical care used by a Marseille mobile mental health outreach team. In this presentation, we suggest that the involuntary hospitalization of the homeless mentally ill corresponds more to a dual ethic – the ethic of care (as defined by Paperman et al. 2005) and the ethic of medical assistance – than to social control. This presentation is based on the first results of a two year ethnographical investigation coupled with the quantitative data collected systematically at every hospitalization as well as the analysis of forty medical files of people hospitalised by sectioning directly from the street.


The Intersection of Women’s Rights, Religious Freedom, and Civil Law

Anne Benvenuti, Cerro Coso College (anne.benvenuti@gmail.com)

This presentation provides an overview of several conflicts related to human rights and religious freedom with illustrative examples from around the world and from various religious traditions. Particular focus will be given to instances wherein conflict between religious motives and civil law impacts the human rights and mental health of women. I will address ways to engage conflicts between religious freedom and human rights, both within religious traditions and between religious motives and civil law, given that these conflicts may impede human rights, especially the rights of women. Finally, I argue that a global human rights agenda is logically and morally necessary and that religious freedom should be exercised within such a vision and not in competition to it.
Zahra N. Jamal, *University of Chicago* (znjamal@uchicago.edu)

Post-9/11 laws and policies established in the name of national security in the United States have changed significantly charitable practices among American Muslims. This in turn has had negative effects for veiled American Muslim women who have gone from being a “cause” of Americans to their enemy. As Muslim Americans have increasingly put monetary and human resources into addressing mosque defacement, hate crimes, No Fly lists, racial and religious profiling, law enforcement campaigns that signal entrapment, and other human and civil rights challenges that have been defined by a predominantly male Muslim religious leadership, the rights and needs of Muslim women – whose mental and physical health have been particularly targeted in the American context – are marginalized and overlooked. These women face increased need for mental health, anti-bullying, and civil liberties support. With a dearth of organizations to serve their needs, though, this group remains under served and at risk. There are opportunities for organizational development and collaborative partnership building to serve their needs. This presentation unpacks these important recent shifts and highlights opportunities to address the acute needs of American Muslim women.

**Educating the Next Generation**

Jigna Shah, *University of Chicago* (jigna@uchicago.edu)

Today’s young people have grown up in a world in which technology, travel, and mass migration have reshaped global human religious and cultural encounters as never before. The education of this new generation with regard to intersections of religious freedom, human rights, and mental health (of women and/or of others denied basic dignity and bodily integrity) presents particular challenges. In some contexts, this challenge is linked to the widespread removal of religion from public discussion (or privatization of religion), resulting in a sometimes surprising “religious illiteracy” among the young, who prize a sense of themselves as spiritual but care little for what they perceive as inherently flawed institutionalized religion. In other contexts, it is related to a resurgence of fundamentalisms that stifle rigor in inquiry and that re-erect barriers between self/group and diverse others. In both cases, there exists a “disconnect” or fragmentation of understanding with regard to issues related to tensions between the common good, the imposition of religious values, and the recognition of universal human rights, including the mental health consequences of such recognition or lack thereof. This presentation explores attempts in university contexts to reconcile such conflicts or tensions by means of a spiritual perspective (inclusive of secular humanism), with the underlying goal of producing a new generation of leaders who understand the relationship of healthy religious behaviours and attitudes to individual and common well-being.

**Religious Freedom and Violence against Women**

Elizabeth Davenport, *University of Chicago* (ejld@uchicago.edu)
There is great variance around the world with regard to law providing women with protection from and response to violence in domestic and other contexts. This variance offers a telling opportunity for a close examination of intersections of religious freedom, human rights, and women’s mental health. Religiously-motivated attitudes and acts may sometimes advance the cause of human rights, but too often appear to undermine both individual rights and the common good, as happens when religious voices call for disparate treatment of women and men (for example, in determining marriageable age, or in law rooted in the belief that heralding the rights of women necessarily undermines religion or “the family”). The mental health consequences for those denied equal treatment under the law are well documented, and violence against women is widely understood to be a fundamental violation of women’s human rights. Yet religious freedom is frequently held to trump such rights. This presentation asks what it would take for religious justifications for infringement upon the integrity and dignity of women to be consistently rejected, and whether the limiting of religious expression that threatens the common good is not only desirable but feasible, even in diverse cultural and legal contexts.

68. Human Trafficking

Global Trends and Challenges in Assisting Victims of Human Trafficking

Jane Nady Sigmon, US Department of State, Washington, USA (sigmonjn@state.gov)

Trafficking in persons, the umbrella term for activities involved when someone obtains or holds another person in compelled service, is increasingly recognized as a global crime requiring a concerted response of governments and civil society. Although much progress has been made in the last decade as nearly all countries have enacted new laws to address this crime, the victim protection and enforcement envisioned by advocates and international instruments are not a reality. The International Labor Organization estimates that 21 million people are victims of forced labor. Of these, 22% are victims of forced sexual exploitation and 78% are victims of forced labor. Recent research has described the extreme forms of physical and sexual abuse suffered by many victims of trafficking for sexual exploitation and forced labor, and new information about the health and mental health impacts on victims is emerging. However, few models for victim assistance have been evaluated, and many programs struggle to develop and provide services to meet the needs of diverse populations of trafficking victims. This presentation will discuss the current literature related to the impact of trafficking on victims, identify challenges in assisting victims, and describe promising approaches in victim assistance worldwide.

Sense and Sensitivity in Assisting Victims of Human Trafficking
Both international and national legal instruments against human trafficking provide important legal foundation and framework to facilitate necessary protection and assistance to victims of human trafficking in the process of criminal investigation, prosecution and post-rescue care. This presentation focuses on legal aspects of assisting victims of human trafficking and necessary legal aid service for victims of human trafficking for a better physical, mental and financial recovery through a harm reduction approach. First, the presentation will provide an overview on history and progress of developing the legal instruments against various forms of abuses in the course of human trafficking and viable legal protective measures for victims of human trafficking in the United States. Second, types of legal recourse and assistance are available for victims to recoup physically, mentally, and financially under victim protection-centered anti-trafficking law versus non-victim centered anti-trafficking law. Third, sensitivity training provides a necessary foundation to reduce harm and secondary victimization and increase successful victim collaboration in the process of investigation, prosecution and repatriation/post-rescue care. Finally, the presentation will identify necessary legal assistance and services such as immigration relief measures, medical and financial assistance and various social welfare programs available and the challenges in facilitating victims’ successful reintegration back to a normal life in the community.

**Economic and Civil Society Factors and their Relationship to the Severity of Human Trafficking**

Mario Thomas Gaboury, University of New Haven (mgaboury@newhaven.edu)

The relationships between economics and related civil society factors and the severity of human trafficking is often discussed; however, there have not been any large scale, in-depth empirical investigations of these relationships reported. This presentation will describe both early exploratory research into the relationship between economics and human trafficking and more recent research that expanded the timeframe for this inquiry and enhanced the analysis to include multiple factors representing civil-society ratings. First, trafficking and economics data from 173 countries for the year 2009 supported the hypothesis that income level, gross national income per capita, population below poverty line and gross domestic product per capita (purchasing power parity) were all significantly related to the severity of human trafficking. Moreover, economic status was related to a country’s being designated as primarily a “source” or primarily a “destination” country. Subsequent research employed a more sophisticated statistical analysis, expanded the data-set to include ten years of data (2001-2010) for 117 countries, and extended the variables to include measures of factors such as a proxy for hunger, rule-of-law, corruption, democratic accountability, and conflict. Each economic variable and the civil-society factors were related to the severity of human trafficking. The researchers suggest that the relationship among these factors should be recognized in future program development and policy making.
Challenges to Identifying and Prosecuting Human Trafficking Cases in the United States

Jack McDevitt, Northeastern University (j.mcdevitt@neu.edu)

This presentation will review the results of two major studies of human trafficking funded by the United States Department of Justice. The first study measured the extent that law enforcement agencies across the United States have had experience with cases of human trafficking and the challenges faced by agencies in identifying cases occurring in their communities. A follow-up study was conducted to focus on prosecution of those cases that were identified since data from Department of Justice indicated that a relatively small number of human trafficking cases were being prosecuted either federally or at the local level across the country. The second study sought to understand the factors that were inhibiting prosecution of human trafficking cases across the United States. Both studies involved quantitative and qualitative methods and were conducted in a nationally representative number of jurisdictions. Each study identified a series of challenges to the identification and prosecution of human trafficking cases and recommendations as to how each of these challenges might be addressed.

The Commercial Sexual Exploitation of Children in the United States

Meredith Dank, The Urban Institute, Washington, USA (mdank@urban.org)

This presentation will highlight two studies funded by the United States Department of Justice on the commercial sexual exploitation of children (CSEC) in the United States. Although the exact definition is often debated, CSEC is often considered an umbrella term for individuals under the age of 18 who receive something of value (money, food, shelter, drugs, etc.) in exchange for a sexual service, and includes domestic minor sex trafficking and child pornography. The first study was completed in 2008 and measured the prevalence and documented the characteristics and needs of commercially sexually exploited youth in New York City. Approximately 250 youth who traded sex in NYC were interviewed for the study, of which almost half were boys or transgender youth. The second study (funded in 2011) is a follow-up to the 2008 project, and focuses on lesbian, gay, bi-sexual, transgender and queer (LGBTQ) youth and young men who have sex with men (YMSM) who are involved in the commercial sex market in New York City. The goals of this study are to determine the characteristics and needs of these youth and assess their experiences in the juvenile justice system. Early lessons learned indicate that it is important to look beyond and enhance the current definition of a victim when talking with these youth.

69. Hybrid Correctional Centre – Mental Health Centre: The Secure Treatment Centre Model

Mental Health and Corrections: A Hybrid Model
The Secure Treatment Unit (St. Lawrence Valley Correctional & Treatment Centre) is a 100 bed hybrid Correctional Centre – Mental Health Centre whose mandate is to serve adult male offenders serving a provincial sentence (less than two years) identified to have serious mental illness from across Ontario. This facility is the result of a contractual agreement between the Ministry of Community Safety and Correctional Services and the Royal Ottawa Health Care Group. The staffing ratio is 70% health care professionals versus 30% correctional staff. Dr. Cameron’s introduction will provide an overview of this unique facility, including looking at some of the overall clinical outcomes and recidivism data.

Assessment and Stabilization

Sarina Messina, Royal Ottawa Health Care Group, Ottawa, Canada (sarina.messina@theroyal.ca)

This presentation will describe the approach and work of the STU’s Assessment and Stabilization Program. The ASU runs on a 25 bed maximum secure unit which acts as the gateway to the facility receiving virtually all STU admissions. The program adopts a Risk-Needs Responsivity Model to assessment and treatment. Acutely ill residents are stabilized, and when appropriate are transferred to one of the other STU Programs for further treatment. Therapeutic interventions will be described, including approaches to stabilize psychosis, DBT group and Readiness for Treatment group.

Treatment of Seriously Mentally Ill Sexual Offenders

Brad Booth, Royal Ottawa Health Care Group, Ottawa, Canada (brad.booth@theroyal.ca)

Trans-institutionalization is the phenomenon of the movement of mentally ill individuals from psychiatric hospitals to the prison system, an unforeseen and unfortunate result of the de-institutionalization of the 1970s to 1990s. This movement of mentally ill individuals to the prisons has also been seen among individuals who commit sexual offences. This group of mentally disordered sexual offenders (MDSOs) is unique and requires specific interventions aimed at both their mental illness and their sexual offending. Despite some challenges with this population, there are effective approaches available. This presentation will discuss the sexual offender sub-unit at the STU, and outline the frequency of mental disorders and pharmacologic approaches in the MDSO population.
**Aggressive Behaviour Modulation**

Diane Watson, *Royal Ottawa Health Care Group, Ottawa, Canada* (diane.watson@the.royal.ca)

This presentation will review the approach and work of the STU Aggressive Behaviour Modulation Program, including how RNR Principles are adopted in assessment and treatment. The three phased model of the program will be described, along with evidence based psychopharmacologic and psychotherapeutic treatment interventions for dysfunctional anger and impulsive aggression. The application of Rational Emotive Behaviour Therapy principles along with other group interventions in this patient population will be discussed, practical tips for dealing with dysfunctional anger, impulsive aggression and treatment impeding behaviour within a correctional facility will also be provided.

**70. Incidence and Consequence: Female Staff, Female Inmates, and Abuse in Prisons**

*Uncomfortable Places and Close Spaces: Female Correctional Workers’ Sexual Interactions with Men and Boys in Custody*

Brenda V. Smith, *American University* (bvsmith@wcl.american.edu)

That sexual abuse occurs within the United States correctional system is well known. With the passage of the Prison Rape Elimination Act (PREA) and resulting data collection, the contours of sexual abuse and behaviours in custody are becoming clearer. Data shows that a significant proportion of sexual abuse in custodial settings involves female correctional staff who have sex with men and boys in custody. These findings have been met with discomfort bordering on disbelief. Scant scholarship exists which addresses the appropriate response to sexual abuse by women, and even less addresses sexual abuse by female correctional workers. Likewise, feminist jurisprudence on sexuality and desire does little to shed light on the motivations of women who engage in sexual misconduct or abuse, much less women who abuse men or boys in custodial settings. Though female correctional workers have access to significant power by virtue of their roles, that power may be mediated by a confluence of gender, race and class. The presentation describes female correctional staff’s entry and experience in the corrections milieu; examines research on the prevalence of sexual abuse committed by female correctional workers; uses competing and interlocking narratives of gender, race, and class to explain female correctional workers’ motivation for engaging in sexual interactions with men and boys in custody; and makes concrete policy suggestions for addressing abuse in custody by female correctional workers.
Does Research on Prison Rape Fail to Address Women within the German Penal System?

Thomas Barth, Berlin Prison Hospital, Berlin, Germany (thomas.barth@jvkb.berlin.de)

There are very few existing international studies that address sexual misconduct of female prisoners, and none at all about conditions of incarcerated women within the German penal system. Some of the recent surveys on female prisoners indicate the existence of violence against women, ranging from sexual harassment to sexual assault. The female prison population in Germany rose by 91.2% between 1995 and 2006. In 2011, 5.6% of the German prison population (68,099 in total) were women. Thus, the number of incarcerated women at risk of sexual victimization may be substantial. Women prisoners have a history of sexual abuse almost five times as often as the general population. Nearly a fifth of all incarcerated women are convicted of drug-related offences, which suggests that many of these inmates have a history of drug abuse, some of which may be attributable to intravenous drug use that can lead to contraction of infectious diseases like hepatitis and HIV. Additionally, a substantial percentage of incarcerated women suffer from psychiatric illnesses and are therefore even more susceptible to a wide spectrum of sexually harmful behaviours ranging from harassment to assault (including strip searches) to rape. Preliminary results of a survey addressing sexuality and sexual victimization in a women’s correctional facility in Berlin will be presented.

Judicial Decision-Making: Gender and Power in Preventing and Redressing Sexual Abuse in Custodial Settings

Gladys Kessler, United States District Court for the District of Columbia, Washington, USA (gladys_kessler@dcd.uscourts.gov)

This presentation will address how notions about gender and power may enter into the decision-making process and how it is inscribed in American law. For example, women have greater protections from cross gender supervision in custodial settings while female staff are allowed to supervise male inmates in situations where women would not be allowed to do so. The presentation will look at three issues: (1) supervision of inmates in custody; (2) sanctioning for sexual abuse in custodial settings and how the gender of the offender could affects decision-making and sanctions; and (3) claims of sexual discrimination in limiting employee’s job opportunities to secure safety of inmates.

A Closer Look at the Prosecution of Sexual and Gender-Based Violence by International Criminal Tribunals
The narratives that come out of international criminal trials dealing with gender crimes are often shaped not only by the survivors of such crimes but also by those involved in litigating and reporting these cases. The story that is told is often partial and shaped by gender stereotypes. The use of gender stereotypes is particularly evident in the few cases where a female has been accused of committing sexual or gender-based crimes during conflict situations. For instance, in the case against Pauline Nyaramasuhuko, Rwanda’s former Minister of Family and Women’s Development, tried by the International Criminal Tribunal for Rwanda for genocide and rape as a crime against humanity, gender stereotypes were used both by the parties as well as in public portrayals of the case. The resulting narrative of Nyaramasuhuko’s case arguably reinforces a limited and polarized view of participants in conflict as either victim or perpetrator, which in turn limits our understanding of the complex factors that animate individual participation in conflict situations and constrains our ability to formulate policies and proposals that might more effectively deter such violence. This and other recent cases present an opportunity to question, analyze and develop a more nuanced understanding not only of the various roles of men and women in conflict situations and the factors that motivate them to participate in conflict, but also of transitional justice options that might effectively contribute to the goal of deterring mass atrocity crimes, including gender-based crimes.

71. Indirect Measures in the Evaluation of the Clinical Treatment Process

The Application of the Implicit Association Test for Measurement of Implicit Theories and Cognitive Distortions in Sexually Violent Forensic Psychiatric In-Patients

Thijs Kanters, Forensisch Psychiatrisch Centrum de Kijvelanden, Rotterdam, The Netherlands (thijs.kanters@hotmail.com)

This presentation concerns a study on the implicit theories/cognitive distortions in sexually violent forensic psychiatric inpatients. We investigated the cognitive distortion “children as sexual beings” in sexually violent inpatients (rapists and child abusers), non-sexually violent inpatients, staff members and students. Two IAT’s were used: a neutral IAT (flowers, insects, pleasant, unpleasant) and a child/sex-IAT (child, adult, sex, and not sex). The IAT-scores of the inpatients were related to scores on risk assessment instruments and self-report questionnaires about aggression, personality and attitudes towards women. From the literature, we expected that child abusers would have a stronger association between children and sex than both rapist and control groups, and that the strength of the child-sex association would be correlated with risk of recidivism. During this presentation the results of our study will be outlined. Consequences of these results for the development of an effective treatment program will be discussed.
**Behaviour Change in Forensic Psychiatric In-Patients during their Stay in Hospital**

Ruud H.J. Hornsveld, *Forensisch Psychiatrisch Centrum de Kijvelanden, Rotterdam, The Netherlands* (r.hornsveld@tiscali.nl)

This presentation concerns a study in which we investigated the treatment effects on the behaviour of violent forensic psychiatric patients during their stay in hospital. For that purpose, 237 inpatients were measured between 2003 and 2011 bi-annually by the staff on the ward with the aid of the Observation Scale for Aggressive Behaviour (OSAB). As a start, we compared the patients’ subscale scores during the successive bi-annual measurements. During a period of five years, scores on the Irritation/Anger, Anxiety/Gloominess, Antecedents, and Aggression subscales were found to increase, then decrease, then again increase and finally again decrease. Scores on the Prosocial Behaviour subscale increased gradually over the course of time. A significant relation between PCL-R scores and aggressive behaviour on the ward was found only during the first two years of stay. We concluded that a structured and controlled environment has a strong influence on the behaviour of violent offenders. Consequently, the relevance of risk assessment in a closed setting is discussed.

**The Use of the Implicit Association Test in Differentiating between Cognitions Related to Reactive and Proactive Aggression**

Almar J. Zwets, *Forensisch Psychiatrisch Centrum de Kijvelanden, Rotterdam, The Netherlands* (almarzwets@hotmail.com)

This presentation concerns a study in which we investigated whether certain cognitions should differentiate between offenders and students, and between reactively and proactively aggressive patients. By using an Implicit Association Task (IAT) we analyzed cognitions in a group of violent forensic psychiatric inpatients and a group of students. We used two IAT’s: a violent IAT (pleasant, unpleasant, peace, and violence) and a control IAT (pleasant, unpleasant, flowers, and insects). IAT-scores were compared between both groups. We expected that the inpatients would have a less negative association to violence than the students. Scores of reactively aggressive patients were compared with those of proactively aggressive patients. From the literature, we expected that patients who show proactive aggression have a less negative association to violence on the IAT. Other factors which might have influenced these results, like psychopathy, were taken into account. During our presentation the results of our study will be presented. Consequences of our results for the development of an effective treatment program will be discussed.
The Association between Early Maladaptive Schemas and Personality Disorder in an Offender Population

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Schema-focussed therapy has become an increasingly popular treatment for offenders with personality disorder (PD), although to date, there have been few studies examining the association between Early Maladaptive Schema (EMS) and PD in forensic settings. Clarification of the relationship between EMS and PD in offenders is therefore necessary for effective treatment delivery in this area. The present study extended previous EMS research by investigating the relationship between EMS and the DSM-IV PDs, in particular, Antisocial PD (ASPD) and Borderline PD (BPD), in an offender population. A sample of offenders (n=87) undergoing pre-sentence evaluation were assessed on PD symptoms, EMS and depression, and correlation and regression analyses were conducted to examine the associations between the EMS and PD dimensional scores. The results showed that the majority of PDs were associated with individual EMS and that these relationships were idiosyncratic in nature. Relationships between ASPD symptoms and the Impaired Limits EMS domain and between BPD symptoms and the Disconnection/Rejection EMS domain were also identified. Overall, the results suggested that although Impaired Limits and Disconnection/Rejection EMS are common among offenders with ASPD and BPD, individually tailored assessment of the relationship between EMS and PD is critical.

72. Innovations in Mental Health Care

Smart Technology in Forensic Mental Health Care

Cheryl Forchuk, Western University (cforchuk@uwo.ca)

This longitudinal, mixed qualitative and quantitative study will consist of 400 participants diagnosed with a mood or psychotic disorder who are currently working with mental health professionals of outpatient services. We will deliver and evaluate the benefits of web and mobile technologies in mental health care. The effectiveness of these technologies has not been extensively researched, particularly within mental health care, and Forensics as a subgroup has not been specifically examined. Participants will have access to a personalized health record and applications related to their care plan. Currently 250 are enrolled. The nineteen forensic clients currently enrolled are more likely to be male (89.5% vs 50.3%) and to have a psychotic disorder (84.2% vs 53.7%) compared to the other participants. Interestingly, the forensic clients are more comfortable with technology than the other participants: 73.4% reported their comfort between comfortable – extremely comfortable compared to 65.3% of the others. It is expected that the use of smart technologies will improve quality of life while reducing health care costs through a reduction in hospitalizations and emergency visits, particularly within a subgroup that often
Restraint Creep: The Use of Seclusion and Restraint with Psychiatric Patients

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The use of physical restraint and seclusion by mental health professionals has received increased and sustained scrutiny, with Australian and international initiatives to reduce such practice. Restraint is used as an emergency measure to prevent harm to the patient or other persons when other interventions have been exhausted. In Australia, the reduction and potential elimination of restraint (and seclusion) practices and adverse events have been identified as a key national priority area for increasing safety and reducing harm in mental health care (National Mental Health Working Group, 2005). This is in line with the United Nations (1991) Principles on the Protection of People with Mental Illness, which specifies that physical restraint and seclusion may only be used in extreme cases. In Australia, the use of seclusion in acute psychiatric units has decreased, influenced by national initiatives to reduce their practice. Despite calls from governments and consumer organisations to eliminate or reduce restraint and seclusion, usage has increased in settings such as Emergency Departments, ambulances and general hospital wards. This presentation will report on data collected in South Australia about the use of restraint and seclusion in a range of hospital settings (emergency departments, ambulances, acute psychiatric aged care settings and acute psychiatric wards) and the context in which they occur. Legal, ethical and clinical perspectives will be examined to explore why, in a climate of “least restrictive treatment” environment and consumer focussed philosophies, the use of containment practices is increasing, particularly in settings where such practices only recently came into existence.

The “New to Forensic” Education Programme in Scotland

Helen Walker, The Forensic Network, Carstairs, Scotland (helen.walker6@nhs.net)

The New to Forensic educational programme has been developed for use across all forensic services in Scotland. It has been designed to meet the needs of all staff who are both new to and already working within forensic mental health services. Its objectives are targeted to both clinical and non-clinical staff. The programme follows the patient’s journey through the mental health and criminal justice systems. It covers mental disorder, legislation, psychiatric defences, assessment and treatment, risk of harm to others, services, attitudes and boundaries, multidisciplinary working, users and carers, community, learning disability, and prison services. It is self-directed and practice based, and uses a problem-based approach. Over a three year period, trainers and mentors have been trained to deliver the programme by members of the
School of Forensic Mental Health, and all services have adopted the programme as a core educational initiative. Findings from the programme evaluation indicate a significant improvement in learning following engagement in the initiative.

**Nurses’ Decisions on Seclusion: Patient Characteristics, Contextual Factors, and Reflexivity in Teams**

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Initiatives to reduce the use of coercive measures can benefit from insight in the process of decision-making on seclusion. Although a full seclusion procedure requires the involvement of several professionals, most decisions to seclude a patient are taken by nurses, as they are the first to be confronted with an emergency at the ward. While many characteristics of patients, professionals and facilities with relevance to seclusion rates have been investigated, their relative importance for nurses’ decision-making is unclear. Virtually no attention has been paid to the role of team processes or team reflexivity in decision-making on seclusion. The aim of this study was to estimate the effects of these factors on nurses’ decisions on seclusion. Psychiatric nurses (*n*=60) of four closed wards with seclusion facilities assessed 16 vignettes of theoretical patients in an imaginary situation at the ward; on a 9-point Likert scale, they indicated to what extent they certainly would or would not proceed to seclude that patient. They were also asked to assess the reflexivity of their team. In this way the relative importance of factors influencing nurses’ decision-making on seclusion was quantified. This presentation will focus on the practical implications of the findings and on the role of team reflexivity.

**73. Innovation in Mental Health Shared Decision-Making**

**What Helps and Hinders Shared Decision-Making in Mental Health Services?**

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The objectives of recovery focused mental health services differ from the objectives of traditional, “treatment-and-cure” health services. The latter emphasizes symptom relief and relapse prevention. In recovery focused services, symptomatic improvement is important, and may well play a key role in a person’s recovery, but quality of life, as judged by the individual, is central. As a consequence, within mental health services shared decision-making is broader than simply making a decision to take medication or not. Shared decision-making needs to be applied across all decisions from treatments and interventions to decisions about where to live and whether or not to work. The ambition to embed shared decision-making by people who use
mental health services along with the attitudes and practices of psychiatrists across the life-course will be presented. Lessons learnt from the application of shared decision-making in routine practice of a large inner London mental health trust will be discussed.

Organisational Change, Recovery, and Shared Decision-Making

Anne Markwick, Hertfordshire Partnership NHS Foundation Trust, Hertfordshire, UK (anne.markwick@hertspartsft.nhs.uk)

In order for mental health services to become recovery oriented, we need to move from relationships biased towards traditional professional expertise to more equal relationships biased towards the person’s own self knowledge, sense-making and personal goals in the context of their whole life. These relationships will be based much more on a coaching and consultative approach than that of the traditional medical approach. Professionals will become a resource to be used rather than the expert at the centre of treatment. Shared decision-making is central to this approach. The qualities of practitioners who are able to work in this way include curiosity and belief balanced with an ability to provide opportunity, challenge and encouragement against a backdrop of empathy, humanity and authenticity. This provides the context for “holding the space” for recovery. In her experience of leading organisational change towards a recovery orientation, and her original research on this issue, Anne Markwick suggests that this process parallels that required of practitioners. Thus in order to develop recovery oriented practitioners and organisations we need to be able to “hold the professional space” – walking the walk of recovery at all levels. This presentation will outline and analyse current key projects in recovery oriented organisational change in the United Kingdom.

Introducing Shared Decision-Making in Psychiatric Medication Management as Part of a Recovery Agenda

Elina Baker, Devon Partnership NHS Trust, Exeter, UK (elina.baker@nhs.net)

Recovery based practice is being widely adopted by mental health services in the United Kingdom. While there has been a commitment to implementing broad values and principles there is also a need to clearly specify how these can be applied in specific areas of practice. In order to establish recovery based practice guidelines for prescribing and medicines management, our project drew on published descriptions of recovery supportive practice, a local survey of the views of people taking medication and their supporters and attempts to operationalise agreed recovery principles, such as working in partnership, supporting personal responsibility and exploring personal meanings. Our recommendations included re-conceptualising medication as one of many possible recovery tools that people can actively use to support their well-being rather than a treatment determined by an expert professional. This requires mental health professionals to adopt a shared decision-making approach to medicine management. In order to
support the implementation of the project recommendations, we have developed reflective practice workshops for prescribers to explore barriers to and supports for shared decision-making. We have also explored ways of supporting people taking medication to participate meaningfully in the decision-making process. As well as presenting our guidelines, we will present the experience of carrying out this work, the results of evaluation and reflect on factors which both support and impede the implementation of recovery based practice in relation to prescribing and medicine management.

**Initiating Shared Decision-Making in Psychiatric Medication Management as an Evaluated Intervention**

Shulamit Ramon, Anglia Ruskin University (shula.ramon@anglia.ac.uk)
Sheena Mooney, Cambridge and Peterborough Partnership Foundation Trust, Cambridge, UK (sheenamooney@yahoo.com)

We will present a National Institute of Health Research (UK) funded research project focused on parallel preparation of psychiatrists, care co-ordinators, and service users who have experienced psychosis, to engage actively in the process of shared decision-making (SDM) focused on psychiatric medication management, accompanied by a pre-programme and a post-programme evaluation. The project philosophy follows that of Deegan et al (2010) in approaching psychiatric medication as an aspect of personal medicine. Embracing this philosophy requires a major change in attitudes and everyday practice by all participants, for reasons to be highlighted in this presentation. SDM has become a key United Kingdom policy across the health system (Department of Health, 2011: Liberating the NHS: Greater Choice and Control), and has particular significance within the mental health sub-system. The first evaluated pilot intervention in the United Kingdom in this important yet highly sensitive area of mental health, the project is delivered in a partnership in which the initial consultation phase and the training programmes are led by both professionals and service user trainers. Key findings and their significance will be outlined.

**Implementing SDM as Part of the First Phase of Care Planning within the Israeli Psychiatric Rehabilitation Services**

Yaara Zisman-Ilani, University of Haifa (yaaraz@windowslive.com)

In recent years, there has been growing awareness and emphasis on patient involvement in medical treatment decisions, commonly referred to as shared decision-making (SDM) (Charles, Gafni, & Whelan, 1997, 1999). To date, SDM in healthcare has primarily been studied among patients with physical illnesses. Recently, research on SDM in mental health has also begun (Duncan, Best, & Hagen, 2010), mainly among people with schizophrenia (Hamann et al., 2006) and depression (Loh et al., 2007; Loh, Leonhart, Wills, Simon, & Harter, 2007). Although SDM
can be seen as a basic principle of many effective psychiatric rehabilitation practices (Curtis, 2008), to date, research has focused exclusively on medication use (Duncan et al., 2010). The potential importance of adapting the principles of SDM to recovery-based practices in mental health and to the field of psychiatric rehabilitation (such as employment and housing) has been recently emphasized (Deegan & Drake, 2006; Deegan, 2007; Drake, Deegan, & Rapp, 2010) but not yet implemented. In this session, I will present the development and the implementation of a new SDM intervention aimed at improving the assessment phase of the rehabilitation process of people with serious mental illness (SMI) in Israel.

74. Intellectual Disabilities

Research on Freedom Restrictions: Quality Guidelines

Vivianne Dorenberg, VU University Amsterdam (v.dorenberg@vumc.nl)

In recent years there have been several research programs to guide care providers in working with the legal framework for psychiatric care and the care for people with intellectual disability. Mostly, the focus is on creating quality guidelines to reduce restrictive measures. In collaboration with the Free University (medical centre) and the University of Tilburg, the Hogeschool Leiden is currently doing research on restrictive measures in the care for young people with mild intellectual disorders (MID). Young people with MID represent a difficult group of clients. They have an increased risk for many kinds of problems, from psychiatric to severe behavioural problems. This makes aggression and therefore the need for restrictive measures very common among these clients. But the variety of the problems also indicates multidisciplinary care, possibly in more than one care sector, which means that care providers are confronted with a wide range of laws and regulations. The first part of the research project (September 2011 - April 2013) showed that care providers experience difficulties with the legal framework. Therefore, the project set out a number of quality guidelines to raise awareness and to help reduce the need for restrictive measures. The presentation will focus on these guidelines.

Does the Hayes Ability Screening Index Relate to the Wechsler Adult Intelligence Scale III in Belgian Mental Health Settings?

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Routine intelligence screening and assessment is not a standard procedure in psychiatric and forensic treatment settings. The lack of systematically identifying clients with intellectual disabilities can interfere with standard treatment protocols, which often do not take into account
individuals’ specific needs. Referrals for full-scale diagnostic assessment generally only occur when intellectual difficulties are obvious, leading to an under-estimation of the prevalence of intellectual disability in mental health settings. Therefore, the systematic application of a screening tool that provides an indication for further diagnostic assessment seems to be a promising development. A screening tool that has been used in criminal justice and mental health systems is the Hayes Ability Screening Index (HASI). It is a short screening instrument which can be administered by (non-)psychologists in 5 to 10 minutes. However, the validity of the HASI has only been studied for the Australian and Norwegian versions and not for the Dutch version in a Belgian psychiatric and forensic treatment context. Hence, this study investigates the validity of the HASI in a Belgian mental health context using the Wechsler Adult Intelligence Scale III for the criterion validity. The findings of this study will be discussed with reference to implications for practice and further research.

Intellectual Disability among a Prison Population: Recognition, Pathways, and Comorbid Mental Health Problems

Jane McCarthy, King’s College London (jmccarthy@standrew.co.uk)

In the United Kingdom, intellectual disability (ID) is not routinely screened for within the criminal justice system. The consequence is that people with ID may not be directed to the most appropriate prison location or departments to receive the support they need. This study aims to establish the extent of ID among prisoners at a local prison in London, UK. Prisoners arriving at the prison will be screened and follow-up diagnostic assessments carried out. The study will explore the characteristics of prisoners with ID, the extent to which they have additional mental health problems, and examine their prison pathways and healthcare resources they use. In addition to ID, participants will be screened for autism spectrum disorder (ASD) and attention-deficit hyperactivity disorder (ADHD). All those screening positive for any of these disorders will be assessed for additional mental health problems and substance misuse. Participants’ prison pathways in terms of resources required and locations used in comparison to the general prison population will be explored. The study is currently at the recruitment stage. Data on rates of recognised and previously unrecognised ID, ASD and ADHD will be reported along with preliminary results on characteristics and comorbidity.

Aging in Place: Neurocognitive Impact of Long Term Prison Sentences and Legal Implications

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Longer sentences at both the state and federal level have resulted in a large and growing aging population in United States prisons. Human Rights Watch estimates the number of inmates over 55 at 125,000 and growing (Humans Rights Watch, 1/27/2012). Many of these older inmates
face increased risks of cognitive decline secondary to histories of low educational attainment, psychiatric disorders, substance and alcohol abuse, trauma histories, head-injuries, and poor premorbid medical care. In addition, we argue that the prison environment itself may be an independent factor that increases the incidence of dementia secondary to low levels of cognitive stimulation, poor medical care, poor diet, and psychological trauma. Further, demographically, prison populations are at higher risk for hypertension, diabetes, and cardiovascular disease prior to incarceration and these risks become amplified in the prison environment. In fact, a recent report indicated that prison inmates demonstrated accelerated aging, appearing 10 - 15 years older medically resulting in classifications of inmates over age 50 as older in 15 states (VERA Institute of Justice, 2010; HRW 1/27/2012). This presentation will review the literature on accelerated aging in the prison population with an emphasis on implications for neurobehavioural assessment and legal decision-making.

Neurobehavioural Examination of the Forensic Client

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There is a growing awareness among mental health practitioners that many mental disorders previously believed to be primarily behavioural in nature, reflecting character and environment, are actually grounded in brain mal-development or brain disorder. This growing awareness, influenced by the advent of new diagnostic procedures and measures, is also found among forensic practitioners. In this presentation, I describe some of the elements involved in conducting a neurobehavioural assessment of cognitive functioning, particularly in capital cases, organizing this material in terms of the professional disciplines – social work, mitigation investigation, psychological, and medical – with which these methods are mainly identified. The presentation concludes with a brief discussion of how to integrate the multiple areas of expertise to create an accurate understanding of the neurobehavioural functioning and capacity of the subject.

75. The Interface of Older Adults with the Civil and Forensic Mental Health Services in the United Kingdom

Scottish Mental Health Law and Older Adults

David Findlay, National Health Service Tayside, Dundee, Scotland (david.findlay@nhs.net)

The Mental Health (Care and Treatment) (Scotland) Act 2003 (MHCTA) operates alongside the Adults with Incapacity (Scotland) Act 2000 (AWI). Both are firmly based on clearly articulated principles and can involve complex areas of interaction, though use of MHCTA is more closely
documented and fully recorded. MHCTA saw a move from Sheriff Court hearings to a tribunal based system. This presentation will explore subjective aspects of that shift for both older people and involved professionals as well as considering trends in levels of detention and compulsory treatment across age ranges and diagnoses. It will touch upon less frequently used options, such as the Care Programme Approach (CPA), and subsequently emergent legislation, such as the Adult Support and Protection (Scotland) Act 2007 (ASPA). Specific mention will be made of MHCTA’s role in dementia and seemingly lower profile in both delirium specifically and the general hospital setting overall. An overview of the “Shrieval” process will be given in the context of Scotland’s entire tribunal system being subject to review. The emphasis will be on the diverse ways in which a bureaucratic, legalistic process adds value to the everyday care of older people’s mental health problems.

**Incapacity Legislation and its Use for Older Adults in Scotland**

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The Adults with Incapacity Act for Scotland was passed in 2000. It provides a definition of incapacity, a set of principles that must be followed and a graded series of financial and welfare interventions. The number of new applications, especially for welfare powers, continues to rise. Deprivation of liberty issues and the provision of medical treatment for physical health remain significant problems. Some recent legislative changes have helped. Proposals for further reform are aimed at ensuring compatibility with human rights law, while trying to ease the burden on health and social care practitioners and the courts.

**Civil Mental Health Detentions for Older Adults in One Scottish Health Region**

Gary Stevenson, *National Health Service, Fife, Scotland* (gstevenson@nhs.net)

This presentation examines the emergency and short-term civil detention of older adults in one Scottish region under successive mental health legislation, with the data collected primarily by clinician-based interviews. Results indicate an initial rate of 68 increasing to 141 detentions per 100,000 of the respective over-65 year age populations, a two-fold increase. Compared to the earlier patient cohort, the later cohort had higher rates of over 85-year-olds with organic mental disorders and higher rates of progression to six-month compulsory detention and treatment orders (CTOs). New data will be presented on outcomes at 2-year follow-up for all adults in the region detained on CTOs, comparing the older adult to the younger adult (under 65-year old) cohort. The observed higher rates and longer periods of detention may reflect changes in clinical attitudes and legal requirements from a previous reliance on the common law doctrine of necessity to the requirements of a more legalistic framework, and may signal future clinical
requirements, given the aging population, pointing towards the need for earlier recognition and management of clinical issues in an attempt to minimize the “necessity” of clinico-legal intervention.

**A Survey of Older Adult Patients in Special Secure Psychiatric Care in Scotland**

Robert Gibb, *The State Hospital, Carstairs, UK* (robertgibb@nhs.net)

A retrospective survey design was employed. Patients admitted to The State Hospital aged 55 or over and patients who reached their 55th birthday as inpatients between 1st January 1998 and 31st December 2007 were included. Thirty-six patients were identified over the relevant time period: the most common diagnostic category in our sample was psychotic illness (63.9%), with dementia accounting for another 11.1%. The average length of admission was 14.2 years (range 21 days – 40.3 years). The average number of medical diagnoses on admission was 1.2 (range 0-5), rising to 2.4 (range 0-7) at discharge or end of study. Twenty-two patients (61.1%) had mobility problems and there were seven cases (19.4%) of sensory impairment. Services must ensure a suitable environment with robust access to physical health care and recreational activities for older adults in secure mental health settings. This presentation will also examine other issues pertaining to Forensic mental health practice with older adults.

**76. Interpersonal Care in Psychiatry**

**Exploring the Other, Otherness, and Othering in Forensic Psychiatric and Correctional Nursing**

Cindy Peternelj-Taylor, *University of Saskatchewan* (cindy.peternelj-taylor@usask.ca)

Forensic clients are members of a highly stigmatized and stereotyped population. How nurses view those in their care, “the other,” and more importantly, how they engage the other, is a significant concern for nursing. In forensic and correctional environments, it is not uncommon for nurses and other health-care practitioners to depersonalize their patients and clients through their use of language. Referring to patients and clients as “inmates,” “cons,” “psychopaths,” “schizophrenics,” or “monsters” not only evokes stereotypical images, but, more importantly, casts the individual into the role of other. Othering is generally viewed as a negative form of engagement, one that is contrary to ethical nursing practice. Through the exploration of relational and contextual factors contributing to this phenomenon, the author argues that othering is a contemporary practice issue of moral significance – one that addresses the provision of competent and ethical nursing care, and one that requires ongoing dialogue within the forensic and correctional nursing communities. Although this analysis of othering represents only a glimpse of how nurses work and care for individuals in forensic and correctional environments,
it may challenge nurses (and other health care providers) to situate themselves within this dialogue as they reflect upon, relate to, and refute othering. In doing so, they will be better positioned to work in a competent and ethical manner with individuals who have come into conflict with the law.

**Subtle Coercion and Moral Distress**

Kim Lutzen, Karolinska Institute, Stockholm, Sweden (kim.lutzen@ki.se)

Contemporary research focused on everyday ethical decision-making in various mental health care environments provides convincing results for the suggestion that moral distress has adverse effects on the client-care provider relationship. A common yet simple explanation of the origin of moral distress is rooted in the notion that a person’s beliefs, or convictions, of what he or she thinks is the right thing to do are impossible to implement. In mental health care, this situation is not unusual, mainly because what the client prefers is not always congruent with the treatment care plan. The aim of this presentation is to argue that different ways of using subtle coercion may be a consequence of moral distress; compromising the principle of autonomy in the name of doing what seems to be “good” for the patient/client. I will also argue that subtle coercion may also be a primary consequence of the care provider’s lack of autonomy.

**Revisiting Relational Ethics as a Fitting Ethic for Forensic Psychiatry**

Wendy Austin, University of Alberta (wendy.austin@ualberta.ca)

This presentation will revisit the argument that a relational ethics approach to the ethics of forensic psychiatry has more to offer than an approach based strictly on principlism. Informed by qualitative research results of an interdisciplinary study funded by the Social Sciences and Humanities Research Council of Canada, “Ethical relationships in forensic psychiatric settings,” the challenges of practicing ethically at the interface of justice and health care systems will be addressed. The dominant requirement for security and custody in such settings shapes care and treatment and requires an approach to ethics that can guide actions in the everyday reality of forensic clinicians. Although forensic psychiatry has been named as a “moral minefield,” mainstream bioethics has yet to offer much guidance as to ethical responses to the complexities inherent in this practice specialty. Relational ethics – encompassing the core elements of engagement, the interdependent environment, and uncertainty/vulnerability – seeks to identify the fitting response to an ethical question, rather than the right or the good. It has the potential to meet the need for an appropriate ethic for interdisciplinary forensic psychiatry teams.

**Comparisons between Psychiatrists’ and Mental Health Nurses’ Decision-Making in Civil Commitment**
Clinician perception of use of mental health legislation has been suggested as contributing to variation in rates of civil commitment. Variation has been reported in a number of jurisdictions internationally and is evident in New Zealand. The primary aim of this study was to develop and test the psychometric properties of a questionnaire designed to measure clinician perceptions of use of mental health legislation. Secondary aims were: 1) to test the hypothesis that clinician differences in perceptions of use of legislation are associated with the rate of committal of their mental health service; and 2) to test the hypothesis that nurses and psychiatrists show differences in clinical decision-making. Two instruments were used to measure clinician perception of mental health legislation in nine New Zealand health districts. Districts (n=9) were selected to represent those with high and low rates of use of civil commitment. Clinicians (n=168) were asked to rate clinical vignettes thought to be typical of those in which mental health legislation might be considered. A twenty-four item survey of attitudes to civil commitment was developed and tested using exploratory factor analysis. The study used a purposive sample of mental health nurses (n=98) and psychiatrists (n=70). This presentation will focus mainly on the comparisons between psychiatrists and nurses and will discuss the implications for the functioning of multidisciplinary teams and for decision-making in relation to mental health legislation.

77. Intimate Partner Violence

The Aetiology of Intimate Partner Violence and Implications for Practice and Policy

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Purpose: This review critiques popular theoretical accounts of intimate partner violence (IPV). It provides a synthesis of methodologically sound research to understand how this social problem is best conceptualised and the implications for practice and policy.

Background: Practice and policy in the domain of IPV is often informed by opinion and research driven by a gendered perspective, despite the wealth of evidence supporting the need to further explore and respond to the spectrum of IPV from a gender inclusive perspective. Theory underlying hypotheses about the nature and aetiology of IPV is important as it informs professionals how they can best respond to reduce or eliminate this problem. Therefore, it is crucial that practice-led initiatives are driven by theory that is supported by good quality empirical evidence.

Key points: The theoretical perspective and resultant methodology used to investigate IPV can affect how the aetiology and nature of this behaviour is understood. Policy makers, academics and practitioners should be aware of the need to examine the methodological rigour of research,
before applying its findings to prevention and intervention. A wealth of quality research has consistently found evidence for a complex aetiology of IPV, used by men and women, which can overspill into the parent-child relationship.

**Conclusion:** The use of a gender inclusive approach to guide research and practice into IPV is warranted. Evidence based practice is essential if the field is to move toward developing strategies to effectively combat family violence.

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**The Functional Relationship between Alcohol and Intimate Partner Abuse**

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Alcohol has been identified as a common feature of intimate partner abuse (IPA), via intoxication at the time of abusive events, and as a correlate of abusive relationships. Alcohol problems are linked with higher likelihood of physical and psychological abuse and the injury associated with intoxicated violence tends to be higher. Surprisingly little is known about how this association functions. Much of the reluctance to investigate this area has been due to a focus on societal level explanations for IPA and, at the individual level, a desire to avoid allowing perpetrators to use alcohol as an excuse. This study will explore the links between alcohol (AUDIT scale) and relationship conflict and abuse (CTS-2) with follow-up qualitative interviews to explore the meanings of any relationships found, across a range of individuals who vary by socio-economic status and level of relationship conflict. This presentation will outline the initial data from this study and discuss implications for theoretical models of IPA and for interventions.

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**Personality Profiles of Male Desisters from Physical Partner Violence**

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A proportion of men who use violence in a relationship do desist over time although the mechanisms responsible for this remain unclear. The objective of this presentation is to examine and compare the personality profiles of those who reported they have desisted from, persisted in or never engaged in violence against an intimate based on the Revised Conflict Tactics Scale. The design was between subjects. Due to the prevalence of personality disorders in perpetrators of IPV, an analysis of the sub-scales of the Millon Clinical Multiaxial Inventory-III using MANOVA was conducted on data from desisters, persisters and the control group. Approximately forty desisters and forty persisters were recruited from those attending voluntary
treatment programmes in the community or those referred for treatment through probation. A similar size control group was recruited. Initial findings suggest that higher percentage of offenders had personality disorders compared to controls. There was also evidence of differences in some of the sub-scales between the desisters and persisters with desisters evidencing more scores at clinical level. The findings indicate the need to screen for personality disorders prior to treatment, as the needs of these individuals are likely to differ significantly depending on the nature and severity of the disorder. Research now needs to be extended to include other measures such as attachment styles and self-control. Comparisons can then be made to examine how these differ between desisters, persisters and those who do not use violence in a relationship.

**Strengthening Probation: The Development of a Brief Solution-Focused Intervention for Perpetrators of Intimate Partner Violence**

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The drive towards evidence based practice in the United Kingdom has led to the development of a range of accredited, government-mandated programmes delivered in probation and prison services which are notoriously costly and resource intensive. Moreover, such interventions are typically aimed at medium or high risk offenders thereby addressing the needs of only a proportion of male perpetrators who use violence in relationships. This has led to a call for brief, non-accredited programmes to meet the needs of this overlooked population. This presentation will provide an outline of the development of one such innovative programme in a United Kingdom Probation Trust, drawing upon principles of brief solution-focused therapy. The rationale for the approach taken and the resulting intervention will be detailed. Preliminary findings regarding the acceptability and impact of the programme will also be provided.

**Changing Attitudes toward Dating Violence in Adolescents (CAVA): The Development of a Serious Game-Based Primary Intervention**

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Attempts at evidence-based tertiary intervention for intimate partner violence perpetrators are notoriously contentious, with questionable empirical evidence of their ability to effectively reduce violence in relationships. Consequently, there is an international drive to develop primary prevention strategies, aimed at targeting general adolescent populations at a point where intimate relationships are becoming important. This presentation will detail the development of a highly innovative serious game-based intervention which has modified typical schoolroom curricula for use through a computer-mediated approach. The foundations of the intervention will be detailed, excerpts of the intervention will be showcased and preliminary findings of the acceptability and impact of the intervention will be examined.

78. Involuntary Hospitalization I

Involuntary Outpatient Treatment around the World

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Involuntary outpatient treatment (IOT) for people with severe mental illness is common practice in countries like the USA, Canada, the UK, Australia, New Zealand and Israel. In general, the administration of required medication is not included, except in Australia. Prolonged exit permissions or supervised discharges are applied in countries like France (output test), Germany (23), Belgium, Luxembourg and Portugal. In England and Wales, with the new Mental Health Act (Mental Health Act 2007), supervised discharges are replaced by supervised community treatment. This mode allows the patient to be discharged from hospital and continue treatment in the community, with the possibility of returning to the hospital if the patient does not meet the community treatment orders. In Spain there is no specific legislation on IOT but it is used locally in some cities. Canadian and Australian studies on IOT indicate a prevalence of 5-15 per 100,000 in the general population. In the USA, more than half the states have some form of compulsory community treatment, used in about 3 of every 100,000 in the general population, 9.8% of new releases and 7.1% of outpatients.

Involuntary Outpatient Treatment for Persons with Severe Mental Illness: Results in the City of Valencia, Spain

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Involuntary outpatient treatment (IOT) is non-voluntary treatment applied in the community to ensure therapeutic compliance by patients with severe mental illness and little insight, in which noncompliance involves a high risk of relapse, disruptive and violent behaviours, or frequent hospitalizations and emergency care. Although there is no specific legal regulation in Spain of IOT, some experiments have been launched in the last 15 years, in various Spanish cities, with the aim of improving treatment adherence in individuals with severe mental illness and avoiding the extremes of hospitalisation and civil incapacitation. This presentation outlines the results of two observational, retrospective studies of patients undergoing involuntary outpatient treatment in the city of Valencia. We describe the psychiatric diagnoses, the persons seeking this treatment, and the reasons for seeking it. We compare the number of emergencies and admissions and the average length of stay in the 6 and 12 months before and after the introduction of court authorization. Finally, we analyze the events occurring during this period of time. Our impression is that IOT is a measure that can be beneficial for some patients with severe mental illness. An adequate legal framework is required to explicitly govern its implementation.

**Involuntary Outpatient Treatment: The Views of the People Involved**

Miguel Hernández-Viadel, *Hospital Clínico Universitario, Valencia, Spain* (mhv4@comv.es)

Involuntary outpatient treatment (IOT) aims to improve compliance with treatment, preventing the deterioration of patients with severe mental illness and reducing the risk to themselves and other people. IOT is not free of controversy. Those who defend it regard it as a way of ensuring that treatment is carried out, while opponents consider it a violation of the basic rights of the individual, leading to an increase in coercion and stigmatisation of psychiatric patients. This presentation outlines a descriptive study, for which we have attempted to collect the opinions of people involved in IOT. The group studied was made up of all the patients in IOT in the city of Valencia at the beginning of the project in October 2005, their relatives, and their outpatient unit psychiatrists. The results show that the great majority of psychiatrists and relatives think that IOT has been beneficial for patients’ treatment. There has even been an overall clinical improvement since it was introduced. As for the opinion of the patients, over half of them also feel that IOT has been a beneficial measure for their treatment.

**Social Influences and Challenges in Mandating Community Treatment Orders**

Nicole Snow, *University of Alberta* (nicole.snow@mun.ca)

Invoking Mental Health Acts and other legislation in mental health care is often controversial. While the law stipulates courses of action, occasionally these mandated processes are challenging to follow, they are not amenable to the actualities in which they will be used, or they can be interpreted in a vast number of ways. Such is the case for Community Treatment Orders.
(CTOs). The purpose of this presentation is to outline the findings of a study using Institutional Ethnography (IE) that explored CTOs in Newfoundland and Labrador, Canada. Participants in this study included clients, family members, and health professionals, administrators, and others who had experience with CTOs in mental health settings. Data collected through interviews and review of institutional documents were examined for evidence of the social web of influence that governs everyday actions. IE elucidated the everyday work/life experiences with CTOs and showed how they were influenced by institutional social structures and discourses known as ruling relations (Smith, 2005). It also uncovered disjunctures, points where what was actually occurring did not match what was supposed to be occurring. In bringing these patterns and disjunctures to light, hopefully the resulting awareness will foster a greater understanding of CTOs, how issues may arise, and how best to deal with such concerns.

**Ethical Dilemmas for Statutory Tribunals/Committees in Determinations of Involuntary Hospitalization**

Samuel Wolfman, Zefat Academic College Law School (s.wolfman@wolfman-law.com)

Mentally ill patients, whose reality judgment is severely impaired and consequently present a danger to themselves and/or others, may be involuntarily admitted to a secure psychiatric ward, for the safety of both themselves and the public. The Israeli Statute for the Treatment of Mentally III Patients sets out rules and procedures for involuntary confinement, and grants authority to statutorily appointed psychiatrists to issue initial involuntary admission orders. A patient may appeal such an order before a judicial statutory tribunal/committee, acting as a mental health court. Such committees are also the statutory forum for determining whether involuntary hospitalization should be extended. The committee may face ethical dilemmas even when there is no question regarding the psychiatric condition of the patient, if legal requirements are not met. The basic legal concept is that a psychiatric disease by itself, as severe as it may be, is not enough for involuntary admission and treatment. Still, leaving the patient untreated may result in harsh consequences. This presentation discusses the legal aspects of involuntary admissions vis-a-vis the ethical and moral dilemmas such Statutory Committees may face when deciding to extend hospitalization or to release the patient from committal.

**79. Involuntary Hospitalization II**

*Predictors of Involuntary Hospitalization to Acute Psychiatry*

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Jan Olav Johannessen, University of Stavanger (jojo@sus.no)
Introduction: There is little knowledge of predictors for involuntary hospitalizations in acute psychiatric units.

Method: The Multi-Center Study of Acute Psychiatry included all cases of acute consecutive psychiatric admissions in twenty acute psychiatric units in health trusts in Norway. The data were registered during the admission process, including rating of Global Assessment of Functioning and Health of the Nation Outcome Scales.

Results: 56% of the patients were referred for voluntary hospitalization, 44% were referred for involuntary hospitalization. In a regression analysis we found that the strongest predictors for involuntary hospitalization were contact with police, referral by physicians who did not know the patient, contact with health services within the last 48 hours, not living in their own apartment or house, high scores for aggression, level of hallucinations and delusions, and contact with an out-of-office clinic within last 48 hours and low GAF symptom score. Involuntary patients were older, more often male, non-Norwegian, unmarried and had lower levels of education. They more often had disability pension or received social benefits.

Conclusion: Involuntary hospitalization seems to be guided by the severity of psychiatric symptoms and factors “surrounding” the referred patient. Important factors seem to be male gender, substance abuse, contact with own GP, aggressive behaviour, and low level of social functioning and lack of motivation. There was a need for assistance by the police in a significant number of cases.

Involuntary Hospitalization of First-Episode Psychosis with Substance Abuse during a TwoYear Follow Up

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Objective: To investigate whether substance abuse (alcohol or illegal drugs) in patients with first-episode psychosis (FEP) influenced treatment outcomes such as involuntary hospitalization during follow-up.

Method: First-episode psychosis patients (n=103) with consecutive admissions to a comprehensive early psychosis program were included and followed for two years. Assessment measures were the Positive and Negative Syndrome Scale, Global Assessment of Functioning, and the Clinician Rating Scale (for substance abuse).
Results: 24% of patients abused either alcohol or drugs at baseline. The dropout rate at two years was the same for substance abusers as for non-abusers. Substance use was not reduced over the 2-year period. At two-year follow-up, 72% of substance abusers and 31% of non-abusers had experienced at least one occasion of involuntary hospitalization. Patients with substance abuse had significantly higher risk for involuntary hospitalization during follow-up (OR 5.2).

Conclusion: To adequately treat patients with FEP, clinicians must emphasize treatment of the substance abuse disorder, as well as the psychotic illness. Patients with defined comorbid substance use disorders and FEP are likely to have poorer treatment response than those with psychosis alone.

Perceived Humiliation in an Psychiatric Emergency Unit in Norway

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Background: There is a lack of empirical studies of patients’ perception of humiliation, and the association between perceived humiliation and involuntary admission, demography, psychopathology and narcissism.

Aims: The aim was to explore associations between self-rated humiliation and socio-demography, psychopathology, involuntary admission, violence and narcissism in the admission to a psychiatric emergency ward.

Methods: Consecutively admitted patients (n=186) were interviewed with several validated instruments, Brief Psychiatric Rating Scale (BPRS), Narcissistic Personality Inventory (NPI), Hospital Anxiety and Depression Scale (HADS), and the Global Assessment of Functioning (GAF). The patients self-rated humiliation by The Cantril Ladder. Negative events in the admission process were measured with questions from the Admission Experience Survey, in former studies used to measure perceived coercion.

Results: Significant associations were found between perceived humiliation and involuntary admission, not being in paid work, low education, violence, and several psychopathological symptoms from the BPRS and the HADS and total NPI and its subscales. The strongest associations were found between humiliation and negative events and involuntary admission

Conclusions: Efforts to reduce involuntary admissions should be made since they are strongly associated with high humiliation. Negative events in the admission process are common among the routines, procedures and situations of the admission process to psychiatry. Some of them can hopefully be modified in order to reduce the level of humiliation, such as the use of verbal or physical force. The identification of factors associated with humiliation may be helpful to alert psychiatric health care to avoid provocation of patients that are vulnerable to humiliations.

Therapeutic Management of Aggression (TMA): Why Does It Work?

Gunilla Maria Hansen, Stavanger University Hospital, Stavanger, Norway (gunilla.maria.hansen@sus.no)
Since the early 1990s, Stavanger University Hospital has developed a system called TMA (Therapeutic Management of Aggression). Its aim is to prevent both restraint and violence against staff. For the last four years, we have reduced use of restraint by 64% and violence against staff members by 42%. The system focuses on predictability and ethics and how to understand violence. What is the violence an expression of? What are the goals? Everyone employed at Stavanger University Hospital Psychiatric Division working in the psychiatric wards has to go through a three day course where they learn both theory and practical techniques. There is regular training every week and always a debriefing after an event. Through this we develop a relationship with the patients so the milieu is more predictable for the patient and the staff. The system has educated more than 2,000 people at the hospital during this period, and more than 1,000 people throughout the country. Many larger hospitals would like to include this system to their wards. We use the same system whether the facility in question is a child and adolescent ward or a security ward. The TMA system is easy to implement in other institutions, and schemes such as SOAS-R and ERM.

Marijuana Embalming Fluid: Legal Implications for Assessments of Insanity and Fitness to Stand Trial

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Embalmig fluid (EF) applied to marijuana cigars or cigarettes, with or without the addition of phencyclidine (PCP), has many names such as “fry,” “water” or “wet.” Under the influence of these substances, individuals might appear psychotic and engage in violent behaviours. The user’s presentations may also mimic a psychotic disorder or a delirium. The courts often request assessments to determine whether such a defendant is fit to stand trial. Drug-induced variable changes in mental state often result in stark discrepancies between serial examinations over a period of time. The initial clinical assessment and the diagnosis may vary significantly from subsequent evaluations depending upon the timing of the assessment, the type(s) of substance(s) ingested as well as the pharmacokinetics of the substance(s). All of these substances used independently are known to induce changes in mental status. However, the combination can produce a more potent and prolonged effect. Also, despite abstinence, the user may have persistent symptoms of psychosis and the individual may be diagnosed with a mental disorder despite abstinence. This may complicate their Fitness to Plead and Stand Trial assessments, diagnosis of a mental order and the use of settled insanity as an affirmative defense. In this presentation, we will review the pronounced psychopathological effects of the marijuana embalming fluid on the defendant user and the legal ramifications.
Vivianne Dorenberg, VU University Amsterdam (v.dorenberg@vumc.nl)

The legal position of young people with mental illness in the Netherlands is governed by a wide range of laws and regulations. None of these laws or regulations presents a clear legal framework for freedom restrictions when persons are admitted to a psychiatric hospital, and mental health care providers struggle with this issue. The term “freedom restrictions” refers to many kinds of measures, from house rules to restraint and seclusion. Current law focuses strongly on keeping patients (or others in their environment) from harm or danger, without realizing that the treatment of children and adolescents with mental illness entails so much more. Mental health care providers especially struggle with pedagogical measures, like sending a child to his or her room. Current law does not recognize these measures, which means there are no clear legal guidelines for executing them. The Compulsory Mental Health Care Bill (sent to Parliament in 2010) will bring some clarity, but we must realize that most children and adolescents with mental illness are treated on a voluntary basis. This presentation will discuss current and future Dutch legislation concerning freedom restrictions in child and adolescent psychiatry, focusing on future legislation and the need for practical guidelines.

Brenda Frederiks, VU University Amsterdam (b.frederiks@vumc.nl)

The legal position of youth and young adults with a mild intellectual disability, when it concerns restrictive measures, is regulated by the Dutch Psychiatric Hospitals Act. A main principle in this Act is respect for self-determination. Freedom restrictions are only allowed if all alternative forms of care are not successful and if danger to a client or others can be prevented. However, in practice too many freedom restrictions are used for several reasons: to protect clients, to prevent risks or to study aspects of a client (pedagogical reasons). Many restrictions do not meet the legal criteria but are used in a sense of improperly controlling clients. This presentation will discuss current and future Dutch legislation concerning freedom restrictions in the care for youth and young adults with an intellectual disability and the need for practical guidelines. Current law, and proposed future law, do not fully recognize the special characteristics of these clients. In the Dutch Care and Coercion Bill many aspects are missing that would improve the legal status of young people with an intellectual disability.
In the effort to secure a court order overriding a patient’s objection to proposed psychiatric treatment, any manner of resistance to the clinician’s treatment recommendation is portrayed by the clinician as driven by the underlying disease process. The recent case of Matter of G.K., where a trial court authorized the involuntary administration of 120 shock treatments within a period of one year, illustrates this unfortunate approach. In G.K., a relatively eloquent objection to ECT was clinically interpreted as a delusional statement, and a history fraught with the emotional toll familial conflicts exact on a vulnerable person was no longer utilized by the psychiatrist to gain a more thorough understanding of the patient, but used as a source of damning facts to highlight the patient’s pathology and alleged lack of credibility. The case further illustrates that a person’s actions to physically resist the proposed treatment, such as grabbing and eating a piece of bread in violation of the ECT protocol thus forcing the cancellation of the shock treatment for that day, will not be viewed as a measured resistance to a procedure that an individual has previously experienced as extremely unpleasant, but instead will be characterized as a self-destructive act justifying additional psychiatric measures including the employment of physical and chemical restraints. The judicial outcome in G.K. brings psychiatry back to the 1930s when psychiatrists Cerletti and Bini saw how the application of electrodes to hogs in the slaughter house overcame their resistance to the butcher’s knife, and were inspired to try this process on a human subject. Matter of G. K. is not an indictment of ECT. Instead it stands as a dire warning against the type of narrow focus which fails to appreciate the humanity of the resisting patient.

Confine is Fine: Have the Non-Dangerous Mentally Ill Lost their Right to Liberty? An Empirical Study to Unravel the Psychiatrist’s Crystal Ball

Donald Stone, University of Baltimore (dstone@ubalt.edu)

This presentation will examine the reverse trend in civil commitment laws in the wake of recent tragedies and discuss the effect of broader civil commitment standards on the care and treatment of the mentally ill. The 2007 Virginia Tech shooting and the 2011 shooting of Congresswoman Giffords have spurred fierce debates about the dangerousness of the mentally ill and serve as cautionary tales about what happens when warning signs go unnoticed and opportunities for early intervention are missed. This presentation will explore the misconception about the role medication and inpatient civil commitments should play in prevention of dangerousness and undermine the belief that we can medicate away the needs of the mentally ill. The adverse effect civil commitments can have on individuals’ long-term recovery, future employment prospects, and overall mental, physical, emotional and economic stability can be far-reaching; therefore, minimum due process protections must be carefully guarded. This presentation contends that
civil commitment decisions should be based on concrete evidence that the individual is an imminent danger to self or others and not on a psychiatrists’ speculation about future deterioration absent coerced treatment. Statistical data, collected from a survey of 100 psychiatrists, will be examined to determine what is most significant to psychiatrists in commitment decisions and highlight the impact state standards and types of hospital facilities have on psychiatrists’ testimony at civil commitment proceedings. Finally, this presentation will outline how “need for treatment” and “grave disability” provisions in commitment standards have stripped away due process protections for the mentally ill and discuss ways mental health advocates can fight back to reverse this troubling movement in commitment laws.

81. Issues Arising from the Detention of Children with Mental Disorders in Scotland

Detaining Mentally Disordered Children and Young Persons in Scotland (Part I)

Valerie Mays, Mental Health Tribunal for Scotland, Edinburgh, Scotland (valerie.mays@scotland.gsi.gov.uk)

The Mental Health (Care and Treatment) (Scotland) Act 2003 (“the 2003 Act”) came into force in 2005 and established the Mental Health Tribunal for Scotland (“the Tribunal”), a specialist, independent judicial body responsible for granting, approving and reviewing compulsory measures for the detention, care and treatment of people with mental disorder. The Tribunal detains approximately fifty children per year as a result of the child’s mental disorder. While this is a relatively small number of cases, these cases are particularly sensitive and require special consideration. This is recognized in the 2003 Act itself. The 2003 Act is a progressive, patient focused piece of legislation and includes specific provisions in relation to children. Most importantly, section 2 of the 2003 Act introduces the welfare principle which provides that those discharging functions under the 2003 Act must do so in the manner which best secures the welfare of the child patient. The 2003 Act places a statutory duty on health boards to provide services and accommodations that are sufficient for the particular needs of the child where a child is detained. This was a clear attempt by the Scottish Parliament to legislate in order to tackle concerns about children being inappropriately detained in adult wards due to lack of specialist facilities. Further provision is made in the 2003 Act imposing a duty on persons having functions under the 2003 Act to mitigate the adverse effect of any compulsory measures on parental relations where a child or person with parental responsibilities is subject to measures authorized by the 2003 Act. Valerie Mays, the Tribunal’s Solicitor, will describe how the Scottish Tribunal works in practice and how the provisions in the 2003 Act operate to ensure that in cases concerning the detention of children with mental disorder, the child is placed at the centre of proceedings and any decision taken is made in a manner which best secures the welfare of the child.
Detaining Mentally Disordered Children and Young Persons in Scotland (Part 2)

Joseph Morrow, Mental Health Tribunal for Scotland, Edinburgh, Scotland
(mhts president's office@scotland.gsi.gov.uk)

The Mental Health (Care and Treatment) (Scotland) Act 2003 (“the 2003 Act”) came into force in 2005 and established the Mental Health Tribunal for Scotland (“the Tribunal”), a specialist, independent judicial body responsible for granting, approving and reviewing compulsory measures for the detention, care and treatment of people with mental disorder. The Tribunal detains approximately fifty children per year as a result of the child’s mental disorder. While this is a relatively small number of cases these cases are particularly sensitive and require special consideration. The Tribunal is an expert Tribunal and the 2003 Act contains provisions which seek to ensure that the child is placed at the centre of the judicial proceedings (covered in more detail in Part 1 of this presentation) and which require the Tribunal to make decisions in the manner which best secures the welfare of the child. Dr. Joe Morrow, the President of the Tribunal, will discuss the approach of the Tribunal in considering applications for the compulsory care and treatment of children with mental disorder. He will cover the types of mental disorder which have led to children being the subject of proceedings before the Tribunal in Scotland; the particular issues that arise in relation to cases involving children with mental disorder; the culture and ethos within which the Tribunal operates; the way in which the Tribunal seeks to ensure the participation of the child in the Tribunal proceedings including the practical operation of the relevant statutory provisions and other tools which the Tribunal can utilize to increase the participation of the child; the specialist training which has been delivered to members of the Tribunal to equip them to deal with cases involving children and adolescents; and the deployment of those members to sit on cases involving children.

Non-Specialist Mental Health In-Patient Care For Young People

Elizabeth Calder, Mental Welfare Commission for Scotland, Edinburgh, Scotland
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The Mental Health (Care and Treatment) (Scotland) Act 2003 places a duty on Health Boards to provide age-appropriate services and accommodation for persons under the age of 18 who are admitted to hospital because of mental disorders. Ideally, admission should be in a specific child or adolescent mental health facility. This is not always the case. Some young people are admitted to adult mental health facilities or, less commonly, paediatric general hospital wards. Previous Scottish Government policy was to reduce the number of admissions to non-specialist facilities by half. The Mental Welfare Commission for Scotland asks for reports on all people under 18 who are admitted to non-specialist facilities. There has been no consistent reduction in these admissions across Scotland, although some Boards have performed better than others. Most young people admitted to adult wards receive specialist input to their care. Some do not and, in
our view, receive inadequate and sometimes unlawful care. This presentation reports on the Commission’s work in this area, including case reports where we found significant deficiencies of care.

**Patterns and Trends in the Detention of Young People in Scotland**

Donald Lyons, *Mental Welfare Commission for Scotland, Edinburgh, Scotland*  
(donald.lyons@mwscot.org.uk)

The Mental Welfare Commission for Scotland provides reports on the operation of mental health and incapacity legislation in Scotland. We publish statistical reports and conduct special monitoring of the detention of young people. We also visit people subject to detention, investigate improper detention, abuse, neglect or ill-treatment and we give advice and promote best practice on applying best legal and ethical principles to individuals’ care and treatment. This presentation will focus on statistics on the use of mental health legislation in Scotland since the implementation of the Mental Health (Care and Treatment) (Scotland) Act 2003. There has been some variation in the use of the Act over the last few years. In particular, we have seen a rise in the use of the Act for females under the age of 18. We will present our analysis of these cases and suggest reasons for this rise. We have found uncertainty among practitioners on when to use mental health legislation and when to rely on parental consent for treatment. We are often asked for advice in this situation. Our recommendation is usually to use mental health legislation. We will discuss the human rights basis for this recommendation.

**82. Issues in Community Re-Integration**

**The Results of a National Dutch Effort on Reducing Seclusion**

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Henk Nijman, *Hogeschool Utrecht* (h.nijman@altrecht.nl)  
Eric O. Noorthoorn, *GGNet, Kenniscentrum, The Netherlands* (e.noorthoorn@ggnet.nl)

*Background:* The coercive intervention of first choice in most European countries is involuntary medication. In the Netherlands, it is seclusion. This partly explains why the use of seclusion is much higher in the Netherlands than in surrounding countries. To fund a nationwide program to reduce seclusion by 10% per year, the Dutch government provided annual grants from 2006 to 2009.

*Methods:* Grants were awarded to 42 Dutch psychiatric hospitals, covering approximately 90% of all beds at closed wards. The total national investment was €40m. The projects varied with respect to the interventions used for reducing seclusion.
Results: The number of seclusions had increased 3.2% annually from 1998 to 2005 (logit slope=1.032), followed by a decrease between 2006 and 2009 of 2.0% (logit slope=0.980, difference 1.2%: z=-8.58, p<0.001). The use of involuntary medication had increased by 8.5% annually from 1998 to 2005 (logit slope=1.085) and by 8.0% in the period 2006-2009 (logit slope=1.080, difference 0.5%: z=-0.54, not significant).

Conclusion: A national effort to reduce seclusion rates resulted in the breaking of a trend of increasing rates of seclusion, and caused a decrease in the use of seclusion. No increase in the use of involuntary medication was observed.

“A Citizen of Standing:” New Zealand’s District Inspector in Historical Context

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New Zealand’s Mental Health (Compulsory Assessment and Treatment) (MHCAT) Act (1992) legislates for a District Inspector (DI), whose role is to ensure that mental health consumers held under the Act are aware of their legal rights. The New Zealand DI role first appeared in nineteenth century legislation. Its historical longevity does not, however, denote that this role has been consistently perceived or approached since its inception. This presentation will look at the historical development of the DI, focusing in particular on the period from 1969 to 1992, when the purpose and scope of the role was part of a Mental Health Act (1969) review. This was a time of fundamental social and professional change, shifting ideas of psychiatric practice, new locations of treatment, and growing emphasis on patient/consumer rights. The presentation explores how the interaction between the law and mental health needs, in the context of social and political change, shaped public and governmental expectations of the role. Providing a historical analysis of the DI role adds complexity to our understanding of how perceptions of mental health issues change according to social and political contexts of the time. This has relevance for current mental health law.

Is Compulsory Mental Health Treatment Compatible with Mental Health Recovery?

Allison Alexander, Edinburgh Napier University (a.alexander@napier.ac.uk)

The existence of laws allowing compulsory detention and treatment has been questioned by many for a range of reasons (see: Eastman and Peay, 1999). More recently in an article for the Scottish Recovery Network, Mary O’Hagan (2012) has described compulsory legal powers as “the elephant in the recovery room.” Those who write about mental health recovery (e.g. Repper and Perkins, 2003) emphasize the importance of mental health service users feeling in control of
their own lives. In contrast, a lack of control is often experienced by people within the mental health system, especially if placed there against their will. This presentation will examine whether modern mental health law with an emphasis on liberal social welfare principles and rights is compatible with a recovery focused mental health system. With reference to the Mental Health (Care and Treatment) (Scotland) Act the presenter will offer an analysis of whether the Scottish approach to compulsory detention and treatment and the Scottish policy objective of recovery focused practice are fundamentally incompatible.

**Experiences of Liberty Deprivation for Inmates in a Penitentiary Hospital**

Natalia Joelsas Timerman, *University of Sao Paulo* (natimerman@usp.br)

This study, a master’s level ongoing project in Clinical Psychology at the Institute of Psychology of University of Sao Paulo, comprises a phenomenological approach towards the different experiences of liberty deprivation by inmates in a penitentiary hospital. Semi-structured interviews were conducted with previously selected individuals representing different types of liberty deprivation due to being both imprisoned and ill. Those individuals were: an inmate with a clinical disease that does not offer major current or future risk; an inmate with a terminal disease; an acutely psychotic inmate; an inmate who had suffered a stroke; an inmate currently addicted to psychoactive substances; and an inmate in what is known as the “safe area” (the hospital wing reserved for those at risk of being threatened by other prisoners because of their type of offence or membership in a different criminal gang). These interviews were analyzed in light of the question of liberty in Hannah Arendt, aiming to answer whether it is possible, through the approach of liberty in its ontic meaning, to know its ontological meaning.

**How Soon is Too Soon? Reintegrating Persons Convicted of Homicide into the Community**

Donald R. Gardner, *Provincial Court of British Columbia, Surrey, Canada*  
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Vince Li was charged with murder after a brutal slaying of a fellow bus passenger near Portage la Prairie, Manitoba in July 2008. He was later diagnosed with schizophrenia and found not criminally responsible for the victim’s death. In May 2010, the Provincial Review Board ruled he could leave the hospital for supervised excursions. His treating psychiatrist expressed the opinion that there was no evidence Mr. Li harboured any delusional beliefs. The prosecutor’s office did not oppose the application for community supervision. Mr. Li’s lawyer stated that was committed to ensuring he get better with a goal of being reintegrated back into society. This case raises the issue of balancing the public safety with the rehabilitation of someone with a diagnosed mental illness.
## 83. Law and Emotions

### Godly Jealousy, Righteous Anger, and Loss of Self-Control

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The focus of this presentation is the perceived boundary between “good” and “bad” emotions, and the way in which it is reflected in the common law defence of loss of self-control in cases of murder. Jealousy and anger are now often seen in negative terms, but this contrasts with an older notion seen in the Bible and other literature, whereby such emotions can be both righteous and justified. Similarly, modern English law no longer allows the defendant in a murder case to rely on loss of self-control triggered by sexual infidelity, in contrast to the traditional doctrine where the finding of a wife in adultery was one of the few factors, short of a physical attack, that would allow the defence to be raised. The presentation seeks to explore the parallels between these two developments, the aim being to cast light on the broader relationship between emotion and criminal culpability.

## Lay and Professional Conceptualizations of Emotions: In Search of Common Ground

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Research has shown that there are basic differences in how people think about and express their own feelings. For example, Maio and Esses (2001) demonstrated that people have fundamentally different “needs for affect.” Their research showed that, in general, some people prefer to approach emotion-inducing situations, whereas others prefer to avoid such situations. While this may seem intuitive or common sense, there is still much to be learned about such basic individual differences. The authors aimed to reveal the extent to which people’s conceptualizations of emotions overlap and differ, focusing on differences between the legal and mental health professions and whether individuals are influenced by sector specific display rules (Diefendorff, Erickson and Grandey, 2011). Further, there is an evident reluctance in law to engage explicitly with emotions (Kahan & Nussbaum, 1996), with emotions tending to be viewed in substantive law as highly irrational or ignored altogether (Reilly, 1997, 1998; Maroney, 2006). Hence, in the present study we examined if individuals working within the legal profession adhere to this view about the nature of emotions. We attempted to illuminate a discussion through comparison of conceptualizations with professionals in other disciplines. For example, at the other extreme, psychologists tend to be progressive in their theorizing and conceptualizations of emotions – so progressive in fact that oftentimes a long passage of time may transpire while the scientific and applied fields wait to see which competing view “wins.”
We aimed to elucidate both extremes, and at the same time assess lay persons’ views and beliefs about emotions: to assess, in part, with which professional view(s) theirs overlaps with most, legal or scientific, if not a popular psychological notion of emotions. To achieve this we obtained qualitative and quantitative data using a variety of research methods from individuals who work in the legal and mental health professions, as well as from the general public (i.e., from people whose conceptualizations of emotion do not relate directly to their jobs, lay conceptions).

**Sibling Rivalry and the Emotions of Inheritance Disputes**

Heather Conway, *Queen’s University at Belfast* (h.conway@qub.ac.uk)

Succession law affects all families at an emotionally vulnerable time. As the family unit struggles to adapt to the loss of a key figure, inheritance issues are a frequent source of conflict, especially between adult children. Sibling rivalry, underpinned by jealous struggles for parental attention and affection, is one of the most common and destructive forces within families. Childhood resentments and feelings of anger or injustice based on perceptions of favouritism and preferential treatment re-emerge on the death of a parent, as adults who can no longer fight for the parental attention they craved as children compete for material possessions instead. Tensions often run high; yet in most instances, dividing family wealth is merely a catalyst for deep-seated feelings and old grudges which cannot be resolved, because the parent is no longer there to arbitrate. Siblings involved in inheritance disputes will go to extraordinary lengths – not just to make sure they are getting their fair share, but often simply to deny their brothers and sisters a larger part of the estate as jealousy and anger take hold. This presentation looks at the emotional dynamics which underpin family conflicts of this nature, and what drives adult children to embark on such ultimately destructive litigation. It also looks at the way in which judges have resolved such disputes, and questions whether judges are importing their own subjective views and feelings on the nature and quality of parent-child relationships – for example, preconceived notions of whether a particular applicant was a loving and dutiful child, or whether a dead parent’s greater love and affection for one child in life was rightly replicated through asset distribution on death. In this sense, the presentation questions whether judges are simply neutral observers (insofar as such emotional detachment is possible) in inheritance disputes, or whether they are straying beyond their legal remit in passing “judgement” on the perceived rights and wrongs of the situation.

**Two Loving Parents: Considering the Children in the Same-Sex Marriage Debate**

Cheryl E. Amana-Burris, *North Carolina Central University* (camana@nccu.edu)

This presentation is on children who have been raised by same sex couples. I presented several years ago on sexual orientation as a consideration in custody and adoption actions. At the time,
there were not a lot of data on the development of children who had been raised by same sex couples. Since then, there have been a number of studies following such children and comparing their development to children raised in heterosexual unions. The presentation will discuss these studies and present data on the development of children raised in same sex unions. This data is even more relevant as states and countries consider whether same sex marriages will be recognized. Many opponents of such marriages have argued that children fare better if they are raised in a heterosexual union, yet studies have consistently shown that this is not the case.

**How Medication Reform Can Have an Impact on Our Clients Now and in the Future**

Tammy Harris, *Arkansas Public Defender Commission, Little Rock, USA* (tharris@co.pulaski.ar.us)

The cornerstone for defense of any defendant facing capital punishment is the necessity of a thorough social history investigation beginning before birth and concluding at trial. This painstaking approach to gathering mitigation evidence helps ensure that the death penalty is reserved for individuals who are the “worst of the worst.” When we begin to really know our clients’ stories and their background, common themes emerge, and those often involve medications used to treat mental health indications in children, adolescents and those often in state custody. With mandated health care reform and ever increasing federal and state budget shortfalls, where will this leave our clients now and in the future?

**84. Law Enforcement, Correctional Mental Health Professionals, and the Police**

**Crisis Intervention Team Training for Law Enforcement and Mental Health Professionals**

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The Crisis Intervention Team (CIT) is a collaboration between mental health and law enforcement professionals to provide specialized training for police officers in mental health issues and crisis intervention/de-escalation strategies. CIT was originally developed: a) in response to the demand for law enforcement training in the use of less lethal strategies for dealing with volatile situations involving mentally ill persons, and b) to reduce the likelihood of injuries and deaths in such encounters. Specific CIT training components include: signs and symptoms of major mental illnesses (e.g., Schizophrenia, Bipolar Disorder), psychological and
pharmacological interventions, crisis stabilization, and behavioural skills (e.g., active listening and problem-solving). The purpose of this presentation is to provide: (1) an overview and critique of current CIT activities, (2) an examination of accrued data concerning program efficacy, and (3) findings from our research program on CIT applications in correctional settings, as well as one of the first controlled comparison studies of CIT with law enforcement samples. In addition, suggestions for directions that future work in this area might take are offered.

**Talking about Trauma without Being Traumatic: Using Simulation to Discuss the Impact of Psychological Trauma within a Police Force**

Bruce Ballon, *Ontario Simulation Network, Toronto, Canada* (bballon@sim-one.ca)

This presentation will highlight activities used to create a healthy learning climate to allow members of a police force to discuss the impact of trauma on that service. The Durham Regional Police Services had the author develop training to discuss Post Traumatic Stress Disorder in the context of policing. This grew into the creation of an interactive educational forum devoted to: policing culture regarding how to deal with trauma; experiential learning/simulation to bring forth attitudinal issues that created barriers for seeking help for trauma; reflective techniques on similarities between those the police try to help who have trauma issues (e.g. caused by domestic violence) and themselves; and developing peer support and networking opportunities. This was tied into the concept of creating mental health champions across the force as “go-to” individuals as a first step for seeking information and help. Demonstrations of some of the techniques and the key elements that came out of the training will be shared at this presentation.

**From Knowledge to Real World Practice: Are Online Simulations a Source of Authentic Learning for Police Officers?**

Wendy Stanyon, *University of Ontario Institute of Technology* (wendy.stanyon@uoit.ca)

Philip Lillie, *Durham Regional Police Services, Whitby, Canada* (plillie@drps.ca)

Marjory Whitehouse, *Ontario Shores Centre for Mental Health Services, Whitby, Canada* (whitehousem@ontarioshores.ca)

This presentation will highlight the findings from a research study designed to determine whether police officers – after having completed a series of interactive, video-based simulations – are able to apply the knowledge they have gained in subsequent on-the-job interactions with mentally ill individuals within the community. This collaborative research effort between a university, a tertiary mental health facility and a regional police service builds on the findings from a prior study undertaken by this unique partnership that examined the use of simulation to educate police about mental illness and how to effectively interact with mentally ill persons. The researchers were able to conclude that simulation training is at least as effective as face-to-face interactions.
education; however, because the primary objective of the simulation training is long term transfer of knowledge, further research was planned to evaluate whether police officers are applying their acquired knowledge following the training program. This level of evaluation may also lead to the identification of factors that are inhibiting or conducive to knowledge transfer, which could help police services in creating environments that provide optimum conditions for the sustained success of simulated training resources. A demonstration of the simulations will also be included in this presentation.

**Moral Distress among Correctional Psychologists**

Megan Fischer, Athabasca University (meganfischerpc@gmail.com)

*Rationale/Background:* Ethical and moral issues in correctional mental health settings are complex and challenging. As evidenced in the literature, ethical conflict is intrinsic to correctional settings. Correctional settings, because of the competing demands of the legal and health care systems, provide a particularly significant environment to explore the phenomenon of moral distress. Moral distress is a concept that captures a range of experiences that an individual may experience when morally constrained. Components of moral distress prevalent in the current nursing literature are: (a) the embodied effects of moral distress, (b) awareness of a moral problem, and (c) perception of correct moral action. The limited current research on moral distress has not yet expanded to correctional psychologists.

*Research Question:* The purpose of this study was to explore the lived experience of moral distress among Canadian correctional psychologists.

*Methodology:* Interpretative Phenomenological Analysis

*Results/Findings:* A preliminary finding as research is still in progress. Results will be complete in March 2013.

*Implications:* Presentation of my findings will highlight common and challenging ethical issues confronting correctional psychologists, identify situations that support and constrain ethical practice, and outline rich, thick descriptions of the physiological, emotional, and social experiences of moral distress.

**85. Law’s Passions I: Is the Impartiality of the Law Threatened by Recognition of its Emotional Power?**

*Against the “Yuck Factor”*

Daniel R. Kelly, Purdue University (drlkeley@purdue.edu)

The view I will defend is that in virtue of its nature, disgust is not fit to do any moral or social work whatsoever, and that there are no defensible uses for disgust in legal or political
institutions. I will first articulate my theory of the nature of disgust. Turning from descriptive to normative issues, I will distinguish a number of separate roles, which advocates of disgust have argued that the emotion can and should be used to fill. I will then consider the best arguments in favor of granting disgust the power to justify certain judgments, and to serve as a social tool, respectively. These are provided by Daniel Kahan, who advances a pair of theses that suggest disgust is indispensable, and so has an important part to play in the functioning of a just, well-ordered society. After describing each thesis and showing where it fits with respect to the taxonomy of possible roles disgust might be granted, I will examine the arguments in support of them and show where I think they fail.

**Visualizing the “Monstrous Brain:” The Rhetorical Implications of Brain Scans in Sex Offender Trials**

Pamela D. Schultz, *Alfred University* (fschultz@alfred.edu)

Functional magnetic resonance imaging (fMRI), which detects regional increases in blood flow that accompany neural activity, has become a powerful tool to investigate the brain’s cognitive functions. An increasing body of evidence shows that when accidents or disease have destroyed a potion of the prefrontal cortex, individuals may be left with drastically modified personalities and an inability to control impulsive, destructive behaviours. There is growing enthusiasm among some defense attorneys and neuroscientists for the use of magnetic resonance imaging in the courtroom, as brain scans can demonstrate diminished culpability in cases where defendants are accused of violent crimes such as sexual offenses. This presentation looks at the rhetorical implications of using brain scans in sex offender trials, taking the standpoint that “brain imaging is more than a scientific research agenda – it is a persuasive visual rhetoric by which neuroscience is articulated as relevant to the construction and maintenance of desirable selves” (Johnson, 2008, p. 148). A brain scan that shows damage to an accused sex offender’s prefrontal cortex can potentially illustrate a physiological incapacity that contributed to the crime, and speak to the potential of treatment. Yet just as probable, the image of a damaged brain can underscore the assumption that the offender is monstrous and beyond any hope of rehabilitation. The danger is that, rather than leading to a new paradigm in which we value treatment as much as punishment for some sex offenders, the rhetorical charm of brain scans for lay audiences could instead even more powerfully perpetuate the myth of monstrouness.

**Taking the Heat Out? Prevention and Law’s Response to Sexual Offenders: A Criminologist’s Perspective**

Bill Hebenton, *Manchester University* (bill.hebenton@manchester.ac.uk)

Politicization and the dominant regulatory response to sexual crime have now given contemporary conceptions of the sexual offender a durability that their predecessors lacked.
Concisely captured by Eric Janus’s term “the predator template,” commentators point to the political “untouchability” of law’s response to such collective risk and argue that its various effects lie not simply in it being evidence-lite, but in its deeper expressive undertow. Yet, while “evidence-based” or “rationalist” approaches may appeal to technocrats and a number of academics, they often fail to compete successfully in the social context where affective approaches to law and order policies resonate with the public and appear to meet deep-seated psychological needs. Many now reach for a model of public policymaking where emotions are neither privileged as desirable nor marginalized as basically irrational. However, less attention has been given to how these offenses might be prevented from occurring in the first place, and less still has been given to the design and organization of physical and social environments so that the potential for these offenses to occur might be minimized. This presentation examines the extent to which shift from offender to situation betokens a different congeries of the normative, emotional and practical in relation to expertise, public and governmental communication, deliberation and decision-making.

**Criminal Law: Protection from the Monsters Among Us, or Distraction from the Monster Within?**

John Douard, *Rutgers University* (douard@rci.rutgers.edu)

Monsters and predators frighten, entertain, and disgust us. The idea of a creature that is a volatile mixture of human and animal parts (the monster) triggers our visual and visceral imagination perhaps more than any other image. The fear of predation – literally, eating another’s flesh – disgusts and repels, but, like rubbernecks who slow down to witness accidents, our voyeurism seems unconstrained by shame. The monster and the predator threaten us by threatening to rend the social fabric and bring about a state of nature in which, as Hobbes famously wrote, we are engaged in a war of all against all, and life is nasty, brutish and short. There is a direct narrative line from the fascination with monstrous births that ordinary people experienced in the sixteenth and seventeenth centuries and our current fascination with monstrous crimes. That fascination incorporated then, and incorporates now, in addition to emotions such as fear and loathing, a kind of titillation, a powerful sexual interest in the unnatural. The physiognomy of the monster has changed from horrible, misshapen bodies to ordinary bodies – bodies that fascinate only because they appear to harbor strange and disturbing desires.

**What Can the Neural Bases of Feline Aggression Tell Us about the Legal Consequences and Responsibilities of Human Aggression?**

Allan Siegel, *UMDNJ-New Jersey Medical School* (siegel@umdnj.edu)

The present discussion will examine behavioural, neuroanatomical and neurochemical characteristics associated with two broad categories of aggression present in both felines and
humans: affective and predatory aggression. Predatory aggression in the feline entails little sympathetic arousal; it is triggered by the presence of a prey object; it is planned and is a highly directed form of attack. Essentially, in both felines and in humans, aggressive behaviour is premeditated in nature and is not a spontaneous or impulsive act. In contrast, in felines, affective aggression includes intense sympathetic arousal, vocalization (hissing), arching of the back, marked pupillary dilatation, retraction of the ears and piloerection. In both felines and humans, this response is highly impulsive and is immediately triggered by a perceived threat. The anatomical circuitry underlying each of these behaviours clearly differs – predatory aggression is governed by neurons in the lateral hypothalamus, while affective aggression is governed by neurons in the medial hypothalamus and dorsal midbrain periaqueductal gray. Each of these forms of aggression is under the control of limbic structures (i.e., hippocampal formation, amygdala, septal area, anterior cingulate gyrus and prefrontal cortex). Specific neurotransmitter systems have been shown to play important roles at specific synaptic sites within the circuitry that regulate affective aggression. With respect to this form of aggression, major neurotransmitters shown to be inhibitory include serotonin, GABA, and enkephalin, while those that are excitatory include catecholamines, and substance P. In addition, inflammatory cytokines also powerfully modulate this form of aggression. Less is known regarding transmitters regulating predatory aggression.

**Visibly and Invisibly Offensive Offenders: Contrasting Timothy McVeigh and Osama bin Laden**

Jody Lyneé Madeira, *Indiana University* (jmadeira@indiana.edu)

Over the past 150 years, the practice of capital punishment has altered dramatically. The grisly public spectacles favored for centuries have been moved inside prison walls, and painful executions have been gradually replaced by ever more humane and discrete lethal technologies. This presentation will consider how the visual dynamics inherent in execution, and thus the culture of execution, are in flux, dependent upon execution method, the medium of execution witnessing, and the identities of the condemned and the execution witnesses. Based on qualitative interviews with victims of the Oklahoma City Bombing and 9-11, this presentation will focus on how the deaths of two very visible terrorist defendants, Timothy McVeigh and Osama bin Laden, affected family members and survivors. Prior research shows that, from the moment of McVeigh’s perp walk, the Oklahoma City victims felt as if they were yoked with McVeigh in an involuntary relationship that terminated when McVeigh was silenced and rendered invisible through lethal injection. Key questions to be answered are to what extent 9-11 victims felt yoked with bin Laden in an involuntary relationship, how this relationship was experienced, how the “framing” of the terroristic act (domestic terrorism or mass murder versus an act of war) changed this relationship, and whether this relationship changes when the offender is executed without a capital trial and when there is no opportunity to witness the offender’s death.
86. Law’s Passions II: The Emotions and the Rules of Evidence

**Victim Impact Evidence and the Limits of Evidentiary Discourse: Reconsidering the Probative, the Prejudicial, and the Emotional**

Susan Bandes, *DePaul University* (sbandes@depaul.edu)

Legal discourse about whether various types of evidence are relevant or irrelevant, probative or prejudicial, too often relies on the simplistic assumption that evidence that evokes emotion must be prejudicial, irrelevant or both. This assumption is problematic for two reasons: it is at odds with the growing consensus that emotion is an integral and often desirable part of the decision-making process, and it interferes with the legal system’s ability to distinguish between – or articulate distinctions between – helpful and unhelpful types of evidence. This presentation will use various types of victim impact statements, including documentary statements, statements delivered by live witnesses, and video montages with an audio component, as a lens through which to consider the role of emotion in conveying legal information, and how legal discourse might better evaluate and regulate that role.

**Evidence Law’s Ambivalent Attitude towards Emotion: When is too Much Emotionally-Charged Evidence Unfair Prejudice? When is too Little Emotion Incompetent Lawyering?**

Aviva Orenstein, *Indiana University* (aorenste@indiana.edu)

Federal Rule 403 of the Rules of Evidence allows trial judges to exclude evidence where unfair prejudice substantially outweighs the probative values of a piece of evidence. The advisory notes to the rules explain that appeal to emotion rather than logic is a form of unfair prejudice. Yet, so much of trial practice and good jury argument is emotionally based. The power of an emotional narrative not only organizes the evidence for the jury, but gives them a reason to care. A sterile story without color risks boring or alienating the jury. Too much gory detail can be unfairly prejudicial. This presentation will discuss the power of emotion in trial practice theory and technique and observe the deep ambivalence evidence law has in dealing with courtroom emotion.

**Disturbing, Distressing, Disgusting, and Desired Gruesome Pictures: What’s the Law to Do with Them?**

Christina Spiesel, *Yale University* (christina.spiesel@yale.edu)
In four thousand years of history of trials in the West (Kadri 2006), I am struck by the elaborate and frequently bloody rituals historically employed by legal authority. Certainly, one intention of these devices is to use fear to promote obedience. In addition, however, it is safe to presume that their use also serves to satisfy needs – of participants, of leaders, and of followers as they construct the social order by rule-governed display. Now in the twenty first century, American law has become, in large measure, invisible law. Most cases are now negotiated to settlement or plea bargained or resolved through alternative methodologies for dispute resolution, also taking legal procedures behind closed doors and out of the public eye. Perhaps in compensation, television entertainment has risen to fill this void, offering crime and its resolution nightly with plenty of disturbing pictures; user generated video presents seemingly unlimited quantities of documentary horribleness on-line as well. In this presentation I look at this class of pictures: the disturbing, disgusting, or gruesome that can come up in either criminal or civil litigation and form an experiential culture that people bring with them to the law. Why use them?

**Constructions of Deviance and Empirical Fallacies of Evidence Law: A Critical Look at the Admission of Prior Sex Crimes by the Accused Under Federal Rules 413-414 and their State Analogs**

Tamara Rice Lave, *University of Miami* (tlave@law.miami.edu)
Aviva Orenstein, *Indiana University* (aorenste@indiana.edu)

This presentation looks critically at the sexual propensity rules. We begin by discussing the history and traditional justifications for Rule 413 and 414, focusing on the assumption that prior sex crimes are particularly probative. We then examine whether the high probative value assigned to prior bad acts in sex cases is supported by the psychological and criminological research on sex offenders. We focus in particular on recidivism, the effect of age on dangerousness, and the risks that different offenders pose. We conclude that the overbroad propensity rules are not justified by the empirical data. We then discuss whether judges are effective at determining whether an accused offender is likely to have reoffended. Although we disapprove of Rules 413-414 on many grounds, only one of which is the overvaluing of such propensity, we are realistic that these rules and their state law analogs are here to stay. As such, we offer specific advice to judges regarding how to use their broad discretion when admitting propensity evidence. Finally, again relying on the psychological evidence, we suggest that even when propensity evidence is relevant, judges should seriously consider ruling it inadmissible on the grounds of unfair prejudice. Psychologists tell us that prospective jurors are so biased against sex offenders that the accused will not be able to receive a fair trial as guaranteed by the Sixth Amendment.

**Pastoral Correctionalism: Care, Power, and the State**

Chrysanthi Leon, *University of Delaware* (santhi@udel.edu)
Specialized programs, including mental health courts and prostitution diversion programs, exhibit the pastoral form of state power identified by Foucault. Both the client/offenders and the professionals who operate the programs participate in what I call pastoral correctionalism: the use of individualized care and empathy to shape behaviour and restrict agency. These programs operate in a space adjacent to the dominantly punitive forms of state control, and use therapeutic rhetoric to soften state power. But they are also in opposition to the client-centered approach that characterizes the recovery model, as well as most contemporary treatments, since criminal justice professionals will cede their expertise to treatment professionals, but not to the client/offenders. Ultimately, pastoral correctionalism provides a humanity missing from punitive regimes, while maintaining deeply invasive surveillance and reinforcing the assumption that by breaking the law, offenders have forfeited the capacity to set their own goals or pursue their own recovery.

87. The Law and Vulnerable Populations

Psychiatric Rehabilitation Reform: Lessons from the Israeli Experience

Uri Aviram, Hebrew University of Jerusalem (msaviram@mscc.huji.ac.il)

This presentation describes a case study on an innovative, government-sponsored, countrywide mental health reform enacted by Israel in 2000, analyzing implementation issues as the reform enters its second decade. This reform, focusing on the rehabilitation and integration in the community of severely psychiatrically disabled persons, has been considered an important piece of social legislation and a progressive one. This presentation offers cautionary notes regarding the future direction of the reform, and highlights lessons learned that might be relevant to other countries dealing with similar challenges.

Methods: The study focused on the critical elements of the mental health service system, namely, clients, financial resources and personnel, and the principles governing their allocation and movement within the system.

Findings: The decade after the psychiatric reform legislation was implemented saw an impressive increase in rehabilitation services, a significant reduction in the number of psychiatric beds, and major changes in government budget allocations. However, only about one fifth of the estimated eligible population received rehabilitation services, ambulatory services suffered a setback, no government mental hospital was closed and efforts of the state to achieve the planned comprehensive reform, transferring mental health services to general health-care providing organizations, have run into difficulties.

Discussion and Conclusion: Factors that endanger the viability of the psychiatric rehabilitation reform and its role in bringing about a major mental health services change in the country are examined in light of contextual factors and lessons to be learned from the Israeli experience are discussed.
Health Complaints and Regulatory Reform Flux: Implications for Vulnerable Populations?

Terry Carney, University of Sydney (terry.carney@sydney.edu.au)
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Complaints and disciplinary processes are one part of broader systems of health regulation. Many countries are transitioning from models of self-regulation to greater external oversight through systems – including meta regulation, responsive regulation, and “networked governance” – harnessing, in differing ways, public, private, professional and non-governmental bodies to exert influence over the conduct of health professionals and services. Interesting literature is emerging regarding complainants’ motivations and experiences, the impact of complaints processes upon health professionals and features such as complainant and health professional profiles, types of complaints and outcomes. This presentation concentrates on studies identifying apparently vulnerable groups, including older complainants, women, and people from low socioeconomic or rural areas.

Refugee Law and the Mental Health Service Gap in the United States

Hyojin Im, University of California at Berkeley (hyojinim@berkeley.edu)

Mental health care for refugees in conflict-migration contexts – in spite of the high prevalence of common mental disorders including PTSD in these populations – is often deprioritized due to limited setting resources. Such neglect of mental health care, however, continues upon resettlement in developed host countries partially due to the dilatory response to refugee needs in law and policy. Overemphasis on rapid self-sufficiency in the Refugee Act of the United States, for example, has been criticized for the marginalization and isolation of refugees while failing to address mental health needs in traumatized communities. The current study will review United States and international refugee law with a focus on the relation between such policies, mental health needs, and issues in refugee resettlement. Based on in-depth interviews with marginalized refugees and community stakeholders, the presenter will discuss policy implications for mental health services and refugee law.

Lebanese Law and Policy and its Impact on Palestinian Mental Health

Rachel Kaplan, University of California at Berkeley (rlkaplan@berkeley.edu)

Despite the passing of four acts related to mental health in Lebanon between 1983 and 2004, the country has yet to achieve the capacity to implement protective laws for the mentally ill. In
Lebanon, mental health needs exceed the annual budget allocated to address mental illnesses; the situation is further exacerbated by a shortage of mental health professionals. Despite evidence to support the integration of mental health services into primary care, mental health training for medical professionals in the country remains surprisingly low. A country that has suffered decades of civil war and experiences a constant threat of political armed conflict, Lebanon has yet to develop a national mental health policy. Within this context, Palestinian populations in Lebanon navigate a wide variety of injustices that threaten mental health. This study will provide examples from the field resulting from the legislative gaps with this vulnerable population.

**Civil Commitment Law, Mental Health Services, and United States Homicide Rates**

Steven P. Segal, *University of California at Berkeley* (spsegal@berkeley.edu)

*Purpose:* The study considers whether involuntary civil commitment (ICC) statute provisions are associated with homicide rates. Do statutes based solely upon dangerousness criteria vs. broader ICC criteria – i.e. “need for treatment,” “protection of health and safety,” and family protection – have differential associations related to their goal of reducing the frequency of homicide?

*Method:* State-level data were obtained from online data bases and key-informant surveys. Ordinary-Least-Squares and Poisson Regression were used to evaluate the association between statute characteristics, mental health system characteristics and 2004 Homicide Rates after controlling for firearm-control-law restrictiveness and social-economic-demographic-geographic-and-political indicators historically related to homicide rate variation.

*Results:* Poisson and OLS models, respectively, were significant: Likelihood Ratio Chi Sq = 108.47, df=10 p< 0.000 and Adj.R2=.72; df =10, 25; F=10.21; p<0.000. Poisson results indicate that the social-economic-demographic-geographic-and-political-indicators had the strongest association with state homicide rates (p < 0.000). Lower rates were associated with broader ICC-criteria (p≤01), fewer inpatient-bed access problems (p≤03), and better mental health system ratings (p≤04). OLS results indicate that social-economic-demographic-geographic-and-political indicators accounted for 25% of homicide rate variation. Broader ICC-criteria were associated with 1.42 less homicides per 100,000. Less access to psychiatric inpatient-beds and more poorly rated mental health systems were associated with increases in the homicide rates of 1.08 and .26 per 100,000 respectively.

*Conclusions:* While social, economic, demographic, geographic, and political indicators show the strongest association with homicide rate variation, the results show the importance and potentially preventive utility of broader ICC criteria, increased psychiatric inpatient-bed access, and better performance of mental health systems as factors contributing to homicide rate variation.

**88. Legal Frameworks, Rights, and Care for People Who Lack Decision-Making Capacity**
**Deprivation of Liberty Safeguards and their Impact upon Human Rights and Care Practices**

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Linda Ward, *University of Bristol* (l.ward@bristol.ac.uk)

This presentation is based upon the findings of a mixed methods empirical study of the Deprivation of Liberty safeguards (DOLS) 2007. The safeguards aim to protect article 5 rights under the European Convention on Human Rights. Their remit is people in care homes or hospitals who lack capacity and are cared for in a way that deprives them of their liberty. DOLS are controversial and a particular challenge is determining what constitutes deprivation of liberty. The study has two sources of data: i) in-depth qualitative interviews with those involved a number of DOLS authorisations (the individual subject to a DOLS where possible, professionals and family members) in 4 study sites in England and ii) an on-line survey of professionals undertaking DOLS assessments in England. From i) the presentation will outline findings in relation to professionals’ justification for invoking DOLS. It will also consider DOLS’ impact on human rights and care practices. From ii) it will consider the factors that professionals considered to be indicative of deprivation of liberty.

**Restriction, Deprivation, and Detention: Limits to Freedom within English Mental Health and Mental Capacity Legislation**

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In England and Wales, the freedom of men and women with a mental disorder or who lack capacity to make decisions about their own care and treatment can, in certain circumstances, be limited lawfully through the use of appropriate legal frameworks. We use data from a mixed-methods empirical research study to discuss how such frameworks are used in general and/or psychiatric hospitals. We will illustrate the breadth of the relevant legislation, which includes both unconscious patients who are receiving life-saving medical treatment and highly mobile patients receiving predominantly nursing care. We will also illustrate the confusion relating to the meaning of “care” and “treatment” and the emergence of new concepts, for example, that of
“active” treatment, and rules of thumb differentiating those who are or are not expected to benefit from treatment. We argue that clinicians struggle to apply these legal frameworks to the realities of patient care.

**Making Best-Interest Decisions for Dementia Patients on Discharge from General Hospital: Do Family and Friends Fulfil an Effective Safeguarding Function Under English Law?**

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In this presentation we explore the role of family members and friends in the best interests decision-making process under the Mental Capacity Act 2005 in England and Wales. We ask whether, in the absence of Independent Mental Capacity Advocates (IMCAs), close family and friends of older people with dementia are capable of fulfilling a safeguarding function when decisions are being made about where that person should live on discharge from general hospital. Our findings are grounded in ethnographic ward-based observations and qualitative interviews conducted in three hospital wards, in two hospitals (acute and rehabilitation), within two NHS healthcare trusts in the North of England over a period of nine months from June 2008 to June 2009. We ask: Are family and friends there simply in an advisory/supportive capacity or are they often seen as the primary decision-makers by professionals? Does this role accord with the incapable person’s (P’s) view or the family and friend’s own views and expectations of their role? Is this perception promoted by professionals? Can relatives and friends really be expected to make objective assessments of P’s best interests in the context of decisions about where to live and fulfil an effective safeguarding function? Or are there simply too many competing tensions? Our conclusions suggest that family and friends can only begin to act as an effective safeguard for those they care about if communication with professionals is improved and they are involved more fully in the hospital discharge planning process.

**Direct Payments for People who Lack Capacity to Consent**

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Direct payments have been the primary mechanism for achieving personalised social care in England. They are a mechanism by which people with social care needs can receive money to pay for their own social care needs, rather than receiving a traditional service from the local authority. Direct payments have been around for some time, but since November 2009 people who may lack capacity to consent have been able to make use of them. They receive the direct payment through a third party chosen as a “suitable person” (often a family carer) receiving payments on their behalf. This project investigated how direct payments have been administered and managed in cases where people may lack the capacity to consent to them. Data was collected from six regions across England from social care practitioners and people acting as suitable persons. Semi-structured interviews were undertaken using predominantly qualitative methods to investigate different practice approaches across the country, and to highlight examples of good practice. The findings of this study will improve understanding of how to make personalised care more appropriate for a greater proportion of people with social care needs.

**Supported Decision-Making in Compulsory Mental Health Law: A Conceptual Impossibility?**

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One of the most decisive normative shifts in the Convention on the Rights of Persons with Disabilities (CRPD) has been the recognition of the right of persons with disabilities to supported decision-making (Quinn, 2010; Bach and Kerzner, 2010). While delivering on this right will provide one of the most significant challenges in realising the potential of the CRPD, at a conceptual level, the shift is not particularly difficult. Persons with significant intellectual, cognitive and/or psychosocial disabilities who need support or assistance in reaching a decision must be provided with this assistance and the decision which is then reached must be respected as an exercise of the individual’s legal capacity. However, more difficult issues arise in respect of supported decision in the context of compulsory mental health law. This area of law requires robust support frameworks perhaps more than any other. However, within a compulsory framework, the decision reached following the provision of support may be lawfully overridden. To borrow an analogy, the person gets to vote but there is only one approved candidate. This raises the question of whether supported decision-making can ever be delivered upon within a compulsory legal framework for mental health. It may, of course, be argued that compulsion on the basis of psychosocial disorder is already contrary to the CRPD. However, it is unlikely that we will see a shift away from compulsion in mental health in the short term. In the meantime, the question is whether and how the key normative shift in the CRPD can be realized for persons with psychosocial disabilities. This presentation explores both the conceptual challenges and the practical mechanisms required to deliver supported decision in this context.

**89. Legislation and the Effectiveness of Mental Health Law**
Legislative Style and Judicial Discretion: The Case of Guardianship Law

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The criteria for appointment of a guardian and the powers that the guardian will be given depend upon how a particular political entity balances respect for the individual’s right to autonomy on the one hand and against society’s desire to protect those who cannot manage their own affairs on the other. In recent decades, the balance has tipped from concern about protection to concern about autonomy. This shift, in turn, has resulted in an evolution in the linguistic style of the laws enacted. This project examines many different guardianship statutes from around the United States, demonstrating that subtle linguistic maneuvers in the style of drafting affects the degree of discretion given to decision-makers. Using advances in the psychology of concepts and categories, the article demonstrates the descriptive inadequacy of the classical distinction of rules versus standards in legislative drafting, and adds prototype-based laws and laws dependent upon enriched mental models to types of laws that legislators employ. The goal of the work is to build a self-conscious awareness of the tools available to policy-makers in their efforts to hone legislation in this important area of mental health law.

When Mental Health is not Public Health: How Judicial Language and its Interpretation Negatively Impacts Assisted Outpatient Treatment (AOT) in New York City

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In May 2011, the New York State Court of Appeals (the highest court in New York State) opined that the New York City Department of Health and Mental Hygiene was neither a public health authority nor a treatment provider as defined by the federal privacy statute called HIPAA (Health Insurance Portability and Accountability Act). This decision was a blow to the local government’s capacity to obtain psychiatric records to use in a court proceeding to compel mental health treatment without the patient’s permission or a court order with proper notice. Additionally, the last line of the Court’s decision called into question the legitimacy of all prior AOT court orders obtained since the beginning of the program with the language “We therefore hold that medical records obtained in violation of HIPAA or the Privacy Rule, and the information contained in those records, are not admissible in a proceeding to compel AOT.” This presentation will discuss what is believed to be the court’s good intentions in this ruling, and how the language and intent is not only ambiguous, but could have the unintended consequences of destroying the New York State Program which is considered a model for the entire country.
**The Tenacity of Mental Health Stereotypes of Women in Sexual and Intimate Violence**

Elizabeth M. Schneider, *Brooklyn Law School* (liz.schneider@brooklaw.edu)

This presentation will examine the ways in which mental health stereotypes pervade cases of sexual and intimate violence in a number of different settings. It will look at both legislation and case law in both criminal and civil matters – rape and domestic violence legislation and sexual harassment law. Beginning with the history of United States rape law, where women who claimed rape had to have mandatory psychiatric examinations, to implicit assumptions that women could not argue self-defense because they were “unreasonable,” to arguments in United States sexual harassment law that a women had to claim mental and emotional harm in order to make out a claim for sexual harassment, these stereotypes are rife in both legislation and case law. This presentation will look at some contemporary legislative efforts in these various areas to grapple with these issues in the United States and assess what differences they have made both in theory and “on the ground.”

**From Frendak to Phenis to Breivik: Imposition of the Insanity Defense**

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The imposition of the insanity defense is a complicated psycho-legal situation. Around the world, definitions of insanity differ from country to country. In most cases, if the offender is determined to be “insane” at the time of the criminal act, he or she will not be considered responsible for that criminal activity. Concerns have been raised that the insanity defense has been used as an escape from punishment after a brutal crime. In this review, the authors used examples of three cases – *Frendak, Phenis*, and *Breivik* – to describe how imposition of the insanity defense has been used for legal purposes in the past and present. The authors offer recommendations for the ethical forensic evaluator who is not burdened by partisan allegiance, but who is invested in the search for truth.

**Effective at What Exactly? The Gap between the Rationale and Practise of Mental Health Law**

Maree Livermore, *Australian National University* (mliv@livermore.com.au)

Throughout the Western world, governing states’ rationale for the continuation of the risk-based model of mental health legislation include three fundamental objectives: facilitating access to
treatment, keeping the community safe and protecting the rights of consumers of mental health services (Hale 2007). But are these the aims that are actually progressed in the implementation of mental health law? What other objectives of the State can be discerned by its use in practice? This presentation outlines the preliminary results of an on-going Australian study into public psychiatrists’ engagement with mental health law. From transcripts of semi-structured interviews with 27 psychiatrists in public practice in four Australian jurisdictions, data reveals mental health law in its implementation as a managed condition of practice – in processes of “case-making,” “gate-keeping,” “spin,” and “blame management.” These forms of engagement are seen to significantly detract from psychiatric clinicians’ capacity to provide effective treatment.

90. Longitudinal Follow-Up Studies in Forensic Psychiatry

Sexual Child Abusers and Recidivism: A Ten to Fifteen Year Follow-Up Study of an Epidemiological Cohort and a Clinic-Referred Study Group

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Background: There is a need for long-term follow-up studies in clinical forensic psychiatry, as a considerable part of criminal recidivism is protracted, occurring years after time served in coercive forensic psychiatric care, and its relation to baseline diagnostics and treatment, if there is one, is virtually unknown.

Aims: The aims are: (i) to establish the relapse rate in form of number of subjects with new sentences for both sexual and violent criminality among perpetrators of sexual crimes against minors (below the age of 15 years); (ii) to compare offenders with intra versus extrafamilial victims; and (iii) to test the predictive ability of common demographic, criminological, and clinical characteristics in a prospective follow-up study of perpetrators convicted for sexual crimes against minors under the age of 15 and sentenced either to correctional treatment or forensic psychiatric care.

Method: All men (n=193) who, between 1993 and 1997, were sentenced for a sexual crime against a minor (< 15 years of age) in the western part of Sweden were identified and data covering offender and offense characteristics were collected. In addition, all cases of child sexual abuse (n=166) that during the same time period were referred to a pretrial forensic psychiatric investigation in Sweden were recognized, and a comparable research protocol was used. Follow-up data was gathered from official registers for recidivistic crimes (sexual, violent, and general criminality).

Results: In the population-based cohort, 10% relapsed into sexual criminality and 12% into violent criminality, while 3% were reconvicted for both sexual and violent reoffending. The corresponding figures for the clinic-referred study group are 14%, 11% (n=18), and 4%. Offenders with extrafamilial victims at index relapsed significantly more into both sexual and violent criminality, compared to those with intrafamilial victims. Index variables characterizing offenders or the offense showed overall no or only weak associations with outcome in the groups.
studied, except for age at first conviction, which, in a Receiver Operating Characteristics (ROC) analysis, predicted sexual, violent, and any criminality with Areas Under the Curve (AUC) ranging between 0.67 and 0.80.

**Conclusion:** No overall difference in recidivism between mentally disordered and other offenders was seen, with relapses into violent criminality about as often as relapses into sexual criminality. Significantly more relapses (both sexual and violent) were found among subjects with extrafamilial victims at index, compared to those with intrafamilial victims. The single variable age at first conviction predicted recidivism at about the same level risk as assessment instruments.

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**Sexual Offenders Against Adults and Recidivism: A Ten to Fifteen Year Follow-Up Study of Criminal Recidivism and Offender Characteristics.**

Christian Baudin, *University of Gothenburg* (felugah@gmail.com)

**Background:** Contemporary knowledge about the long-term outcome of sexual offenders is scarce, since most follow-up studies of representative groups of these offenders do not exceed five to six years.

**Aims:** The aims were: (i) to establish the relapse rate in the form of the number of subjects with new sentences for both sexual and violent criminality among perpetrators of sexual crimes against adults; and (ii) to test the predictive ability of common demographic, criminological and clinical characteristics in a prospective follow-up study of perpetrators convicted for sexual crimes and sentenced either to correctional treatment or forensic psychiatric care.

**Method:** All men (*n*=138) who, between 1993 and 1997, were sentenced for sexual crimes against adults and referred to a pretrial forensic psychiatric investigation in Sweden were recognized, and data covering offender (e.g., age, social background) and offense (e.g., type of crime, age of victim, physical force involved) characteristics were collected. Follow-up data was gathered from official registers for recidivistic crimes (sexual, violent, and general criminality).

**Results:** A preliminary data analysis showed that 12% relapsed into sexual criminality and 22% into violent criminality. Offenders with intrafamiliar victims used more violence than offenders with extrafamiliar victim relations. Offenders sentenced to prison did not differ from offenders sentenced to forensic psychiatric care with regard to patterns of sexual and violent recidivism.

**Conclusion:** In this group of mentally disordered sexual offenders, the relapse rate of sexual recidivism was lower than that of violent recidivism, supporting the notion that persistent sexual offenders are characterized by antisocial behaviours. A personal relation between reoffenders and their victims was not a protective factor; rather, it emerged as a risk factor for the use of more severe forms of violence during the criminal act. Finally, the relapse patterns did not differ between those sentenced to correctional care versus those sentenced to compulsory forensic psychiatric care.
**A Comparison between Young Adult Male Sexual and Violent Offenders in Terms of Feelings of Guilt and Shame**

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**Background:** Shame and guilt are two different sets of affective responses, which are seen as central in the psychotherapeutic treatment of sex offenders. Empirically, however, there is scarce evidence on the prevalence of the self-appraisal connected to these emotions in relevant populations and the utility of these foci in terms of long term outcomes. Due to the lack of common descriptions and methodological differences, scientifically established data on prevalence of and correlations between shame, guilt, and offender behaviours is still lacking.

**Aims:** The study aims to describe differences in baseline characteristics and outcome measures related to shame and guilt between sexual and violent offenders in two systematically collected groups of offenders examined clinically. The second aim is to find predictors of shame or guilt in order to target interventions in treatment.

**Methods:** Two hundred seventy consecutive male inmates from the western region of the Swedish Prison and Probation Services, age 18-25, serving a sentence for a sexual or nonsexual violent crime (response rate 67%), were assessed with multiple measures, including clinical assessments.

**Expected results:** A comprehensive study is done on a representative cohort, allowing translation to these background populations. The prevention of further acts is essential in forensic psychology and psychiatry. This study hopes to identify targets for future efficient treatment strategies.

**The Relationship between Serious Mental Illness and Recidivism among Sexual Offenders**

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Offenders with serious mental illness (SMI) are significantly overrepresented in the correctional system and such individuals are thought to be particularly dangerous relative to individuals without SMI. Several theories attempt to explain the putative link between mental illness and crime. The criminalization hypothesis has suggested that mental illness is a significant risk factor for criminal activity, whereas social psychological models have argued that mental illness is an insignificant factor and that criminogenic needs (e.g., antisocial attitudes) are more important. Recently, Skeem et al. (2011) have proposed a moderated-mediation model whereby they suggest that SMI is a risk factor for a small minority of individuals (10%). The purpose of this longitudinal study was to test these major hypotheses. This study included 586 adult male sexual offenders who underwent an extensive psychiatric evaluation between 1982 and 1992.
Recidivism data were collected up to 20-years post-release. Multivariate analyses indicated that SMI (e.g., Schizophrenia) were unrelated to criminal activity. In contrast, substance related disorders and personality disorders (ASPD) were significantly associated with previous criminal history and subsequent sexual and violent recidivism. These results were also examined with respect to potential moderators (see Skeem et al., 2011) and varying effect sizes are reported; results are discussed with respect to the major theoretical models identified above.

91. Management of Mentally Ill Offenders in the Community: Mental Health Courts and Beyond

A Meta-Analytic Examination of Criminogenic and Clinical Risk Predictors for Community-Based Violence among Persons with Mental Illness

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Past research (e.g., Bonta, Law, & Hanson, 1998; Phillips et al., 2005) has concluded that mental health variables have negligible associations with violence risk and should be viewed as peripheral to the well-established predictive validity of criminogenic risk factors. However, a limitation of previous studies is that mental health variables tend to be combined into one heterogeneous category, which may mask the predictive validity of specific clinical variables that have been previously linked to violent outcomes (e.g., threat/control-override delusions, violent ideation). The current presentation will discuss a meta-analytic examination of the predictive utility of specific symptoms and behavioural features common across mental health clients, irrespective of diagnosis, for community-based violence. These clinical variables will be compared to the predictive validity of the Central 8 criminogenic risk factors as outlined in the Risk-Need-Responsivity model (Andrews & Bonta, 2010). Only prospective studies will be included to allow a true predictor-outcome analysis, and data collection is presently underway. It is expected that traditional criminogenic risk variables will have the strongest associations with community-based violence, and that certain violence-specific clinical variables will also demonstrate some utility to violence prediction. The importance of assessing both criminogenic and relevant clinical risk factors to better inform risk prediction will be discussed.

A Retrospective Analysis of the Case Management of Mentally Ill Offenders in the Saint John Mental Health Court

Julie Wershler, *University of New Brunswick* (m066d@unb.ca)
The use of mental health courts is becoming more prevalent in North America, and research is growing supporting their ability to reduce recidivism (e.g., Hiday & Ray, 2010; McNeil & Binder, 2007). This type of program facilitates access to services that address mental health and social service needs through comprehensive case management plans. However, it is unclear to what degree these case plans actually directly target the criminogenic needs that are contributing to participants’ criminal behaviour. As such, case management plans for 102 mentally ill offenders who were processed through the Saint John Mental Health Court, Canada, were retrospectively assessed to evaluate the degree of matching between criminogenic needs as identified by the Level of Service/Case Management Inventory (LS/CMI) and intervention targets in case plans. Offenders received a wide range of interventions, most commonly related to mental health issues. On average, only four of the seven dynamic criminogenic needs assessed by the LS/CMI were adequately matched with intervention services. Certain needs, such as substance abuse, were more frequently addressed, whereas others were targeted less frequently (e.g., family and marital relationships). This is an important finding, given that the number of criminogenic needs present in a case predicted the number of re-offenses committed by that individual after statistically controlling for number of days free in the community. Thus, failure to address these needs in the case plan will limit opportunities for risk reduction. In addition, high-risk offenders posed specific case management concerns. Implications of these results and future research directions will be discussed.
of mental health status (none to severe). Case managers’ and offenders’ perceptions of their professional relationship are expected to mediate the link between static predictors and current compliance behaviour. In addition, the effect of the professional relationship quality is expected to increase with the strength of case plan adherence to the principles of the Risk-Need-Responsivity model of effective offender case management (Andrews & Bonta, 2010). This study will further solidify the importance of the case manager/offender relationship to maximize compliance with mandated intervention in community-based offenders with and without mental health problems.

**Real-Time Change in Mental Health Courts: A Dual-Site Evaluation of Criminogenic and Mental Health Recovery Indicators of Progress**

Mary Ann Campbell, *University of New Brunswick* (mcampbel@unb.ca)
Alex Macaulay, *University of New Brunswick* (alex.macaulay@unb.ca)

The objective of this presentation is to describe preliminary data from the prospective evaluation of two mental health courts in the Atlantic region of Canada: the Saint John Mental Health Court and the Nova Scotia Mental Health Court. This research will reflect the degree of change in individual factors associated with recidivism risk (i.e., criminogenic needs as measured by the Level of Service/Risk-Need-Responsivity Inventory) and mental health recovery variables (e.g., housing stability, quality of relationships, mental health status) during the first year of mental health court involvement. These changes will be compared to a sample of mentally ill offenders not admitted to the program who are matched on age, gender, mental health severity, and recidivism risk. This matched sample will represent mentally ill offenders managed by the traditional criminal justice system. The degree of change will be analyzed in relation to case management and program characteristics, such as the type of intervention received and length of involvement in the program. Collectively, this research will address a gap in the mental health court research regarding the nature of changes that contribute to their positive outcomes and highlight areas for improved case management.

**Contextualizing the Management of Mentally Ill Offenders in MHCs and Other Settings: Beyond the Canadian Perspective**

Virginia Aldige Hiday, *North Carolina State University* (vmaldige@ncsu.edu)

Different strands of research on persons with mental illnesses who offend and/or who become violent and on methods of effectively addressing their offending and/or violence in the community are brought together in this set of empirical papers. Three of the studies use data from two mental health courts in Canada to see whether recommended processes that show success in other settings are operative in MHC’s, and whether they bring about predicted treatment compliance and subsequent change in criminogenic needs and mental health recovery.
While these processes and their effects could apply to many treatment and diversion programs, this presentation will draw from research on other mental health courts and drug courts to contextualize the findings from the studies in this session.

### 92. Medical Errors and Safe Patient Management

**Patient Safety in Psychiatry: Clinical Issues and Risk Management**

Jacob C. Holzer, *Pocasset Mental Health Center, Pocasset, USA*  
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Medical errors and the potential for harm to patients exist in the fields of medicine and psychiatry. As advances in the understanding and treatment of illnesses have been made, morbidity and mortality from disease has decreased. However, simultaneously, as treatments have become more varied and complex, morbidity and mortality from treatment has increased. The costs of errors include spending in the billions of dollars, increased lengths of stay in the hospital, and increased re-admissions, along with patient morbidity and mortality. There are numerous causes of error, including human error, the complicated nature of medicine, and systemic issues. As both direct care staff have more patients to care for, and non-direct care staff have increased, so too have errors. This presentation will identify and review sources and demographics of error, individual and system functions, communication, and areas of improvement in clinical psychiatric evaluation and management aimed at reducing error and risk, within the context of forensic psychiatry and risk management.

**Safe Patient Management in Geriatric Psychiatry: Issues in Psychopharmacological Management**

Robert Kohn, *Brown University* (robert_kohn@brown.edu)

There are no FDA psychopharmacological agents approved for use in managing any behavioural problem in Alzheimer’s disease. Antipsychotics are not FDA approved for treatment of psychosis or agitation in dementia. The black box warning for early mortality and cerebrovascular events places the clinician in a difficult situation in dealing with any geriatric patient who may have behavioural issues that are not manageable with other alternatives. The physician treating an elderly patient with antipsychotic medications needs to weigh ethical and regulatory issues in prescribing, in the face of data questioning not only safety, but also efficacy, of antipsychotic medications. This presentation will review the controversy, the appropriate use of antipsychotic medications, and treatment alternatives to antipsychotics. In addition, the more recent issues around SSRI safety, the use of cognitive enhancers, and other pharmacological agents will be discussed.
Brain Interventions and the Law

Bjoern Schmitz-Luhn, University of Cologne (b.schmitz-luhn@uni-koeln.de)

Deep Brain Stimulation has become an example of a most promising, reversible and versatile new method of treatment for a variety of psychiatric conditions – only it involves entering the patient’s brain. In clinical practice, the law is one of the major challenges to interventions in the most vital, personality-controlling, and sensitive organs of the human body. A whole framework of rules needs to be obeyed by physicians. While these legal norms differ internationally, their function always includes safeguarding both the patient’s autonomy to decide whether to undergo treatment and to weigh risks and potential benefits of intervention, as well as adherence to the standard of quality for medical treatment. But what are the rules that doctors have to almost universally obey? This presentation will give an overview of internationally fundamental aspects of the law, categorizing requirements for good clinical practice regardless of the specific jurisdiction by their function, role and historical background, including the protection of patients’ rights, the most difficult question of how to deal with impaired patient autonomy, enrollment in clinical trials vs. individual treatment attempts, ethical rules of conduct, the impact of constitutional law, and the avoidance of liability.

Quality Control and Process Improvement Techniques for Outpatient Psychiatric Practice

Robert P. Granacher Jr, University of Kentucky (rgranacher@aol.com)

Quality control is used to reduce variance in processes. Its purpose is to ensure that scarce resources are employed in an efficient and effective way consistent with evidence based mental health practices. Process improvement is a series of actions to identify, analyze and improve assessment and treatment processes within outpatient mental health treatment centers to meet goals and objectives in order to improve performance, reduce costs, and create better outcomes for patients. This lecture will demonstrate how to: 1) align mental health clinic policy for quality improvement; 2) write a quality standards document; 3) monitor quality mechanisms; 4) cycle quality improvement into existing clinic procedures; and 5) establish process review procedures. Also, this portion of the session will describe methods for standardization of outpatient psychiatric treatment by use of templates for each component of psychiatric assessment and treatment planning. The methods will be practical and simple and can be incorporated into an electronic medical record system or used in a traditional non-electronic written or dictated format, which is used in many countries. World Health Organization guidelines will be emphasized. Lastly, participants will learn that 30-50% of persons with major depressive disorder are not diagnosed in primary care practices. For psychiatrically hospitalized patients, 46% of suicidal ideation is undetected while 50% of psychosis may be missed during assessment. With the elderly, as many as 48% do not see a physician within 30 days of discharge from a psychiatric unit.
**Client Safety in Public Sector Psychiatry**

Aminadav Zakai, *Pocasset Mental Health Center, Pocasset, USA*  
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This presentation will review the experience of the patients in the public sector in Massachusetts under the Department of Mental Health (DMH) and will focus on measures the department takes to ensure clients’ safety and focus on the unstable chronically mentally ill as they move through the continuum of care offered by the department. The presentation will outline safety statistics and provide a critical review around services available to manage patient safety, as well as a review of the crisis management system and acute care availability through the system. There will be a special focus on the management of forensic cases and the interface between the correction system and the public health system and the management of violent patients within our system.

**93. Medical Profession Practices which Preceded and Accompanied the Shoah, 1939-1945**

**Pitfalls of Diagnoses in Genocide Trauma Survivors**

Andreas Hamburger, *International Psychoanalytic University at Berlin*  
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Survivors of severe social and genocidal trauma showing psychotic symptoms might be misdiagnosed if their traumatic life experiences are not actively explored. In 1999, 725 Holocaust survivors were detected in Israel psychiatric hospitals, who had been hospitalized as chronic psychotics in the 1950s without records of their life histories. The Yale Videotestimony Study (Laub et.al., http://www.yale.edu/traumaresearch) offered some of them the possibility to give videotestimony of their life records. First results showed that giving testimony and receiving acknowledgement relieved the patients and reduced functional impairment and severity and intensity of all posttraumatic symptom clusters (Strous et al, 2005). Further in-depth analysis (parallel design of grounded theory explorative investigation and psychoanalytic multi-rater narrative microanalysis) of the video testimonies shows intense unconscious countertransference reactions in confrontation with genocidal traumatic life events. These results will be shown in a paradigmatic case vignette. For the discussion, parallels to ongoing research processes in fields of genocidal trauma, as in the Balkan region, will be drawn.
What Can Today’s Public and the Health Care Profession Learn from Medical Profession Practices which Preceded and Accompanied the Shoah, 1939-1945?

Harold J. Bursztajn, Harvard University (harold_bursztajn@hms.harvard.edu)
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Omar Sultan Haque, Harvard University (omarsultanhaque@gmail.com)

What can today’s public and the health care profession learn from medical profession practices which preceded and accompanied the Shoah, 1939-1945? This presentation will outline lessons learned about ethical violations, as well as lessons learned from physicians who were prisoners and the ways in which they found hope, meaning and resilience in the face of brutal oppression and murder.

From Monsters to Managers

Terry R. Bard, Harvard University (terry_bard@hms.harvard.edu)

Even though many examples exist of how populations make decisions to destroy others, questions still remain unaddressed and unanswered about why people who seem to be sound, kind, and generous can commit such atrocities. Even with a burgeoning scientific understanding about human brain functions, many aspects of the human mind remain enigmatic. Individuals may act idiosyncratically and often pose legal and medical issues relating to mind and action, often comprising the focus for forensic psychiatrists and psychologists. Populations that make such decisions have been studied less. This presentation will focus on psycho/social components of populations other than prejudice, envy, and hatred that may contribute to their capacities to taunt, beat, terrorize, and murder others. Social practices, laws, and understandings of mental health will be identified and analyzed in an effort to create societies that mitigate the potential for populations to commit wanton human destruction.

94. Medico-Legal Implications of Social Media

HIPAA Privacy Implications of Social Media

Stacey Tovino, University of Nevada at Las Vegas (stacey.tovino@unlv.edu)

This presentation will examine federal and state statutes and regulations governing health information confidentiality in the context of social media use by physicians, hospitals, and other individual and institutional health care providers. More specifically, this presentation will: (1)
provide examples of the ways in which individual and institutional health care providers use FaceBook, Twitter, YouTube, and blogs to share information with friends and the general public; (2) provide an overview of federal and state rules governing health information confidentiality, including recent updates to the federal HIPAA Privacy Rule and more stringent state statutes and regulations governing health information confidentiality; (3) identify the ways in which health care providers’ use of social media implicates federal and state health information confidentiality statutes and regulations; (4) address permissible and impermissible uses of social media with respect to health care providers’ online communications with patients and friends as well as the provision of health care advice and information to the general public; and (5) provide examples of recent federal and state enforcement actions to illustrate the types of civil, criminal, and administrative penalties that can be imposed on covered entities and business associates who fail to maintain the confidentiality of protected health information. The objectives of this presentation include familiarizing conference attendees with the United States’ federal and state rules regarding health information confidentiality and the ways in which health care providers’ social media use implicates such rules.

Social Media in the Practice of Forensic Psychiatry Evaluation and Management

Tracy D. Gunter, Indiana University (tdgunter@iupui.edu)

By providing a self-documenting platform for the instantaneous exchange of user generated content, social media encourages sharing of information and opinions in a relatively unregulated space without traditional geographic barriers. When used responsibly, social media outlets provide opportunities for delivering health information and psychosocial support. However, the broad scope and relative anonymity of virtual communities provide opportunities for nefarious and self-destructive activities such as bullying, harassment, fraud, collusion, and prosuicide communications. The forensic mental health practitioner is frequently involved in the evaluation, treatment and supervision of individuals who have exhibited problematic behaviour. While the majority of this risky and disruptive behaviour will be peripheral in nature, Dr. Gunter will argue that it is incumbent upon forensic mental health practitioners to consider the examination of Internet and social media data as part of both evaluation and treatment. In the area of evaluation, daily time on line, content of online communications, and nature of online activities may provide important information. Access to these resources may be gained in collaboration with the evaluatee, through an online search of the evaluatee’s name or e-mail address, through an employer, or by warrant or subpoena (depending upon issue and jurisdiction). In the area of supervision, best practices are being developed and implemented worldwide. For example, the New South Wales Chief Psychiatrist recently issued an opinion that improved supervision of Internet resources and regular auditing of Internet capable devices used by forensic patients should be implemented after an insanity acquittee used these technologies to abscond from a facility. This session will review and propose best practices in this evolving area.

Social Media and the Physician-Patient Relationship
Nicolas Terry, Indiana University (npterry@iupui.edu)

As people spend more time in social media, they will have more of their health-related experiences there as they gather and disseminate information (and misinformation). As patients turn towards social media, healthcare providers seem happy to provide an expanding number of destinations. In the United States well over 1,000 hospitals now have social networking sites, including Facebook pages and Twitter feeds. A complex and not always cohesive set of rules regulates patient and provider behaviour in the social media space: domain-specific privacy regulations are joined by computer crime and privacy statutes, labor law, ethics and professional codes and an increasing number of policies included in healthcare employment contracts. This presentation deals with the reality of medically relevant information about patients increasingly moving online. It deals primarily with two practical questions. First, it asks whether there are circumstances when physicians should explore the social media lives of their patients, particularly if therapeutically beneficial or even life-saving information is available online. Should the physician seek to access that information, and could such an opportunity morph into a legal obligation imposed on the physician? Second, it explores how the patient-physician dialog has increasingly spilled out of the consulting room and onto social media sites. Physicians increasingly are counseled about boundary issues when they interact with patients online, because they might discuss and disagree about care issues in a public place. This part explores how physicians should (and should not) react to online critical patient comments.

Social Media in Medical Education

Christopher R. Thomas, University of Texas at Galveston (crthomas@utmb.edu)

This presentation reviews the special problems of social media and medical education, the development of new policies to deal with them, and the creation of training for students and educators on the professional standards regarding social media. Specific incidents of violation of patient privacy and unprofessional behaviour by students using social media serve as examples of the risks involved. Creation of institutional policies is reviewed with attention to specific application of ethical and legal standards. A model training program educating students, residents and faculty members on social media is also reviewed.

95. Mental Disorders in German Adolescents at High Risk for Offending

German Adolescents in Stationary Welfare Service: At Risk for Mental Disorders?

Steffen Weirich, University of Rostock (steffen.weirich@med.uni-rostock.de)
Objective: Mental disorders in adolescence are known to increase the risk of offending in early adulthood. Juveniles living in stationary welfare settings are known to be at risk for offending as well. This study asks if this risk might be an effect of increased rates of mental disorders in juveniles in welfare settings. The study compares prevalence of mental disorders in a sample of youths from stationary youth welfare service to prevalence in the general population and evaluates opportunities for psychiatric care in welfare.

Method: A survey was conducted at all stationary welfare services in the rural area of Bad Doberan, Germany with forty-two adolescents answering to Achenbach’s Youth Self Report and their teachers to the Teachers Report Form for mental problems.

Results: In the self-reported data, 57% of the adolescents showed clinically relevant symptom loads. Girls were significantly more impaired in internal characteristics than boys. Ratings from different sources differed significantly.

Conclusion: Higher prevalence of mental disorders was reported by juveniles from welfare settings and their teachers. Compared to this need for treatment, chances for juveniles in welfare settings are lowered by a number of structural risks. Results argue for a stronger integration of child and adolescent psychiatry and youth welfare systems. Altogether, adolescents from stationary youth welfare services comprise a group high-at-risk, as do other groups reported on in this session.

**Psychiatric Disorders of German Adolescents in Detention**

Frank Häßler, *University of Rostock* (frank.haessler@med.uni-rostock.de)
Anne Wolter, *Gesellschaft für Gesundheit und Pädagogik, Rostock, Germany* (a.wolter@ymail.com)
Claudia Engel, *University of Rostock* (claudia.engel@med.uni-rostock.de)

Objective: According to police criminal records in Germany more than two million Germans were suspected of having committed a crime in 2010. Among those were 10.75% juvenile and 10.1% young adult suspects. German official statistics do not report prevalence of psychiatric disorders, or mental retardation, or a combination of both, among offenders in Germany. Juvenile detainees however, are known to be at high risk for (untreated) psychiatric disorder.

Method: The data gathered from incarcerated adolescents were analyzed in order to compare the sample with other populations at risk (see other presentations at this session). 39 boys (aged from 14 to 18 years) incarcerated in the juvenile detention center in Neustrelitz were interviewed and assessed by a battery of psychological tests (YSR, SDQ, BIS, PSSI, YPI, JTCI and others).

Results: 71.8% of the juveniles in our sample displayed a conduct disorder (F 91 and 92), 30.8% were diagnosed with ADHD (F 90.0 and F 90.1), 15% suffered from a depression (F 32), and
95% abused some kind of substance. Prevalence of these mental disorders is significantly higher than not only the normal population but also the population in stationary youth welfare service.

Conclusions: Considering that juvenile prison inmates are burdened by high rates of psychopathology and mental disorders, it is essential to develop a structured diagnostic procedure and adequate treatment strategies according to child and adolescent psychiatry guidelines in imprisoned conditions. Both are hard to find in German prisons. An effective multimodal treatment however, is known to prevent criminal relapse. The presentation argues for an integration of adolescent psychiatry into regular prison routines.

Mental Health Problems in Adolescent Samples of Alcohol and Cannabis Abusers

Olaf Reis, University of Rostock, (olaf.reis@med.uni-rostock.de)
Christiane Baldus, University of Hamburg (c.baldus@uke.de)
Rainer Thomasius, University of Hamburg (thomasius@uke.de)

Objective: The abuse of legal and illegal drugs is already known to be associated with diminished mental health during adolescence. Data from two recent German studies are presented to analyze this association and suggestions are made to access juveniles at high risk.

Method: In sample 1, 188 adolescents investigated during their stay at intense care units shortly after acute alcohol intoxication were rated on the distribution of F-diagnoses given by a trained psychiatrist. In sample 2, 266 adolescents taking part in a secondary prevention programme for cannabis users were investigated for self-rated (YSR, YASR) psychiatric problems after acute psychoses were excluded.

Results: Binge-drinking adolescents displayed significantly higher loads of psychiatric illnesses compared to the normal population as rated by a psychiatrist. Adolescents intoxicated after alcohol abuse displayed higher rates of ADHD-related disorders (ratio 1:5), compared to the normal population, and a higher rate of adaptation disorders (F 43). A similar pattern of higher burdens of mental health problems occurred for adolescents consuming cannabis on a regular basis.

Conclusions: Binge-drinking as well as regular cannabis use may indicate higher loads of mental problems. At the same time, these adolescents are hard to access. A concept of “vulnerable moments” for early detection and treatment of drug abuse and criminal offense prevention is discussed.

Prevalence of Mental Disorders among Young Patients in a German Hospital for Forensic Psychiatry

Detlef Schlaefke, University of Rostock (detlef.schlaefke@med.uni-rostock.de)
Objective: Based on the German Criminal Code for both juveniles and young adults, the University of Rostock’s hospitals for Forensic Psychiatry are responsible for compulsory treatment of these offenders. To be admitted to a forensic hospital a causal association of mental disorder or addiction and criminal act is required. This study describes the ratio of co-morbid mental disorders found in patients in a north German hospital and their effects on treatment.

Method: After a young offender is admitted to our Forensic Psychiatric Clinic, intensive diagnostics take place, covering personality, intelligence, and neuropsychological function. Staff members try to motivate patients and explain the course and rules of treatment. Individual treatment plans are negotiated at the end of this period.

Results: 126 patients have passed through inpatient treatment during the last decade with their data collected according to the Forensic Basis Documentation. 94% of all juvenile offenders (n=16) showed an additional mental disorder, out of which 65% suffered from a conduct disorder. 91 addicted young adults (66%) displayed a co-morbid mental disorder, such as personality disorders (31.9%) and conduct disorders (19.8%). 18 patients were admitted because they suffered from severe mental disorder during the time of offending. Out of these, 50-55% suffered from a co-morbid disorder.

Conclusions: Co-morbid mental disorders of various kinds put a challenge on the staff in hospitals for Forensic Psychiatry. Mechanisms limiting the benefits of therapeutic interventions in forensic hospitals also include co-morbid mental disorders and should be studied in detail.

96. Mental Health and Land: Indigenous Peoples and Human Rights

Ethical Framework of the Environmental Rights of Indigenous Peoples

Frederick Coleman, University of Wisconsin at Madison (frederick.coleman@mhcdc.org)

The discussion of several specific case studies regarding indigenous people’s rights regarding the environments in which they live with special regard to water will be framed with two different perspectives on overarching ethical approaches. The first perspective will be a traditional Western system based on individual rights (autonomy), universal moral principles (justice), doing good (beneficence), and risk/benefit analysis (non-maleficence). The second perspective will be a feminist and cultural critique based on relational identity (self is constituted and maintained in overlapping relationships and communities), analysis of oppression (marginalization, exploitation, cultural imperialism, powerlessness, violence), narrative analysis (case-specific stories), and shared discussion (good and bad can be defined with all voices being heard at the table).
“Water is Life:” The Anxiety over Losing Water Rights of the Dine Peoples of the Southwestern United States

Omie Baldwin, University of Wisconsin at Madison (omieb@att.net)

This presentation examines the struggles of the Dine’ Peoples of the Southwest United States in trying to hold on to resources – the water rights. Navajos are experiencing their water rights being compromised to benefit cities and businesses, as the American Indians are asked to give up more of their water resources. American Indians are concerned for the survival of their future generation, at a time when some of the American Indians do not have running water in their homes; water is thus a precious commodity. For the Navajos of the Southwest United States, the possibility of losing their water rights is creating stress for the Tribe, the communities, families and individuals.

Sacred Sites versus Corporate Rights: Anxieties and Antidotes in a North American Indigenous Community

Patricia Loew, University of Wisconsin at Madison (paloew@wisc.edu)

This presentation examines cultural anxiety among the Bad River Ojibwe over plans to site a large-scale taconite iron mine at the headwaters of the Bad River watershed, one of the richest wild rice-producing areas in North America. Manoomin, as the Ojibwe refer to the rice, is the spiritual center of the tribe’s political, historical, social, and ceremonial experience. The tribe has taken a traditional approach to elevate understanding about its relationship to the wild rice and the need to protect this important natural resource – storytelling. However, tradition now has a contemporary twist. Young people (ages 10-14) are creating digital stories about the mine threat that integrate traditional ecological knowledge with western science and uploading them to YouTube. Their stories, which rely on interviews with elders and Native scientists, empower the community, influence outside decision-makers, help create Native and non-Native coalitions, and ultimately help reduce cultural stress over this perceived threat to their way of life.

Mnisota Ma’koce: Da’kota Access to Traditional Spaces

Iyekiyapiwin Darlene St. Clair, Saint Cloud State University (dstclair@umn.edu)

Da’kota people have called Mnisota Ma’koce home since our very creation. Our origins are in this place and so our relationship to this place can be both figuratively and literally described as Ina (mother). The relationship to this place is evidenced by countless markers of Da’kota presence in placenames, narratives, oral tradition, art, and archival sources. Da’kota people continue to
recognize these places as integral to our identity and central to the practice of our lifeways. While Daḵota people have struggled to maintain these relationships, we are positioned within a colonial state. Colonization has impacted all Daḵota institutions and these impacts create many challenges to the expression of Daḵota Wičoḥ’an (Daḵota ways of life). This presentation will discuss contemporary assertions of the Daḵota people to maintain their connections to land and lifeways within their homelands, including contesting and addressing the varied impacts of colonization on Dakota institutions. Of particular focus will be Dakota access to sacred places and how our access to these places is affected by colonial structures and institutions.

97. Mental Health and Law in Korea


Jung-Jin Kim, Nazarene University (kimjj@kornu.ac.kr)

We are facing a human rights emergency in mental health. In Korea, people with mental disabilities experience a wide range of human rights violations. Recent medical and social statistics have reported the shocking reality that one in four Korean people will suffer from mental illness at some point in their lives. People with mental disorders encounter prejudice and discrimination in almost all aspects of their social lives. A majority of people with chronic schizophrenic disorder are also kept in mental hospitals and asylums involuntarily due to the misuse of mental health law and the lack of government control systems. A recent incident in which two patients committed suicide and one patient was suspected to have been murdered by personnel at a local private mental hospital highlights the reality of living with mental illness and disabilities. Generally, psychiatric institutions in Korea are associated with gross human rights violations including inhuman and degrading treatment and living conditions. Even outside the health care context, mentally ill people are excluded from community life and denied basic rights such as shelter, food and clothing, and are discriminated against in the fields of employment, education and housing due to their mental disability. Many are denied the right to marry and have children. As a consequence, many people with mental disabilities live in extreme poverty which, in turn, affects their ability to gain access to appropriate care, integrate into society and recover from their illnesses. In 2008 the United Nations Convention on the Rights of Persons with Disabilities (CRPD) came into force. The CRPD sets out a wide range of rights including, among others, civil and political rights, the right to live in the community, participation and inclusion, education, health, employment and social protection. Its coming into force marks a major milestone in efforts to promote, protect and ensure the full and equal enjoyment of all human rights for persons with disabilities. The Korean government joined this convention in 2009. A meeting of the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) will also be held in Incheon, Republic of Korea from 29 October to 2 November, 2012 based upon the principles of the CRPD. But that process will be too slow for Korea’s mentally ill. Unjust discrimination against people on the grounds of mental disorder must be stopped immediately, to improve mental health policy and administration of admission and discharge procedures, and to strengthen community life. Several suggestions are offered,
such as raising awareness and advocating change for the rights of people with mental disabilities, collaborating with international organizations to disseminate international human rights standards, developing mental health policies and laws that promote human rights, and creating mechanisms to assess and improve human rights conditions based on the WHO Quality Rights Project.

The Addiction Policy, Law, and Service Delivery System in Korea

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During the past 10 years, a growing number of Koreans have experienced addiction (either to alcohol and/or other drugs, gambling, or the internet). There is a high prevalence of addiction problems in Korea. The lifetime prevalence of alcohol related disorders was 13.4% in 2011, and prevalence of gambling addiction and internet addiction was 6.1% and 7.7%, respectively. Addiction not only devastates individuals and families, but it also creates social and economic crises. The aim of this study is to review addiction problems and service delivery systems in relation to the management of addiction problems in Korea, with a specific focus on the role of mental health professionals. Findings show a lack of constructive systemic features in organizational structures, fiscal problems and a scarcity of experts. Despite increased awareness of the necessity for addiction policy and services, each addiction system has developed independently and policies, funding, and service delivery models vary significantly. Developments in legislation and regulations in prevention and care are described. Directions for improvement have been suggested in the form of integrated addiction services delivery systems. The government needs to constantly evaluate its policy and develop its options within the area of legislation and regulations, which should also include critical comparisons to the situation in other countries. An integrated addiction management system should develop to be more responsive to addiction and its symptoms.

Introduction of New Laws and the Lack of Interface in the Mental Health Act in Korea

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The Korean Mental Health Act of 1995 provided grounds for the protection of the mentally ill through provisions concerning involuntary admission and community mental health services. With the inclusion of disability from mental disorders into the definition of disability in the revised Disability Act in 1999, a new path was made for people with chronic mental disorders to receive diverse disability benefits from governments. Recently the introduction of the Activity Assistance Act (2011) and the introduction of adult guardianship by the revision of the Civil Act (2011) altogether enhanced the safety net for the mentally ill. But differences in definitions of
mental disability between these laws hinder seamless protection of human rights and welfare for the mentally ill. For example, the Disability Act restricted the use of community rehabilitation services for those disabled by chronic mental disorders on the grounds that they can use those services under the Mental Health Act. But there are differences in definitions of mental disability and service paradigms between the two acts. Based on the principle of self-selection among multiple services in the Disability Act, the mentally disabled should have unlimited rights to community services. We are also expecting adult guardianship services for the mentally disabled in July 2013, but the Mental Health Act does not have any provisions concerning mental capacity and adult guardianship services for the mentally disabled. Therefore a review of definitions of disability in different laws and revision of the Mental Health Act to make interface between the act and laws concerned is urgently needed in Korea. This study examines definitions of disability in laws concerning the mentally ill and suggests definitions of mental disability in the Mental Health Act to provide seamless protection for the mentally ill.

**Exploring Roles of Social Workers to Prevent Suicide in Korea**

Myungmin Choi, *Baekseok University* (mmchoi@hanmail.net)

The suicide rate in Korea is currently the highest among OECD countries and is increasing rapidly. Suicide is one of the major causes of death in Korea and every sector of society is seeking solutions, including the field of social work. Social workers provide services for vulnerable people in communities who are exposed to suicide risk relatively easily. But it is unknown how many social workers are facing suicide problems and how they deal with them in their work. This study examines Korean social workers to find what kind of support is needed for them to work more effectively. For this purpose, 615 social workers were surveyed and the data were analyzed by SPSS 18. 108 respondents (17.6%) had lost a client to suicide in the last 3 years. 180 respondents (29.3%) answered that their clients had attempted suicide and 330 (53.7%) reported that clients had expressed suicidal thoughts in the last three years. During the same period, 302 (49.1%) suspected clients of suicidal thoughts at least once, although clients did not say so directly. However, among those cases, 108 social workers (17.6%) did not take any action because they were too busy with other tasks, thought the probability of clients acting on suicidal thoughts was low, or did not know how to cope with it. Respondents indicated that suicidal risk was very relevant to their jobs, and that they needed the ability to cope with suicide problems (4.1 and 4.6 on a 5 point scale). They also wished (4.5 on a 5 point scale) to have the opportunity to train in suicide prevention (SP). The importance of SP training programs was highlighted by the fact that respondents trained in SP had significantly higher competency scores in SP than those untrained. In conclusion, social workers are useful preventers of suicide as gatekeepers and professionals in Korean society. Appropriate training programs for SP should be provided to social workers immediately in accordance with their needs.

**The Lived Experience of Koreans with Mental Illness**
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This qualitative phenomenological study explores the lived experience of individuals with mental illness in a clubhouse in Korea. Semi-structured interviews with nine participants were conducted to examine the vicious circle of sorrow facing individuals with mental illness. Three major themes from the lived experience emerged: entering a haven, living in a haven, and having a haven-like hometown. The results of the study indicated that participants had a broad range of perspectives on mental rehabilitation, including recognition that rehabilitation was something more than holding a regular job; acceptance of their illness, situations, and limitations; and desire for a meaningful and fulfilling life within the clubhouse. The results contributed to a better understanding of the lived experience of individuals with mental illness in the context of a clubhouse and of their extended rehabilitation and provided important implications for social work professionals.

98. Mental Health Policy and Governance

“Governance + Governmentality:” Twinning Perspectives from the Air and on the Street on Mental Health Sector Regulation

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As “fundamentally a social practice” (Burris, 2008), the agency of a law in a specific context will always be contingent. Furthermore, the law is only one of an array of technologies of influence employed by an array of actors in a regulatory field in order to achieve an array of (sometimes conflicting) objectives. In this pluralist complexity, characteristic of the mental health sector, it has been difficult for policy-makers to understand how their decisions about mental health law and other regulatory interventions play out in practice. This presentation outlines an alternative, mixed-method analytic framework twinning two substantially different approaches to the analysis of the exercise of influence – governance + governmentality. The aim of the framework is to counterpoise objectivity in analysis across the relevant domain of political complexity, with interrogation in practice into the street-level reality of social practice. The tool may be used by social policy-makers to facilitate the design of regulatory interventions, for a particular set of conditions in time and place, in the light of a cohesive and “kid thyself not” evidence base. This presentation outlines the development of this methodological alliance between macro, metaregulatory governance analysis, and micro governmentality sub-analysis. It presents preliminary findings from an Australian study in which the tool is applied to examine the effects of mental health law on the “facilitation of access to service” objective.

The Future Role of the Nearest Relative in United Kingdom Legislation
The Nearest Relative has been a legally defined role in United Kingdom mental health law since the 1950s, presented with a range of duties and powers to safeguard patient rights. It became a mandatory part of mental health practice to consult with and work alongside the Nearest Relative during the assessment of a patient for compulsory detention in hospital. This task has become increasingly burdensome, due in part to an inflexible definition, complex family dynamics and the prospect of litigation awaiting any incorrect legal interpretation. The evolution of the Nearest Relative in Scotland has taken a different route to resolving some of these difficulties with the introduction of the nominated person in the Mental Health (Care and Treatment) (Scotland) Act 2003. Northern Ireland plans to take a similar pathway by introducing a nominated person (Bamford Review of Mental Health and Learning Disability, 2007). England and Wales reviewed mental health legislation in 2007 in light of challenges in the European Court of Human Rights and preserved the role of the Nearest Relative. This presentation will review the experience of change within each of these jurisdictions. It will identify some of the continuing legal challenges before the United Kingdom courts and reflect on the meaning of safeguarding patient’s rights.

The Supreme Court of the United States Upholds the Affordable Care Act: A Seminal Case and What It Portends for the Future

Richard Kirschner, Attorney-at-Law, Bethesda, USA (leaglerk@aol.com)

In 2012, the Supreme Court of the United States upheld the constitutionality of the Patient Protection and Affordable Care Act. By a 5-4 vote the Court approved the “penalty” imposed for failure to buy medical insurance, and upheld all of the Act’s components but one – that the federal government might withhold all Medicaid funds from states which refuse new funds for Medicaid expansion. Claims of unconstitutionality included: (1) the mandated “penalty” was unconstitutional exercise of the powers of the Congress to regulate interstate commerce; and (2) Medicaid (a joint federal-state program providing health care to the poor/disabled) could not be imposed on states by threat to withdraw all Medicaid funds. The decision’s reasoning and the majority’s makeup were surprising. Chief Justice Roberts led the majority, stating the “penalty” is a “tax” and “because the Constitution permits such a tax, it is not our role to forbid it…” In ruling that states cannot be coerced into expanding Medicaid, the Court failed to acknowledge that millions of the poorest would thus be denied the Act’s benefits. The Act’s provisions and political efforts to frustrate and overturn it will be explored.

Reflections on Socio-Legal Methodology: Creating Legislative Evaluative Tools for Mental Health Legislation
Ruby Dhand, *Thompson Rivers University* (rdhand@tru.ca)

The human rights of people with psychiatric disabilities continue to be undermined by mental health legislation and international laws. Countries such as Australia, Canada and the United Kingdom have created legislative evaluative tools for mental health legislation. These tools use a matrix of indicators including surveys, thematic assessment scales and questionnaires. They are designed to ensure a systematic and rights-based scrutiny of legislation, policy, and legal processes. They are created using qualitative methodologies including grounded theory and ethnography, disability theory, intersectionality, principles of international human rights laws and empirical research involving people with psychiatric disabilities, mental health lawyers, health care practitioners, academics, and policy advisors. In this presentation, I will critique the methodology, creation, and effectiveness of these evaluative tools for improving the human rights of people with psychiatric disabilities. The following questions will be explored: How effective is a qualitative methodology for creating such legislative evaluative tools? Which stakeholders should be included in the process? How are the interdisciplinary approaches incorporated within the creation, and implementation of the legislation evaluative tools? Throughout the presentation, I will analyze the tools themselves, the robust literature surrounding their development and the international laws and principles relevant to mental health laws. This will include a discussion of the Convention on the Rights of Persons with Disabilities (CRPD), the Council of Europe’s recommendations, the Scottish Recovery Index, and the World Health Organization’s checklist. Finally, I will compare the effectiveness of the tools within the various jurisdictions and the impact upon reforming mental health laws.

99. Mental Health from Prisons to Re-Entry

*Trends of Jail Recidivism, Mental Illness, and Substance Abuse among those Entering Jail*

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About 13 million people are admitted to jail in the United States each year (US Department of Justice, 2011). Previous research has found that over 50% of those entering jail return within a year. The recidivism rate was lowest among persons with serious mental illness, while the rate was highest among those with dual diagnoses of serious mental illness and substance abuse disorder (Wilson et al., 2011). These findings have increased the awareness of the importance of mental health interventions for persons with serious mental illness and substance abuse. Our study replicates previous studies using more recent jail and Medicaid claims data from Philadelphia County in the United States to examine if there have been any changes in the trend.
of jail recidivism in relation to mental illness and substance abuse. The length of jail stay, risk factors for jail entry and jail recidivism pattern of people with mental illness or substance use disorders compared with those without the conditions are examined. Individuals who entered or left the Philadelphia Prison System in the years 2007 through 2011 and individuals eligible for Medicaid or County Funded Mental Health Services in Philadelphia County from 2007 through 2011 are included in the study.

**Programs Designed for Diversion and Aftercare of the Mentally Ill from Jail**

Arthur Evans Jr, *City of Philadelphia Department of Behavioral Health, Philadelphia, USA* (arthur.c.evans@phila.gov)
Trevor Hadley, *University of Pennsylvania* (thadley@upenn.edu)

Previous presentations in this session have provided empirically based background information about the real patterns of use and misuse of jail by people with serious mental illness and substance abuse. This presentation will focus on how that information has been used in a large city’s behavioural health system to design and implement innovative and cost-effective programs to provide diversion and aftercare services to persons with serious mental illness and often comorbid substance abuse in the jail system. Over the past five years, the City of Philadelphia Department of Behavioral Health has designed and implemented four new programs designed to better serve the needs of clients who are cared for in the system but who enter or are about to enter jail. The four programs focus on creating connections to the care system and aggressively following-up for a variety of clients. Descriptions of these four programs including the mental health court, the diversion program, and follow-up aftercare programs will be provided. These programs in many ways are designed to meet the needs of clients and reach out to them at the most appropriate time. Discussion will focus on how the design of these programs was influenced by the previously described studies.

**Engagement Processes in Model Programs for Prison Re-Entry for Offenders with Serious Mental Illness**

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Amy Watson, *University of Illinois at Chicago* (acwatson@gmail.com)
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Linking offenders with mental illness to treatment following prison release is critical to preventing recidivism, but little research exists to inform efforts to engage them effectively. This presentation compares the engagement process in two model programs, each representing an
evidence-based practice for mental health which has been adapted to the context of prison re-entry. One model, Forensic Assertive Community Treatment (FACT), emphasizes a long-term wrap-around approach that seeks to maximize continuity of care by concentrating all services within one interdisciplinary team; the other, Critical Time Intervention (CTI), is a time-limited intervention that promotes linkages to outside services and bolsters natural support systems. To compare engagement practices, we analyze data from two qualitative studies, each conducted in a newly developed treatment program serving prisoners with mental illness being discharged from prisons to urban communities. Findings show that both programs rely upon the provision of concrete, tangible resources as a key method of engaging offenders, and each program provides intensive emotional support during the reentry transition. Nevertheless, FACT and CTI embody distinct cultures and rituals of reentry, exhibited in their approaches to pre-release engagement, the transition out of prison, and the encouragement of mental health care seeking post release.

Examination of the Risk Environment on Community Re-Entry from Prison for Men with Mental Illness

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Community re-entry from prison is challenging as individuals attempt to meet their basic needs. This process can be difficult for those with a mental illness, and can be further complicated by an environment that poses risk towards re-offending. This presentation examines the role of the risk environment on the re-entry process for men with serious mental illnesses leaving prison. In-depth and go-along interviews were conducted with participants (n=28) in a randomized control trial testing the effects of an evidence-based intervention, Critical Time Intervention (CTI). Data were analyzed iteratively using a constructivist grounded theory approach. Results indicated that punitive public and social policies limiting or excluding resources to individuals based on their criminal history posed significant challenges for participants in acquiring basic needs. The re-entry process was further complicated by continued entanglement with the criminal justice system, sometimes resulting in a return to jail, which disrupted progression through other systems such as health care, entitlements, or work. However, those with family that could provide concrete and emotional support were insulated from some aspects of the risk environment, as their reliance on public services was not as crucial to their basic survival.

TITO: An Education and Empowerment Based HIV Prevention Intervention for People Leaving Jail

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Jails have been identified as a key intervention point for HIV prevention efforts, but the brief lengths of stay present unique challenges for engagement. This presentation examines a group based education and empowerment intervention, Teach Inside Teach Outside (TITO), that aims to bridge the transition by providing jail in-reach coupled with out-reach post release. This intervention is being tested in a two arm randomized trial (TITO vs. counselling) to assess whether TITO is more effective in encouraging follow up with the intervention after jail release than conventional HIV counselling. Preliminary results (n=337) from the in-reach phase show that the TITO intervention does not show a main effect on post-jail treatment engagement; post-hoc analyses show that the most important factors that predict engagement post release include having poorer quality of life while in jail, being older at first psychiatric hospitalization, and social support from family or friends while in jail. Ethnographic results illustrate the value of the intervention for vulnerable populations who tend to be difficult to engage in services apart from legal mandates. Further dialogue between the RCT results and ethnographic results may shed light on interactions between the intervention and specific social, economic, and health related characteristics of participants.

100. Mental Health, Rights, and the Law

Planning for Future Mental Health Crises in New Zealand

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Allowing patients to make advance decisions regarding their future health care is an important feature of health service provision. Within mental health, various models of advance care planning (ACP) have been developed and many advocates believe such planning has the potential to facilitate autonomous decision-making and increase patient perceptions of control over treatment. The consideration of ACP in mental health care is also particularly relevant given the current policy climate following the ratification of the Convention for the Rights of People with Disabilities. The Convention promotes service users’ ability to claim their right to make important decisions regarding their lives, rather than being viewed as “objects” of medical treatment and social protection. ACP has been touted as one method of ensuring service users have a stronger role in the decision-making about their health and social care needs. This presentation reports on a study that aimed to gain insights as to whether ACP could be clinically trialed in New Zealand mental health services. It will do this by briefly detailing a systematic review of the different models of ACP in mental health internationally, followed by an examination of clinicians’ attitudes to ACP and service users’ experiences of current planning procedures.

Mental Health Act Reforms during Thirty Years of the Canadian Charter of Rights and Freedoms
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The Canadian Charter of Rights and Freedoms, introduced in 1982, requires that all thirteen Canadian Mental Health Acts conform with its provisions. Some people suggested that involuntary hospital admission and treatment violate Section 7 of the Charter: “Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.” Notwithstanding Charter challenges over thirty years, Canadian courts have consistently deemed the rights restricted by involuntary admissions to be “in accordance with the principles of fundamental justice.” Indeed, the majority of legislatures have broadened their committal criteria beyond the concept of “danger to self or others” to include “likely to cause harm to the person or others or to suffer substantial mental or physical deterioration or serious physical impairment.” The model for treatment authorization has not generally changed and treatment refusal by an involuntary patient is not allowed in some jurisdictions. Finally, in spite of opposition from groups citing the Charter, compulsory community treatment has been introduced in a majority of provinces. What might happen to these reforms in the next thirty years under the United Nations Convention on the Rights of Persons with Disabilities considering the Canadian declaration and reservation?

*The “Gray Zone:” Effective Forensic Evaluation and Treatment of the Geriatric Patient*

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Currently, the largest segment of the population of the United States is referred to as the “Baby Boomers,” the post-World War II generation born between 1946 and 1964. As a result of the “graying” of this population, more geriatric patients are seen in forensic evaluation and treatment settings. Effective evaluation and treatment requires consideration the unique needs of geriatric patients in the forensic setting. The presentation will review the cases of two geriatric patients admitted to a maximum security forensic hospital in Connecticut for competency restoration related to serious crimes. In each case, an overview of the offense leading to the person’s arrest; prior medical and psychiatric history; assessment and treatment interventions unique to the elderly forensic patient; course of treatment and final disposition will be reviewed. Multi-disciplinary clinical considerations and recommendations to serve the complex needs of the geriatric forensic patient will also be explored. Participants will be encouraged to share their experiences with evaluating and treating the aging population at the interface of law and mental health.
**Treatment and Committal Laws in Canada**

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In Canada, 800,000 individuals have a lifetime risk of developing major mental disorders (i.e. schizophrenia or bipolar disorder), conditions often associated with diminished insight into the need for and benefits of treatment. Without compulsory admission to hospital and treatment, many of these people would be abandoned to the consequences of their untreated illness, including substantially higher morbidity and mortality. The person’s family and society also experience substantial morbidity and occasionally mortality as a result of untreated illness (*Canadian Mental Health Law and Policy*, John E Gray et. al., 2008). According to the World Health Organization (WHO), the fundamental aim of mental health legislation is “to protect, promote and improve the lives and mental well-being of citizens” (*WHO resource book on mental health, human rights and legislation*, 2005). Psychiatrist's knowledge of this legislation is necessary to ensure that these goals are optimized. However, “many psychiatrists have not received sufficient education with regards to the law” (Report on the Legislated Review of Community Treatment Orders, Required Under Section 33.9 of the *Mental Health Act*, for the Ontario Ministry of Health and Long-Term Care, 2005.). This lack of knowledge can significantly affect their conduct and decision-making with regards to their patients and result in both increased patient and societal morbidity and mortality. This program will: (1) review the principles underlying mental health legislation, as endorsed by the Canadian Psychiatric Association (CPA) (“Principles Underlying Mental Health Legislation” Richard L O’Reilly, Gary Chaimowitz, et. al., 2010); (2) provide an overview of treatment and committal laws across Canada; and (3) consider how Canadian mental health legislation and physician use of it can affect patient care.

**101. Mental Illness, Offending, and Legal Decision-Making**

*Challenges Balancing Law, Services, and Civil Society to Advance CRPD Supported Decision-Making Objectives*

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Many countries have begun to rethink laws, services and civil society roles in advancing the objective of “supported decision-making” enshrined by the Convention on the Rights of Persons with Disabilities (CRPD). This presentation reviews recent experience in Canada, Australia and Britain, including proposals by the Victorian Law Reform Commission, development of personal budget models for services, family decision-making, and various pilot programs of innovative new models of delivery to different disability groups.
Law on Mental Health Consistent with the United Nations Convention on the Rights of Persons with Disabilities (CRPD)

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The 2006 UN Convention on the Rights of Persons with Disabilities (CRPD) sets out key rights that citizens with a disability should enjoy in a fair society. People with disabilities are characterised as follows: “Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.” In respect of people with “mental illness,” many of whom are considered as having a (“psychosocial”) disability under the Convention (depending on the meaning of terms such as “long-term” and “impairments” as well as the capaciousness of the category of disabled persons implied through the use of “include” in the definition above), legislation such as the Mental Health Act 1983 (MHA) (amended in 2007) for England and Wales fails to comply with its principles and is discriminatory. The aim of this presentation is to examine whether a law governing involuntary treatment based on impaired decision-making capability (DMC) and applicable to all persons, previously well or unwell, and regardless of the cause of the loss of capability (whether due to “mental illness” or “physical illness”) would be consistent with the CRPD.

São Paulo Public Policies for Mentally Ill Offenders

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São Paulo is the most populous and developed Brazilian state. It has a population of approximately 41,692,668 (2011) and is the most powerful state in terms of economy, achieving an IGP of 622 billion dollars in 2009. As expected, this state has the largest prison population: 188,518 individuals in 2012. The State Secretary for Penitentiary Administration runs all the correctional facilities and forensic units for the mentally ill within the state. There are 3 forensic hospitals to assist all this population, encompassing a total of 1095 inpatients (20% above nominal capacity). Apart from these, there are approximately 350 patients in common prison wards waiting for a placement in a forensic hospital. According to a recent study in São Paulo, 12% of the inmates had a severe mental illness, such as psychosis, depression or bipolar disorder, which makes the situation even more alarming. The public health system works separately from the forensic system, although some cooperation is common. One of the main goals to be achieved is integration of this network. The State Secretary for Health had a successful experience incorporating the Penitentiary Hospital in São Paulo City, which was delegated to a non-profit partner. The facility improved in all aspects. The aim of this presentation is to introduce and discuss future plans from São Paulo’s State Secretary for Health for forensic mental health modernization and humanization within the next four years.
Brazilian Law and Psychiatric Admissions: The Role of the State Attorney Office

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In Brazil, until recently, there was no specific legislation regulating mental patients’ rights, psychiatric admissions and state supervision. In 2001, Law 10,216 was enacted, an important legal document constituting 13 articles that cover basic civil rights, rights as a patient, the role of the state, rules for inpatient admission and discharge and the role of the State Attorney Office as a review body. According to this law, there are three kinds of admissions: “Voluntary” – patient accepts treatment and can sign a consent form; “Involuntary” – patient is incapable of signing a consent form or is not willing to consent for the treatment; and “Compulsory” – admission by court order (civil commitment). For any hospital admission, the law requires a qualified consultant opinion and agreement. A doctor must communicate any involuntary admission to the State Attorney Office in 72 hours, and this procedure can be done using a specific Internet portal. The main idea behind this regulation is to have a third part following the involuntary procedure until discharge. This rule generated a database that reflects the epidemiological profile of involuntary patients treated in São Paulo state. This specific role within the public health system and information regarding admissions, as well as complaints and denouncements from citizens, generated more than ten collective public actions in defence of the mentally ill. These data and actions will be presented and compared to other codes of law and legal systems.

102. Migration, Asylum, and Families

Asylum in the United States Based on Sexual Orientation: The Intersection of Mental Health and the Law

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When lesbian, gay or transgendered individuals seek asylum in the United States due to the persecution or fear of persecution they experienced in their country of origin as a result of their sexual orientation, mental health evaluations and testimony are often required. This presentation will review the history of immigration and asylum in the United States for lesbian, gay and transgendered individuals; what factors distinguish asylum cases based on sexual orientation from other immigration and asylum cases; and the current role(s) of mental health professionals in such asylum cases based on sexual orientation. It will also include a review of issues that are critical to the performing of a competent mental health evaluation in asylum cases based on sexual orientation; the credible integration of mental health evidence into the overall legal strategy for such cases; and the implications of all of this for the use of mental health experts in other immigration and asylum cases.
Imigrants: A Vulnerable Population

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Immigrants are a heterogeneous group of people who are diverse in their ethnical and cultural background, migration histories, and degree of cultural adaptation to their new country. Forensic psychiatrists and psychologists are often called upon to evaluate immigrants in several different contexts and must remember that they are a particularly vulnerable population. Evaluators from a different ethnicity to the evaluatee must be aware of four important areas that can lead to a biased, incomplete, or erroneous evaluation: language barrier, transference towards the evaluatee’s ethnicity, ignorance about the evaluatee’s ethnicity, and evaluatee’s countertransference. Still, it is naïve to think that using evaluators of the same or similar ethnic group than the evaluatee will solve all problems. These evaluators might speak different dialects, might not know about the cultural particulars of the evaluatee, and are not immune to bias. One of the main problems is that an evaluatee faced with an evaluator of the same background might easily “open up” and put aside the non-confidentiality disclosure of the forensic evaluation. While some professionals praise the use of cultural competence in forensic evaluation, some have shown concern about ethnic and cultural aspects being misused or over represented in forensic cases.

Toward Safe Migration: Mental Health and Stress of Female Migrant Domestic Workers

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In recent years, various international as well as regional development and human rights organizations have voiced their concern about the increase in documented cases of work-related mental health problems. Human rights of migrant workers have often been compromised due to the inability of state parties and service providers to provide acceptable, affordable and appropriate measures to protect them from abuse and harm. Female migrant domestic workers form a particularly vulnerable population. In this study we aim to enrich our knowledge of the psycho-social and mental health dimensions of overseas domestic work from a human rights perspective. The study population included female migrant domestic workers from the Philippines. Study methods combined quantitative (500 questionnaires) and qualitative research techniques (one workshop, two focus groups, and five case studies). Results provide insight in the stressors of women migrant domestic workers, the manifestations of stress, ways of dealing with stressors and the impact of stressors on women’s personal, interpersonal, family and economic life. We addressed these issues in different phases of migration: pre-departure, during migration, and upon return. Findings from this study indicate a need for measures to strengthen current policy and program initiatives to address employment and related sources of stress of
migrant workers, both in sending and receiving countries. Simultaneously there is a need for an enabling environment for women to develop life skills and culturally sensitive self-empowerment strategies to promote personal health and well-being.

**Commercial Global Surrogacy**

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Surrogacy, particularly commercial surrogacy, was initially condemned and branded as immoral by the courts and legislators, but today surrogacy has become more socially acceptable. Increasingly, people who are unable to have a family will risk crossing national borders when surrogacy is prohibited in their country or beyond their financial means in their country. Commercial surrogacy is a thriving international industry in a global patchwork of prohibitive and permissive legal regimes. Increasingly, people who are unable to have a family without “reproductive assistance” travel from prohibitive regimes to permissive regimes where commercial surrogacy is readily available. For example, Americans travel to clinics in states such as California where surrogacy is legal, or to other countries such as India because it is cheaper. As well, Europeans travel to clinics in Eastern Europe, India and the United States; and Australians travel to clinics in the US, India and Thailand and Canada. As a result of this global traffic, the traditional definition of a “legal mother” as well as issues concerning “legal parentage,” “citizenship,” and “consent” have become problematic in some circumstances. This presentation will examine a variety of legal approaches adopted in different jurisdictions to deal with these issues. The main focus in this presentation will be on the “best interests” of children born as a result of these surrogacy arrangements and the role of the courts in balancing public policy interests with the best interest principle.

**Advocating for Change: Using Legal Tools to Address the Mental Health of Canada’s Refugees**

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In June of 2012, Canada made a number of changes to its “Interim Federal Health Program,” dealing with refugee health coverage. In the past, refugee claimants received the same basic coverage as Canadian citizens, along with provision for medication, dental and eye care. The new regime eliminates all medical coverage from failed claimants and claimants from countries of origin deemed “safe” by the Minister. The only exceptions are in cases where a claimant’s health is deemed a “threat to public health or safety.” Coverage would thus be denied for conditions, such as heart attack, trauma, or pregnancy – or for claimants needing insulin, or emergency assessment or treatment for imminent risk of suicide and other serious mental health issues. Further concerns are raised by coming amendments to Canada’s broader refugee law in
Bill C-31, allowing for the lengthy detention of “irregular arrivals” into Canada – persons who could be in custody without access to some of the most basic and essential forms of health care. This presentation will examine the impact of this new regime upon refugees with mental health issues and disabilities. There will be an analysis of the potential challenges to the constitutionality of Canada’s new health coverage regime by drawing on Charter jurisprudence exploring the scope of constitutional entitlement to health coverage by refugee claimants and other persons detained in administrative or criminal custody. The following questions will be assessed: What legislative and legal tools can be used to challenge this new regime? To what extent will they be effective? What are other measures that can be used to accommodate the mental health needs of Canada’s refugees?

**103. Multidisciplinary Tools and Forensic Psychiatric Patients**

*Social Network Changes in the Personal Social Networks of Forensic Psychiatric Patients*

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Little is known about the social network dynamics of forensic psychiatric patients. Such information is of great importance for risk assessment and management. A change in social circumstances may cause behavioural changes that affect the risk of recidivism. This presentation compares the social networks of forensic psychiatric patients at the time of their offenses with these networks during treatment. Thirty-six inpatients were interviewed using a Forensic Social Network Analysis (FSNA) questionnaire. The FSNA is an instrument to systematically chart the relationships and personal networks of forensic psychiatric patients in the context of their individual risk behaviour. During the two time frames, various social network characteristics were analyzed. We found significant differences between the two time points: after a period of incarceration, there was a decrease in network size and a decrease in the number of social supporters, stressful relationships and network members with potential risk factors. These findings are important to assess the influence of social resources on a successful reintegration of forensic psychiatric patients into the community. Because of the dynamic nature of social networks and their influence on rehabilitation, forensic psychiatric professionals need to check frequently if there are significant changes in the patient’s network.

**Music Therapy within Forensic Psychiatry**

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A cognitive understanding of factors contributing to an offence alone is not enough to prevent relapse. There are a number of contextual factors that contribute to violence. A patient has to experience his lack of specific skills, experience that he overestimates his ability to handle
situations, or acts differently under factors like stress (Bouman, De Ruiter & Schene, 2003). Subsequently, the patient has to practice and train newly acquired skills in order to master these skills and apply them in real-life situations. During multidisciplinary treatment, including music therapy, many contextual factors receive attention in different contexts. Just like the majority of the treatment programs within international forensic psychiatry, music therapy focuses on overt behaviour and is assumed to affect a patient’s (re)actions in a well-defined and structured situation (Codd, 2002; Smeijsters & Cleven, 2004). Due to its nature of evoking basic emotional, cognitive, behavioural and neurological reactions in people, music therapy can be an appropriate tool to evoke emotional, cognitive, neurological and behavioural reactions (Gabrielson, 2010; Juslin, Liljeström, Västfjäll & Lundqvist, 2010; Peretz, 2010; Sloboda & Juslin, 2010; Thaut, 2005). To explore whether it is possible to put some clinical evidence on these theoretical claims of music therapy effectivity within forensic psychiatry, a number of explorative studies were executed within four different forensic psychiatric clinics in the Netherlands with a total of five credentialed music therapists. This presentation focuses on several of these studies to explore whether and what kind of behavioural change of forensic psychiatric patients can be influenced through music therapy treatment. The focus is on three need factors of forensic psychiatric patients: anger management, impulse regulation, and coping skills (Bonta & Andrew, 2007).

**Predictive Validity of the HKT-EX Risk Assessment Tool for Reoffending after Discharge in 342 Forensic Psychiatric Patients in the Netherlands**

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In the Netherlands, the Dutch risk assessment tool HKT-30 (Historical-Clinical-Future-30) is increasingly used in forensic psychiatric practice. Currently, the HKT-30 is being revised in a large research project, and for this purpose an experimental version of the HKT-30 has been created containing more items: the HKT-EX. This retrospective study investigated the predictive validity of the HKT-EX for different recidivism end points. The study sample consisted of 342 forensic psychiatric patients, who had been discharged from any of the Dutch maximum-security forensic psychiatric hospitals between 2004 and 2008. The HKT-EX was rated by trained Masters level Psychology students on the basis of criminal file information. In 2011, official reconviction data were retrieved from the Ministry of Security and Justice. Receiver Operating Characteristic-analyses were performed to compute the predictive value of the different aspects of the HKT-EX for reoffending after discharge. A distinction is drawn between general, violent, and sexual reoffending within two and five years after release into the community. Implications of these findings for the use of the HKT-EX risk assessment tool in forensic practice will be discussed.
Treatment Evaluation Using Routine Outcome Monitoring and Single Case Statistics in a Dutch Forensic Hospital Using the Instrument for Frequent Treatment Evaluations (IFTE)

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Individual treatment evaluation in this forensic hospital is aided by a method which combines Routine Outcome Monitoring (ROM) with Single Case Statistics. A behaviour observation form which consists of dynamic risk factors was especially constructed for this purpose: The Instrument for Frequent Treatment Evaluation (IFTE). The IFTE is independently filled out by all professionals involved around the treatment of a patient. Thus, all available information is combined to produce the most accurate picture of the current status of the patient. By doing this on a regular basis, progress (or the lack of it) can be monitored. Data of numerous patients can be combined in different ways to evaluate treatment of specific groups or to evaluate specific treatment modules. In this presentation, examples of the above mentioned possibilities will be discussed.

104. The Need for Sustainability and Continuity in Forensic Psychiatry

Recidivism Research at a Forensic Psychiatric Clinic in the Netherlands

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Background: Forensic treatment takes place in the context of different laws. Treatment in the case of “TBS” has the longest duration (mean treatment duration is nine years). All other forensic titles such as Article 37 (court order of involuntary admittance for one year) have a much shorter term (the mean duration of treatment is usually less than one year). Little is known about recidivism after a short forensic treatment. Peek (2009) studied recidivism among patients with psychotic vulnerability, treated in the context of Article 37 in an open forensic psychiatric clinic (FPA). The results of the study showed that vulnerable psychotic patients after treatment in a FPA quickly and often are sentenced for a new criminal act. No less than 50% of the discharged patients committed a new offense within two years. In many cases, the offense is more serious than the index offense for which the original Article 37 was imposed.

Goal: The forensic psychiatric clinic Inforsa (FPK) wanted insight into the recidivism rate, the primary outcome measure for forensic treatment.

Method: The Peek study is replicated as far as possible in order to be able to compare the findings.
Conclusion: The results are discussed with the perspective of recent developments of new and shorter treatment in forensic psychiatry.

**Increased Severity of Offences in Clients after Article 37 Commitment**

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*Background:* The number of patients sentenced to a coerced TBS-treatment in the Netherlands has steadily decreased during the last two decades. This is not only due to the fact that fewer TBS-equivalent offenses were committed but also to the fact that since the recommendations of the parliamentary inquiry commission-Visser, the treatment duration in the TBS clinics has increased significantly. Consequently, the TBS treatment has become less attractive for clients and their lawyers. Clients that are sentenced to TBS-treatment with coercion show an increase of the severity of the criminal acts. In particular, the offences had more often a violent component. The decrease in the number of TBS-treatments and the increase in the severity of offense leads to the hypothesis that the offenses in the group “other forensic sentences” (including Article 37) are more serious.

*Goal:* To clarify the question of whether there is an increase in severity of the criminal offenses of patients in the FPK Inforsa, that were admitted in 2003 and 2004 in comparison with patients admitted in 2010 and 2011. It is expected that the offenses in the last group will be significantly more serious.

*Method:* For this purpose the offenses were classified in different ways: 1) based on the maximum sentence possible for the crime; 2) based on the national classification system (CBS); and 3) based on a seven-point scale designed by FPK Inforsa.

*Conclusion:* The results and the implications for the clinic and the treatment are discussed.

**Regular Outcome Monitoring in a Forensic Psychiatric Clinic**

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*Background:* Routine Outcome Monitoring (ROM) is popular in psychiatric services over the last five years, in order to measure improvement and treatment outcome. Next to many specific questions the central research question is: What is the effect of the treatment in a forensic clinic measured in a routine way? There are additional hypotheses: 1) most patients in the long treatment program (TBS) internalized more visible effect than in the patients in the short treatment program; and 2) patients with TBS-treatment and with a classified cluster B personality diagnosis (Pro Justice Reporting) at admission are not reclassified with cluster B diagnosis at discharge.
Goal: To demonstrate the utility of ROM for a forensic treatment and answer questions about the treatment effect, the effect of duration of treatment and the change in diagnoses.

Method: In the FPK Inforsa, the Health of Nation Outcome Scale (HoNOS) is used since 2007 to monitor the progress and the final result of the treatment.

Results: The preliminary results show that there are three client groups: a group that improves (35%), a group that stabilizes (32%), and a group that deteriorates (33%). The effect of the duration of treatment and the change of the cluster B diagnosis is analyzed.

Conclusion: The results of ROM are discussed in light of studying the possibilities to treat forensic clients effectively in short treatment programs. Methodological problems have to be solved in order to improve the validity of the findings.

Client Satisfaction Studies in a Forensic Psychiatric Clinic in the Netherlands

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Background: Assessing client satisfaction is one of the standard quality measurements in hospitals. The concept of client satisfaction is also introduced in psychiatric care (Carlson, 2001; Aarssen, 2003), but in forensic psychiatric clinics client satisfaction studies are not yet a standard procedure. The reason is mainly that the position of the clients in a confined treatment setting is fundamentally different than in regular health care.

Goal: To demonstrate that client satisfaction can be a meaningful concept for forensic psychiatry and that it can be carried out. To carry out two studies in forensic psychiatric patients in order to answer the following questions: 1) What is the level of quality perceived by the clients? and 2) Is there an improvement in quality over a period of two years?

Method: In the forensic psychiatric clinic FPK Inforsa in Amsterdam, two studies were carried out in 2010 and in 2012. A satisfaction questionnaire with twenty-three items covering five dimensions (admission, housing, activities, professionals and seclusion). In 2010 the response rate was 69%, while the study of 2012 is still in progress.

Results: The results of 2010 show that 70% of the clients were satisfied with the admission procedures, 65% value the activities and work positively, 70% are positive about the professionals, 80% are satisfied with the housing. A diverse picture is seen concerning seclusion procedures. The results of the 2012 study are analyzed and will be presented in comparison to the findings of 2010 and the target formulated.

Conclusion: Patient satisfaction studies can be conducted in a forensic psychiatric clinic and provide important insight in the view of the client about admission, treatment and setting. Methodological aspects of the study should be improved.
A Better Working Alliance as a Result of Sustainability and Continuity in Forensic Psychiatry

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Background: The group of forensic patients with psychotic disorders in a relatively short-term treatment is characterized by a high recidivism rate. The severity of their criminal acts after treatment seems to be more serious. One reason for the deterioration is the frequent transitions within the forensic treatment chain which leads to a fragmented treatment. Fragmentation is already one of the characteristics of the prototypical psychiatric career of the forensic client. This fragmentation comes in handy for the distrusting patient, whose goal it is to avoid contact. In addition, at each transfer information is lost. Harte (2010) has shown that the reduction of recidivism of TBS-treatment is related to an improved risk management and to longer treatment durations. Therefore it can be assumed that risk management and extend treatment can be effective also for short-term treatment in a forensic clinic. In the short-term treatment in the Netherlands, there is an absence of a compelling legal framework, which exists in a longer-term TBS-treatment. Continuity of care could be achieved by coaching and building trust and confidence. Through these means, sustainability and reduction of recidivism can be achieved.

Goal: It is expected that sustainability and continuity after short-term treatment leads to a reduced recidivism.

Method: The FPK Inforsa designed a pilot project to evaluate the effects of working on the basis of this new paradigm of sustainability.

Results: The initial experience with this way of working will be presented.

Conclusion: By focusing in the short-term treatment on continuity and sustainability of care and on trust and confidence in the client, the high recidivism rates are reduced. This proposition is tested by a study and by a pilot project as a new way of working for clinical forensic practice.

105. Neuroscientific Implications for the Treatment of Psychopathy

Psychopaths Know Right From Wrong – They Just Do Not Care

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The behaviour of psychopaths is, without doubt, morally inappropriate, including murder, sexual molestation, fraud, and arson. Further, clinical analyses show that they present abnormal emotional profiles, as well as problems with inhibitory control, often leading to both reactive and instrumental aggression. What is unclear is the extent to which psychopaths suffer from damage to morally-specific knowledge that, in healthy individuals, guides intuitive judgments of right and wrong independently of their moral actions. On the one hand, studies indicate that psychopaths, both adults and juveniles, show a diminished capacity to distinguish between
conventional and moral transgressions. Psychopaths also show diminished inhibitory control, a deficit that may contribute to their impulsive behaviour, especially in the context of violence. This research has led to the view that because of their emotional deficits, psychopaths have corresponding deficits in moral knowledge, which, coupled with poor inhibitory control, leads to morally inappropriate behaviour. Two studies will be presented here. The first study examines whether psychopaths know right from wrong. In this study, psychopathic offenders were presented with moral dilemmas, contrasting their judgments with age- and sex-matched healthy subjects and non-psychopathic delinquents. The second study investigates whether psychopaths understand and feel pain, by asking offenders (psychopaths and non-psychopaths) to make decisions regarding the severity of pictures that depict moral or non-moral situations and make decisions regarding the perception of pain with pictures that depict pain and non-pain. Furthermore, in order to measure their own pain threshold, participants were asked to place their hand in a tub of cold water (a test often used in pain research). Results of these two studies will be presented at the conference.

**The Treatment of Psychopathic Offenders: The Effectiveness of Schema Therapy**

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Schema Therapy (ST; Young, et al., 2003) is rapidly becoming more popular as a treatment for personality disorders (PDs). ST is an integrative psychotherapy that combines cognitive, behavioural, psychodynamic, and experiential components. This therapy was originally developed for non-forensic patients with PDs or other longstanding problems, but has recently also been adapted for forensic patients (Bernstein, et al., 2007). Core elements of ST are early maladaptive schemas, schema modes, and (dysfunctional) coping styles. There is good evidence for the effectiveness of ST in (non-forensic) outpatients with borderline PD (Giesen-Bloo et al., 2006). To test this treatment in forensic PD patients, a randomized clinical trial (RCT) of ST is taking place at eight forensic institutions in The Netherlands. In this study, male offenders with cluster B PDs are randomized to receive three years of either ST or treatment as usual (TAU). They are assessed every six months on multiple outcome measures. In this presentation, preliminary RCT results will be presented. Our findings suggest that ST is outperforming TAU with respect to drop-outs, supervised leave approval, and possibly recidivism. These differences are greatest in psychopathic patients. These preliminary findings suggest that ST is more effective than usual forensic treatment in psychopathic offenders, and that these patients may be more amenable to change than believed possible.

**The Neurocognitive Correlates of Reactive Aggression: What Does the Brain Tell Us?**
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In the forensic field, reactive aggression is associated with violent behaviour and is an important aspect of risk assessment in daily clinical practice. Neuropsychiatric abnormalities in the frontal lobe in persons displaying reactive aggression and criminal behaviour suggest an association between frontal brain abnormalities and increased reactive aggression. However, brain imaging studies have focused on different forms of frontal lobe abnormalities in aggressive individuals, such as differences in mechanisms and volume. Up to now, no study has examined group differences between violent offenders and healthy controls triggering the actual emotion of interest: reactive aggression. Recent literature reviews of functional and structural neuroimaging studies imply that a combination of decreased medial prefrontal activity along with increased subcortical activity is related to reactive aggression. We think it is important to investigate the integrated neural networks using independent component analysis (ICA) between groups instead of conventional fMRI analysis identifying specific brain activity. The current study therefore examines the relationship between medial prefrontal functioning and subcortical inhibitory activation after inducing aggression in offenders with a history of violent behaviour and healthy controls using fMRI. Results of the study will be presented, along with possible clinical implications.

**Clinical Implications**

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During recent decades, evidence has accumulated showing that neurobiological factors have an impact on behaviour, including criminal behaviour. Recent results regarding such neurobiological factors should be more integrated with current treatment protocols. The individual differences and neurobiological factors should be taken into account to choose the most effective treatment and to decide which interventions might have contrary effects. New methods of diagnosis based on the executive factors should be used to fine-tune specific treatment program and to select the most effective interventions. In order to examine a person’s treatment readiness, motivation should not only be taken into account, but neurobiological factors might also be very important. Especially in this relatively new field of brain research and neurobiology, treatment and research should progress in close cooperation. Furthermore, findings might be used in experimental treatment conditions to help integrate and adapt research findings to clinical practice. The “what works” principles (Andrews et al. 1990) to determine the best treatment for criminal behaviour are based on social and psychological factors. Adding genetic and neurobiological factors, which will especially have an impact on the Responsivity Principle, would enrich this model.

**106. Psychiatric Assessments and Anti-Social Offending**
Unconscious Visual Attention in Pedophilia: An Eye-Tracking Study

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In forensic settings the assessment of pedophilic tendencies and sexual preferences for children is difficult to achieve. Psychophysiological methods are available, but almost always involve conscious processing of stimuli, which greatly reduces reliability as this might increase false positives in suspected offenders due to arousal and anxiety effects in response to the stimuli. A tool to unconsciously assess sexual preferences in pedophilia would therefore be highly useful in forensic psychiatry. Recent research showed that the act of gaze-aversion, or looking away from a stimulus, is reflexively affected by the motivational valence of visual stimuli while they are not consciously processed. Moreover, subjects with a sexual preference for adult males (heterosexual women and homosexual men) were slower to avert gaze from subliminally presented pictures of men (compared to women and children) in underwear. Here we use that same instrument and mechanism as an index of pedophilia and compare a sample of suspected pedophilic offenders with a group that is suspected of a non-sexual offence. The instrument and preliminary results will be presented.

Preliminary Findings on Egoistic and Altruistic Moral Decision-Making in Psychopathy

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Whether psychopaths show abnormalities on moral decision-making tasks is still unclear from the literature. It has been reported that psychopaths know right from wrong, but it is also reported
that psychopaths exhibit higher utilitarian bias than healthy control subjects. In this study, we use personal moral dilemmas in suspected violent offenders to measure willingness to sacrifice one person for the benefit of a larger collective, as a measure of utilitarianism. Since irresponsible and egoistic behaviour characterizes psychopathy, we also investigate willingness to take responsibility in moral dilemmas including egoistic and altruistic considerations. In the present study we therefore use egoistic and altruistic dilemmas (i.e. dilemmas where one’s own life and that of others can be saved and dilemmas where only others can be saved, respectively). We take psychopathy scores into account in order to investigate if and how psychopathy is related to moral decision-making. The aim is to include a non-psychopathic and psychopathic group of suspected offenders to look at between-group differences. Data is being collected at the Pieter Baan Centre (Netherlands Institute of Forensic Psychiatry and Psychology) and preliminary findings will be presented.

Forensic Psychiatry in the Era of Genetics and Neuroscience: Present Status and Outlook for Practical Applications in Criminal Assessments.

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Progress in genetics and neurobiological research has influenced our view of human nature and human behaviour. Established codes of practice with regard to criminal law and forensic psychiatry are being challenged by new scientific evidence in the field of genetics and neuroscience. This presentation gives an overview of genetics and neurobiological findings and possible new applications in the context of forensic psychiatric risk assessment. Experimental approaches are outlined and translated to forensic psychiatric practice. The effect and future of genetic and neuroscientific findings and methods in answering forensic psychiatric questions are discussed. Limitations as well as ethical and legal challenges are addressed.

Juvenile Delinquency And Psychopathic Traits: An Empirical Study With Portuguese Adolescents

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The objective of the present study was to analyze the role of psychopathic traits in juvenile delinquency. Using a sample of 543 young males from the Juvenile Detention Centers of the Portuguese Ministry of Justice and from schools in the Lisbon region, a group of high psychopathic traits (n=281; M=15.97 years; SD=1.5 years; range=13-20) and a group of low psychopathic traits (n=262; M=15.94 years; SD=1.5 years; range=12-20) were formed based on the Portuguese version of Antisocial Process Screening Device (APSD-SR). Results showed that youths with high psychopathic traits start engaging in criminal activities earlier in life, come into contact with the justice system earlier in life, have higher levels of conduct disorder, behaviour problems and delinquent behaviours, as well as lower levels of self-esteem.

107. New Perspectives in the Assessment and Treatment of Sex Offenders

Neurophysiological and Neuropsychological Correlates of the Pathway Model of Child Sexual Abuse

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Considering that not all consumers of Internet child pornography progress to grooming children by means of the Internet or even cross the line to physical child abuse, it would be most interesting to study these groups of offenders with regard to the comprehensive pathway model of child sexual abuse published in 2002 by Ward and Siegert. Are child abusers in contrast to Internet sex offenders just more deviant concerning pedosexuality, or do deficits in behaviour control distinguish the two groups? In a study funded by the Swiss National Grant we found specific patterns of differences between those two groups in partially very experimental basic research like subliminal visual erotic stimulation in EEG and more established methods like implicit association test, Go/Nogo-tasks, and fMRI. We will present the results of this study as well as preliminary results from an actual study funded by the Swiss Ministry of Justice and discuss the potential consequences for risk assessment and therapy.

Antilibidinal Effects of Androgen Deprivation Therapy
The sensitivity to a particular sexual stimulus bears a strong relation with an individual’s sexual preference and the connection between stimulus and preference. When there is a link, the availability of testosterone in the brain is necessary to evoke a reaction of emotional “liking.” When the availability of testosterone has declined relative to the starting value prior to treatment due to medication, the sensitivity to a sexual stimulus will be reduced. This effect will be stronger when the drop in testosterone availability is more considerable. A sexual thought can also act as a sexual stimulus. Because the medication reduces the sensitivity to sexual stimuli in the brain, the response to the stimuli will be reduced; the level of sexual excitement will be lower. Furthermore, there will be a lower level of, or a lack of, sexual craving and less or no tendency to become sexually active. Patients using ADT will thus be more in control of their behaviours when confronted with a stimulus that, before, could have led to sexual offending. By increasing the prosocial control of sexual behaviours and by committing oneself to a prosocial lifestyle, the patient will receive more respect. It is necessary that the patient agrees with the purpose of the treatment: preventing relapse into a sexual offence. This is important because, despite a strong reduction in testosterone, for some a certain degree of sensitivity to sexual stimuli will remain. Thus, adherence to the Relapse Prevention Plan remains necessary. Data on treatment results in patients on ADT will be discussed.

Treatment of Sex Offenders: From Performance Commitment to Outcome Measurement

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Introduction: Routine Outcome Monitoring (ROM) could prove to be a significant added value for the forensic field. This is especially true for the treatment of sexual offenders, a field in which clinicians bear a great amount of societal pressure to achieve results. Nevertheless, the application of ROM is still in its infancy in the forensic world.

Aim: Because of the potential benefits in patient care and the contributions to scientific research, the University Forensic Center (UFC) started the application of ROM from January 2012 onwards.

Method: In a first phase ROM’s practical feasibility is tested by conducting a pilot study. The results of this study will be used to guide the actual implementation of ROM in the clinical practice of the UFC.

Results: Findings of the pilot study (e.g. most suitable instruments for routine use) will be used as guidelines and best practices for the implementation of ROM in forensic mental health services. In addition, preliminary treatment results will be presented. The focus lies on how these
results can be used to maximize treatment outcome. Furthermore, it will be demonstrated how these data are an addition to the effectiveness research as carried out currently within the forensic sector.

Conclusions: If implemented adequately, the routine clinical use of outcome measures is an added value for the forensic mental health services. In addition to improving individual patient care, it can also contribute to the effectiveness research as carried out within the sexual offender literature.

**Therapeutic Evaluation and Processes in Group Therapy for Users of Illegal Pornography**

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We will introduce our group-therapy program for men who use illegal pornography and will explain the core modules of our program. Main topics of life-graph, hypotheses about the crime, role-play or working with the crime-circle will be explained. We will explain why we think this group of offenders needs to be treated. Our group program has a closed setting and is run for the duration of one year in a weekly setting using the philosophy of T. Ward’s Good Life Model. Illegal internet consumers often have unique deficits in certain areas such as social skills, self-confidence, or distorted sexual fantasies. Our group shows the special needs and means a group setting can offer this kind of offenders. The selecting process using the Group Selection Questionnaire (GSQ) will be explained and compared to the outcome and process data. We will look at the therapeutic processes focusing at the group climate and the therapeutic factors by presenting data from the Therapeutic Factor Inventory (TFI) and Group Climate Questionnaire (GCQ) following a period of one year. We will explain the pitfalls using the Multiphasic Sex Inventory (MSI) in this subgroup of sex offenders. After a summary of the findings we will compare this data with the clinical evaluation of the therapeutic progress.

**Bioethics of Hormonal Treatment of Sex Offenders**

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The treatment of sex offenders or patients with paraphilias has always been undertaken through a minefield of clinical and ethical dilemmas. The major ethical issues regarding hormonal treatment of sex offenders reflect the need for public safety balanced against the best interest of the concerned person and the public orientation toward punishment rather than treatment. In this presentation we will discuss the following ethical issues involved in this treatment modality:
• Paraphiliac sex offenders referred for hormonal treatment are often the object of some external coercion, be it from a court decision or under the pressure of their family, employers or other involved persons. How can we respect the accepted basic principle of “informed consent”?

• Who decides for hormonal treatment – a court or a professional?

• From an ethical point of view, what are all the conditions that must be met to subject the paraphiliac patient or sex offender to hormonal treatment?

Which further scientific evidence and research do we need to improve the management of the pharmacological treatment of sex offenders?

108. NFIB v. Sebelius: Legal and Philosophical Implications of the Affordable Care Act Decision

Commerce, Taxes, and Health Care: Naturalized Baselines, Metaphysical Philosophy, and the “Practical Statesmanship” of Supreme Court Justices

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Roberts in the Supreme Court’s recent opinion on the constitutionality of the Patient Protection and Affordable Health Care Act of 2010, National Federation of Independent Business v. Sebelius (2012), disagrees with the arguments Ginsburg offers in her part concurrence/part dissent. Roberts states that the Framers were “practical statesmen” and not “metaphysical philosophers” who would have accepted his analysis for its necessary limitations on federal overreaching. His argument, though, rests upon strong “naturalized” baseline assumptions about the purpose and limitations of constitutional government. He treats his own stance as metaphysically justified without argument and shifts the burden of proof to those that would see things differently—describing them as, pejoratively, metaphysical philosophers. This pattern is very similar to what happened in the Court’s most infamous “antiprecedent,” Lochner. In Lochner, what is now seen as a recalcitrant majority of the Court struck down economic legislation because of its purported overreaching by accepting as controlling a naturalized set of assumptions about the proper realm of governmental action. Ginsburg hints at the similarities between Roberts’ analysis and that offered in Lochner. The “practical statesmanship” of Justice Roberts is an example of uncritical legalistic ideology trumping the ability of elected officials to attend most effectively to the pressing realities of modern commerce in the realm of health care. NFIB v. Sebelius is doomed to become a new example of the type of “impractical statesmanship” the Supreme Court has exercised when it has itself overreached its area of competence.

The Affordable Care Act, the Legacy of Brown, and the American Social Contract
Brian Gilmore, *Michigan State University* (bgilmore@law.msu.edu)

This presentation will consider the constitutional rationale of *Sebilius* and also discuss the decision in the larger context of the struggle for a social contract in the United States. In addition, it will compare the decision to the *Brown v. Board of Education* decision of 1954. Just as the *Brown v. Board of Education* decision of 1954 dramatically impacted the nation with respect to human relationships in the area of race, it is possible that *Sebilius* can accomplish a similar goal but in the area of public health and equality. This presentation will also compare the cases and the similarities they present for the nation. *Brown*, at least what it represented overall, faced fierce resistance from its ideological opponents before and after the decision. The Affordable Care Act, the law upheld by *Sebilius*, will also face significant opposition for years to come despite the fact that it was upheld by a conservative justice. Are there lessons from *Brown* that supporters of *Sebilius* should heed? Also, what differences in the nature of these two issues will likely make the *Sebilius*’ aftermath different from *Brown*?

“Federal Coercion, Political Accountability, and Voter Ignorance”

Alexander Guerrero, *University of Pennsylvania* (aguerr@mail.med.upenn.edu)

Although the individual mandate was upheld, the Supreme Court’s decision to strike down a significant element of the “Medicaid expansion” may prove to be the most significant aspect of *NFIB v. Sebelius*. The effect on access to health care may be significant: roughly half of those expected to gain coverage under the Affordable Care Act were going to gain it through the expansion of Medicaid; it is unclear how many States will choose to opt into that expansion in the absence of §1396c. Perhaps even more significantly, the argument offered by the Court to strike down that provision might be used to attack dozens of federal programs—concerning transportation, social services, environmental protection, and others—that have a similar structure. This presentation will demonstrate that the argument rests on a theoretical mistake concerning the relationship between coercion, compulsion, and political accountability and that, further, this mistake is not one legally forced upon the Court.

Conflicting Philosophies Underlying the United States Constitution and the Patient Protection and Affordable Care Act

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In March 2010, President Obama signed into law the Patient Protection and Affordable Care Act (ACA). This sweeping, controversial, and transformative legislation precipitated multiple legal challenges. A majority of the states filed joint or individual lawsuits to overturn the ACA on constitutional grounds, arguing its “individual mandate,” requiring every citizen to purchase
health insurance, exceeds the powers of Congress under the Commerce Clause. In June 2012, the Supreme Court of the United States upheld the ACA in the Sebelius case, holding that while the individual mandate indeed violates the Commerce Clause, it is constitutional as a federal tax. Offered from the perspective of a medical practitioner and informed by writings from Enlightenment philosophers, whose observations about liberty and consent presaged the Declaration of Independence and the Constitution, this presentation will address the equivocal scope of the Commerce Clause, remaining questions about the individual mandate, and questions about whether implementation of the ACA will violate patients’ liberties guaranteed by the Constitution.

109. Offenders, Offender Behaviour, and Collateral Consequences

A Unique Approach to Incentivizing the Implementation of Evidence-Based Practices in the Community

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There is now clear and convincing evidence for “what works” in reducing recidivism (Andrews and Bonta, 2006). In the past three decades, the principles of effective correctional intervention have taken over as the leading paradigm for offender rehabilitation. However, in the most recent two decades, many states have found that both the state and local governments are facing resource and service delivery challenges that impact adherence to these principles. To combat these challenges at both the state and local level, one Midwestern state established a program to improve the conditions of confinement for youth in custody while also increasing and improving the quality of services in the local communities. As part of the program, counties in the state are incentivized for serving youth locally rather than sending them to a state institution. In a targeted effort, the six largest counties in the state partnered with local universities to ensure proper training, coaching, and implementation of evidence based programs. The purpose of this presentation is to report on the six counties’ level of success with their implementation of community level evidence based programs.

Genetic Markers and Behavioural Risk Measures as Predictors of Trajectories of Adolescent Antisocial Behaviour: Relative Utility and Potential for Integration

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Shaun Gann, University of Cincinnati (shaun.gann@ucmail.uc.edu)
The increased use of biosocial explanations in criminology has extended the understanding of the etiology of the development of adolescent antisocial behaviour. At the same time, their practical utility for preventive and remedial intervention has not been examined to the same degree. Using a large, nationally representative sample of American youth and a series of latent growth curve models, this study examines the utility of genetic indicators and more traditional risk measures (including individual mental and behaviour health) in predicting the onset and later developmental patterns of adolescent delinquency and substance use. The study considers the two approaches comparatively and also examines the likelihood that the knowledge they provide might be integrated in ways that inform prevention and treatment of problem behaviours in adolescence.

“Ménage à Trois:” The Braiding of Cognitive Behavioural Interventions, Implementation Science, and Adult Learning Systematically Applied in a Correctional System – An Analysis on a Multifaceted Approach of Bridging Science to Service

Eva Kishimoto, University of Cincinnati (kishimotoeva808@gmail.com)

This presentation will explore the strengths as well as the system challenges in undertaking a system wide transformation to evidence based practices. Analysis will be done in the multiple domains involved in bringing about the end result: delivery of high fidelity interventions. Furthermore, barriers to addressing these areas of challenge will be discussed. These qualitative findings will contribute to the literature on knowledge transfer.

110. Offenders and Inmates

The Concept of Protective Factors Applied to Dangerous Offenders

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The concept of protective factors helps to refine the assessment of risk. After years of practicing structured professional judgment (SPJ) in the evaluation of risk, as clinicians in the forensic field we have realized that we only aimed at risk factors. The factors that mitigate risk are called protective factors. The study of these factors has developed over the last few years. Taking positive factors into account not only gives an improved and more comprehensive assessment of risk, it also helps to find more specific goals for treatment. In the past few years, instruments have been created to help assess these protective factors. Among them, the SPROF (Structured Assessment of PROtective Factors) is a promising tool. It has already been translated into many languages and is used in many countries. It includes seventeen factors, divided into three categories: internal, motivational and external. After a brief presentation on this instrument, we will discuss protective factors in relation to dangerous offenders (recidivists with high risk of
violent and sexual re-offending). We will determine if the concept of protective factors is useful with those high risk offenders. The presentation will discuss the results of a pilot study using the SAPROF as part of the assessment of dangerous offenders. Interestingly, this study indicates the presence of protective factors and the utility of the SAPROF with dangerous offenders. This instrument made it possible to divide the sample into two clusters. New data concerning subtypes of dangerous offenders will also be discussed, as well as implications for assessment, treatment and further legal recommendations.

**Older Mentally Ill Offenders: Profile and Treatment Trajectories**

Stefaan De Smet, *University College Ghent* (stefaan.desmet@hogent.be)

In parallel with the aging of the general population in Western Europe and the United States, policy makers, practitioners and academics gradually seem to be recognizing that aging in offender populations is an important treatment challenge. Because of specific age-related issues, these clients seem to have special needs with regard to adapted forensic treatment. Like most Western countries, Belgium accepts the legal principle of providing psychiatric treatment to offenders judged as irresponsible for their offences due to a mental illness. Research on the situation of older mentally ill offenders (60 +) is still scarce, although this seems to be a growing population. The objectives of this presentation are two-fold. First, the results of a retrospective case study that was set up to investigate the characteristics of older mentally ill offenders in Flanders (the Dutch-speaking region of Belgium) will be presented and discussed. Besides socio-demographic results, the emphasis will be placed on distinguishing profiles with regard to their life course trajectories in mental health care and justice settings. Second, the presentation will focus on the perceptions of older mentally ill offenders with regard to the treatment and support they have received. Implications for practice and research will be discussed.

**Solitary Confinement and Mentally Ill Inmates within State Prisons in the United States: Legal and Clinical Responses**

Jeffrey Metzner, *University of Colorado* (jeffrey.metzner@ucdenver.edu)

At year end in 2009, American state and federal correctional authorities had jurisdiction over 1,613,656 prisoners, an increase of 0.2% (3,897 prisoners) from year end in 2008. This was the smallest annual increase in the current decade and continued the trend of slower growth observed in the prison population since 2006. Studies have consistently indicated that 8 to 19% of prison inmates have psychiatric disorders that result in significant functional disabilities. United States prison officials have increasingly embraced a variant of solitary confinement to punish and control difficult or dangerous prisoners. Whether in the so-called supermax prisons that have proliferated over the past two decades or in segregation (i.e., locked-down housing) units within regular prisons, tens of thousands of prisoners spend years locked up 23 to 24 hours a day in
small cells that frequently have solid steel doors. Mentally ill inmates are frequently overrepresented in such locked down units. The adverse effects of solitary confinement are especially significant for persons with serious mental illness. Suicides occur disproportionately more often in segregation units than elsewhere in prison. This presentation will summarize both legal and clinical responses to the use of locked down units for housing inmates with a serious mental illness on a prolonged basis.

Changes in Mental Health Problems during Imprisonment

Anja Dirkzwager, Netherlands Institute for the Study of Crime and Law Enforcement, Amsterdam, The Netherlands (adirkzwager@nsr.nl)

Mental health problems are common in prison populations. However, little knowledge exists regarding changes in symptoms in custody over time. The aims of the current presentation are: 1) to examine the longitudinal course of mental health problems during the first three months in custody; and 2) to explore factors associated with changes in prisoners’ mental health problems. Data are used from the Dutch Prison Project, a longitudinal study on the effects of imprisonment on the further lives of prisoners. 848 male prisoners provided information on their mental health three weeks and three months after their arrival in prison. The Brief Symptom Inventory was used to assess mental health problems. Compared to the general population, prisoners reported more mental health problems shortly after their arrival in prison. Most mental health problems seem to decline over time. However, after three months, prisoners still reported the same level of depressive symptoms.

111. Outcomes and Treatments for Sexual Offenders

Tracks To Change: The Multi-Track Model in Therapy For Sexual Offenders

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In the FIDES (Forensic Institute DEviant Sexuality) treatment centre it was decided twelve years ago to offer treatment by way of a multi-track model which starts from a global view of a person. In this model, and as such also in our treatment programme, we have the cognitive track, the emotional track and the social contextual track. Firstly, the cognitive track is the cognitive programme for relapse prevention (the risk-need model) which is well known in the forensic field. Secondly, by offering experiential and interactional group psychotherapy, drama-therapy and expressive therapy we acknowledge the importance of emotions in our therapy. For instance,
in the experiential group psychotherapy we use Emotional Focusing Therapy (EFT) which is an excellent model to add a positive approach to the treatment of sex offenders in order to improve their (emotional) functioning, their well-being and their relationships. The person-centered, process-guiding stance and the therapist exploratory response style makes clients more aware of their emotions and allows them to accept and express their feelings which in turn leads to a more flexible management of their emotions. Thirdly, the social contextual track runs through the whole therapy and promotes resocialization from the beginning.

An Evaluation of the Implementation and Impact of the Central District of California’s Suicide Prevention Program for Federal Sex Crime Defendants

Donald Rebovich, Utica College (drebovi@utica.edu)

The study examines individuals charged with federal sex crimes that have been placed on pretrial supervision and appear to be at significantly higher risk of suicide than members of the general population. While there are no national incidence studies that can be cited to support this view, several suicides of sex crime defendants awaiting trial or sentencing did occur in this part of California prior to the development of the program studied. To address the problem of suicide among sex crime defendants, a new approach to their pretrial supervision was developed in the Central district of California, based on a unique partnership of key criminal justice actors (pretrial, public defenders, prosecutors) and a private sector treatment provider, Sharper Future. This presentation is a report of the results of an evaluative review of the implementation and impact of this program, based on data provided by the vendor, Sharper Future, on-site observational research, interviews with key staff, and a review of court processing data provided by the federal pretrial office. In the final section of the presentation, we offer an agenda for both research and program development in this emerging area of federal pretrial correctional practice, and consider the implications of changes in the profile of sex crime defendants for the federal pretrial system, particularly in the area of risk assessment and evidence-based practice.

Sex Offender Commitment Laws in the United States and their Inevitable Failure

John Q. La Fond, University of Missouri at Kansas City (lafondj@comcast.net)

This presentation analyzes the inevitable failure of sex offender commitment laws in the United States enacted since 1990 to prevent sexual recidivism. These laws allow the indefinite civil commitment of sex offenders to secure mental health facilities after they have served their prison terms. Prosecutors must prove the targeted offender suffers from a mental abnormality or personality disorder that makes him or her likely to commit another sex crime. However, these laws do not provide medically meaningful definitions of mental illness or resulting behavioural
impairments. Consequently, mental health professionals cannot apply the statutory criteria objectively and consistently to the large number of sex offenders who qualify for civil commitment. More sex offenders are being committed and fewer released than anticipated. In addition, courts have ruled that sex offenders have a constitutional and statutory right to treatment, including placement in humane, therapeutic facilities staffed by qualified professionals and the opportunity for less restrictive community placement. Thus, states must maintain secure and therapeutic facilities. As a result, costs to implement these laws have soared at the same time as economic resources available to the states have declined precipitously. Another strategy, risk-management, would cost much less, allow supervision of many more sex offenders, match the degree of social control to the level of danger posed by each offender, and prevent more sex crimes, thereby maximizing public safety.

The Applicability of Neurofeedback in Forensic Psychotherapy

Ron van Outsem, Bouman Geestelijke Gezondheidszorg, Rotterdam, The Netherlands (ronvanoutsem@casema.nl)

In this presentation, possibilities for the incorporation of neurofeedback into the repertoire of forensic psychotherapy are explored. After a brief description of the method, an overview of the empirical evidence of its efficacy in specific areas of treatment is presented. This evidence is then translated into possible applications of neurofeedback in various areas of offender treatment including domestic violence, various other forms of violent and anti-social behaviour, certain forms of sexually abusive behaviour, and criminal behaviour of an obsessive compulsive nature. It is stressed in this presentation that neurofeedback is still a relatively new subject of empirical research in most areas of treatment. To date, robust evidence of its efficacy exists only for the treatment of Attention-Deficit/Hyperactivity Disorder (ADHD) and Substance Use Disorder (SUD).

112. Personality and Aggression

Aggression by Different Phenotypical Assessments and Character Immaturity in Eighteen Year Old Twins

Caroline Mårland, University of Gothenburg (caroline_marland@hotmail.com)

Background: The etiology of antisocial behaviour problems is multi-factorial and age dependent. In epidemiological studies it is difficult to establish a “cutoff” to identify individuals with manifest aggressive behaviours, since individuals with behavioural problems tend to be under-represented in scientific studies requiring voluntary and/or complex questionnaires.

Aim: This study aims to give a quantitative description of antisocial aggressive behaviours, using two validated instruments in a nationwide population of 18-year olds twins, and to provide
heritability estimates for antisocial aggressive behaviours. Also, we aim to validate a cutoff score identifying antisocial aggressive behaviours, using official registries covering convictions for (violent) criminality.

Methods: This study will use data on 18-year old twins included in the Child and Adolescent Twin Study in Sweden (CATSS). All participants have completed the Life-History of Aggression (LHA) questionnaire and the Self-Reported Delinquency Inventory (SD). The items from LHA and SD will be divided into covert and overt aggression scores and convergent validity will be calculated.

Expected results: Intraclass correlations and, when possible, univariate heritability models will be calculated for each scale to explore the genetic and environmental influence. A linkage process between the CATSS and official registries containing information on convictions for criminality is in progress. When register information is linked to the CATSS data file, “Receiver Operating Characteristics” analyses will be used to identify the optimal inflection point for cutoff scores in both LHA and SD to identify severe antisocial aggressive behaviours.

ADHD Symptoms and Biomarkers: Alleviation by Exercise

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The heterogeneous, chronic, and seemingly proliferating nature of ADHD and related comorbid conditions covers heritability, cognitive-emotional, and motor and everyday behaviour domains with a highly complex etiopathogenesis, a problematic pharmacogenetic reality with regard to personalized medication and an uncertain interventional outcome. Some manner of disruption of “typical developmental trajectory” in the manifestation of gene-environment interactive predisposition has provided a situation in which children, adolescents, and young adults express deficits in the achievement of academic performance, occupational enterprises, and interpersonal relationships, despite major therapeutic intervention. The major symptoms of hyperactivity, problems with concentration/selective attention, and lack of impulse control may present themselves in maladaptive, inappropriate, or even criminal behaviours. Physical exercise provides a wide range of beneficial effects against stress, anxiety and anxiety sensitivity, depressive symptoms, negative affect and behaviour, poor impulse control, and compulsive behaviours concomitant with improved executive functioning, working memory, and positive affect, in conjunction with improved conditions for relative and care givers. Several biomarkers, prominently Brain Derived Neurotrophic Factor (BDNF) and dopamine, are increased markedly by regular physical exercise involving a degree of physical effort. Functional, regional biomarker deficits and HPA axis dysregulation have been alleviated by regular and carefully planned and applied physical exercise programs.

Defined Time Perspectives Together with Physical Activity Promote Positive Affect and Prevent Negative Affect
Background: The Zimbardo Time Perspective Inventory (ZTPI) consists of five subscales: Past Negative (PN; a pessimistic attitude toward the past), Past Positive (PP; a positive view of one’s past), Present Hedonistic (PH; the desire for spontaneous pleasure with slight regard for risk or concern for future consequences), Present Fatalistic (PF; a lack of hope for the future and belief that uncontrollable forces determine one’s fate), and Future (F; reward dependence that occurs as a result of achieving specific long-term goals). Research suggests that particular temporal frames have implications for various aspects of emotional well-being. Physical activity has also been found to promote emotional health.

Aims: To investigate the association between the different temporal perspective subscales and the frequency and intensity of physical activity as well as relation to positive and negative affect.

Method: Participants were young adults (n=406, mean age=25.41±8.00) with a close to equal gender distribution, who responded to self-scating inventories, ZTIP, and the Positive Affect and Negative Affect Schedule, and reported frequency and intensity of their physical activity.

Results: All the temporal perspective subscales, except PN, predicted positive affect. PP predicted high frequency as well, while PH predicted high intensity of physical activity. An increased frequency of positive affect was related to frequent physical exercise.

Conclusions: A balanced temporal perspective, in the combination with frequent physical activity, prevents negative emotions (such as irritability, hostility, upset) and promote positive emotions (such as enthusiastic, energetic, alert, attentive).

Screening for Neurodevelopmental Problems: The Effect of ADHD on Psychosocial Outcome at Age Fifteen

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Objective: The hypothesis of this study is that neurodevelopmental problems (NDPs) play an important role in the development of mental health problems and psychosocial maladaptation during adolescence and young adulthood. Our aim is to study long-term negative outcomes of early signs of NDPs, with a specific focus on ADHD.

Methods: Data collection was done through a telephone interview with parents to twins age 9-12 and clinical assessment at age 15. Psychosocial development was defined as one/several of: 1) peer problems; 2) school problems; 3) mental health problems; 4) antisocial behaviour; 5) substance misuse; and 6) impaired daily functioning. Prevalences were estimated. Logistic regression analysis with STATA was performed with ADHD as predictor and the negative outcomes above as outcomes. Cluster analysis concerning twin-pairs was done.

Results: Screening positive for ADHD symptoms at age 9-12 doubled or tripled the odds of having a negative psychosocial outcome at 15. Individuals screen-positive for ADHD had their most negative outcome rates in antisocial behaviour (69.5%), mental health problems (64.2%),
and peer problem (49.5%). When controlling for parental education level, the effect of ADHD itself was reduced.

**Conclusions:** Children who screened positive for NDPs at age 9/12 were at increased risk of a negative psychosocial outcome at 15. Individuals who screened positive for ADHD had their greatest problems concerning antisocial behaviour, mental health problems, and peer problems. Parental education level also substantially influenced the association between ADHD and school problems and substance misuse. Results point to the need to look at NDPs as a group where there is a cluster of outcomes that are somewhat shared between the different diagnostic groups, rather than focus so much on the specific diagnoses. We need to address the group as a whole and be aware of several negative psychosocial outcomes to be able to create preventive strategies.

113. Perspectives on Assessing Risk for Sex Offender Recidivism: The Debate Continues

**Will They Do It Again? Assessing Sexual Offender Recidivism Risk**

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Sexual offender assessments typically occur in response to a court’s concern about the safety of the community when someone convicted of a sexual offense is about to be released from incarceration. Given the proliferation of sexual offender civil commitment laws, it is imperative that courts understand the statistical principles involved in making judgments about future sexual offender recidivism. Sexual offender risk assessments need to be conducted with up-to-date techniques, based on solid statistical underpinnings, and have relevance to the questions posed by a given court. This presentation will provide both an overview of the fundamental principles of sexual offender risk prediction, and a tie-in to the integration of statistical principles to other forms of sexual offender assessment which bear upon an analysis of the offender’s present volitional control. Program objectives include: 1) participants will understand both the recent history of sexual offender assessment, and the diverse legal/political/cultural emphases that affect sexual offender litigation; 2) participants will gain knowledge about effective sexual offender assessment, focusing on statistical principles; and 3) participants will become knowledgeable about recidivism rates, and how differing interpretations of the rates affect assessment conclusions (as well as prosecutorial opinion).

**Getting the Balance Right: Structuring Structured Professional Judgment in Sexual Reoffense Risk and Assessment**

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Structured professional judgment (SPJ) relies on assessing risk factors and symptom variables that have been found repeatedly in the empirical literature to be associated with sexual reoffense
risk. SPJ allows the examiner to integrate and synthesize multitudes of variables in a structured manner. The SVR-20 and the RSVP are two well-known structured checklists tools. Despite the strengths of SPJ (e.g., empirical basis of risk factors, flexibility, smooth transition from risk assessment to risk management), there are limitations to SPJ. These include the absence of empirically derived norms, presumption that more risk factors present automatically means greater risk, and the assumption that the risk factor list is exhaustive. But what is more challenging to the evaluator is that SPJ leaves the weighting of each risk factor to the individual examiner. Professionals are left with little guidance on how to compensate for these deficiencies. This presentation will provide a SPJ assessment rubric focusing on how to think of risk factors along the continuums of frequency, intensity, duration, likelihood, imminence and salience. Protective risk factors will also be considered with suggestions on how to integrate such variables into an evaluation. Such a SPJ assessment rubric will allow the evaluator to make an integrated, systematic, professional opinion about an examinee’s relative sexual recidivism risk that ultimately informs the management of that offender.


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The Supreme Court of the United States held in Kansas v. Crane, that a person’s mental abnormality or personality disorder must cause the individual to have “serious difficulty in controlling his sexual behaviour,” rather than “total or complete lack of control.” While most state civil commitment statutes do not mandate this volitional impairment language relevant to loss of control, they instead incorporate the requirement of findings of “likely” or “likelihood” to reoffend. Yet in some of these state Sexually Violent Predator (SVP) hearings, the forensic mental health expert witnesses testify as to the offender’s ability to control his sex offending behaviours. Occasionally, some of these experts are neuropsychologists and neurologists who testify about a sex offender’s neurological and cognitive impairment resulting in sexually deviant behaviour, volitional impairment, and likelihood of reoffending. This presentation’s focus is to assess deviant sexual offending behaviours and volitional impairment through a neuropsychological and neurological lens. The author will provide an analysis of the literature as to the structural and functional neurocognitive processes of sex offending pertaining to neuropathology, neuropsychology, and neuroimaging data. The author will attempt to apply these findings to the legal requirements outlined in Crane necessitating commitment of sex offenders who experience some volitional impairment in their behaviours that lead them to be likely to sexually reoffend. The author will review state case law addressing neuroscience in SVP proceedings.
Polygraph and Sex Offender Assessment: The Polygraph is Not a Risk Assessment Tool, So How Can It Help?

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Polygraph examination is a catch-all term used to describe the use of the polygraph instrument in a variety of applications associated with the risk assessment and treatment of sex offenders. This presentation will focus on the use and misuse of the polygraph during the assessment of convicted and/or civilly committed sex offenders. This presentation will include a history of the use of polygraphs in conviction sex offender proceedings, descriptions of the types of examinations that can be administered and how each might play a role in risk assessments for civil commitment proceedings, suggestions on how mental health professionals can effectively incorporate polygraph examination results into evaluations and recommendations, and a discussion of the limitations of the polygraph examination and how it might be misused in commitment courts.

Evaluating Sex Offender Recidivism: An Attorney’s Perspective

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Over the past two decades, the number of jurisdictions which impose post-incarceration restrictions on convicted sex offenders has burgeoned across the United States and in other countries. Registration is the norm. It is often accompanied by restrictions on where the offender can live, work or spend his time. In the more extreme cases, twenty states and the federal government have statutes which permit civil detention as sexual predators. This detention may be in essence a life sentence. With these statutes there have been growing areas of practice in both mental health and law. The number of clinicians – both psychiatrists and psychologists – who specialize in sex offender evaluations has increased dramatically during this time. These mental health professionals evaluate, testify and write for publication relating to the best or most accurate way of assessing which convicted sex offenders are likely to reoffend. At the same time, law schools now offer courses to train young lawyers in representing sex offenders facing registration or civil commitment proceedings. As advocates, rather than neutral evaluators, lawyers have a significantly different perspective regarding the efficacy of sex offender assessments. This presentation evaluates the strengths and weaknesses of the various methods of sex offender risk assessment from the perspective of a lawyer representing clients before both judges and juries in sex offender civil commitment proceedings.

114. Pinel: A Film About Suffering

Pinel : A Film About Suffering
Through the eyes and words of both hospital staff and most especially patients, the film *Pinel* takes viewers inside the walls of Montreal’s Philippe-Pinel Institute, a maximum security forensic hospital. Far from a voyeuristic exercise, the film by Hélène Magny and Pierre Mignault is first and foremost a human film… a film about suffering. *Pinel* is the story of three mental patients who one day, under psychosis, committed a violent crime. They are hospitalized at Pinel, a maximum security institution specialized in violent behaviour linked to mental illness. They testify openly and candidly about what they did, their life now and their hopes for the future. Their fight against mental illness follows a long and painful path which they hope will lead them to freedom and a normal life in society. Over one year, filmmakers had exclusive and unlimited access to the Philippe-Pinel Institute.

**115. Post Traumatic Stress Disorder (PTSD)**

*Psychiatric/Psychological Injury: Assessment, Malingering, Ethics, Therapy, Causality, and Law*

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Reflecting issues addressed in Psychological Injury, Malingering, Ethics and Law (Young; 2013), with a particular focus on PTSD, this presentation discusses the major psychiatric/psychological injuries and why they are controversial (PTSD, MTBI, chronic pain). In dealing with them, assessors need to gather a comprehensive data set, including from interviews, collateral information, prior documentation/records, and where possible, from testing. There may be presentation/performance invalidities related to testing, to inconsistencies/discrepancies in the file, or both. In these cases, to what degree can the information be combined toward conclusions and at what level does it reach the level of incontrovertible evidence for malingering? If not certain of malingering, what are the options for reporting feigning/noncredible presentation/performance? The recommended approach for this type of practice is to be scientific, ethical, and impartial, whether plaintiff or defense, whether as a clinician or forensic evaluator. One’s own biases should be checked. Ethics should be positive/proactive. Clinicians should be monitoring patient compliance, as patients have an obligation to mitigate loss, and forensic assessors should be seeking the same in records. In terms of therapy, the choice approach is transdiagnostic and not school-based, while addressing the patient components involved. Causality in such cases is multifactorial or biopsychosocial, and determining whether event – and post-event factors constitute a sufficient material cause among the multiple factors involved, including pre-event ones, which might be serious and perhaps fully explanatory of current presentation/performance. Preparation for court begins with being state-of-the-art in assessment and knowledge of the literature.
The Impact of PTSD on Performance and Decision-Making in Emergency Service Workers: Implications for Forensic Assessment

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Research has identified alarming levels of traumatic stress symptoms in individuals working in emergency services. Yet the impact of these symptoms on performance and hence public safety remains uncertain. This presentation discusses a program of research that has examined the effects of prior critical incident exposure and current post-traumatic symptoms on the performance and decision-making during an acutely stressful event among police officers, emergency communicators, paramedics and child welfare workers. Four studies using simulation methods involving video simulators, human-patient simulators, and/or standardized patients examined the performance of emergency workers in typical workplace situations related to their individual profession. Exposure to critical incidents in the workplace and current level of traumatic stress symptoms were assessed prior to participation in the scenarios. Subjective psychological stress and physiological stress responses were measured before, during and after participation in the scenarios. Results regarding performance and decision-making varied by situation. PTSD symptom levels did not affect performance in emergency situations requiring frequently practiced skills, while complex clinical judgment was correlated with PTSD. Thus, the relationship between PTSD, performance and decision-making in emergency service professions is complex and varies by the nature of the emergency situation. Implications for forensic assessment will be discussed.

Sexual Harassment and PTSD: A Model of Harm and Recovery

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Workplace sexual harassment continues to be a widespread problem. Although evidence confirms its impact on mental health, little is known concerning pathways that lead to injury and virtually nothing about those facilitating recovery. This presentation outlines a set of theoretical models framing these issues, as well as data tracking the progress of several hundred class-action plaintiffs who developed Post-Traumatic Stress Disorder in response to workplace harassment. Based on these models, we undertook a five-year longitudinal study of over 1200 American professional women, each a member of a class-action lawsuit against their employer. Psychological Harm: Initial examination revealed that 33% of these women met DSM-IV-TR symptom criteria for Post-Traumatic Stress Disorder at Time 1. Multiple hierarchical linear
regressions were conducted in a randomly chosen half Sample A and results cross-validated in Sample B. Cross-validated results confirmed that frequency and severity of harassment, as well as the power of the perpetrator, were the most potent predictors of harm, whereas the plaintiff’s individual vulnerability contributed an additional 4.6% of variance, and attributions of self-blame accounted for 1.7%. Recovery: With respect to recovery, we predicted that harassment would affect symptoms at Time 2 through its effect on the original symptoms, its damage to schema of trust, safety and intimacy, and attributions of blame. We also predicted that social support would predict recovery. Finally, we included previous victimization as a control for other widespread traumatic events. This cross-validated model provided an acceptable fit to the data, and was largely consistent with theoretical predictions.

Let them Satisfy Their Lust on Thee: The Stage as a Reflection of Historical Views on Rape

Kaitlyn Regehr, King’s College London (kaitlyn.regehr@kcl.ac.uk)

Titus Andronicus, in which the young Lavinia is raped and then brutally mutilated, is arguably Shakespeare’s most explicit and complex play involving rape. A range of theatrical, feminist, and performance literature examines the character of Lavinia and the representation of her assault. Yet, the representation of rape, like rape itself, is socially and historically constructed. Using Titus Andronicus as a forum for analysis, this presentation will argue that the extent to which advances in modern science and medicine have been accepted into the societal lexicon is reflected in art. This presentation reviews societal, legal and medical views of rape from Shakespeare’s late 16th century London to the present. By applying a temporal lens to productions of Titus Andronicus, performance can be seen to illustrate stages in the understanding of rape victims and their subsequent trauma. By this means, the theatre offers insight in both of how rape is presented to and perceived by the public consciousness. Thus, Titus Andronicus, a 400 year old play, continues to reflect modern lived reality by depicting a contemporary awareness of rape and trauma, shaped by social mores, legal structures, and scientific knowledge.

116. Post Traumatic Stress Disorder (PTSD) and the Law: Civil and Criminal Aspects from a North American Perspective

Diagnostic Considerations

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PTSD was first accepted as a diagnosis in the DSM-III (1980), though this condition had been described by different names earlier. This is the only diagnosis that is etiologically linked to trauma. The definition of a traumatic event has been broadened from catastrophic trauma with
each successive revision of the DSM. DSM-IV TR (2000), which is in current use, specifies that the subject’s response must include intense fear, helplessness or horror. PTSD is often used in civil as well as criminal arenas from workplace harassment to cases involving rape and murder. Forensic assessments have some innate problems. The diagnosis is mainly based on symptoms that can be easily malingered. Symptoms such as flashbacks and blackouts often invoked as a legal defense do not lend themselves easily to assessment of the mental status at the time of the crime. The contributory effect of associated substance or alcohol use may be hard to tease out. Additionally, the effects of trauma and PTSD symptoms may be on a continuum. The legal system however only recognizes the presence or absence of criteria, not symptoms on a continuum. Civil as well as criminal case examples will be presented involving PTSD from the United States and Canada. Audience participation will be encouraged to stimulate discussion of appropriate steps in forensic evaluations.

United States Military Members

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The wars in Iraq and Afghanistan have renewed emphasis on PTSD as a basis for a criminal defense. In a recent case a Veteran being treated for service-connected PTSD argued that his killing of an unarmed man occurred while he was having a flashback. A Grant County, Oregon jury found him guilty but insane due to PTSD. In addition to the use of PTSD as the basis of an insanity defense, recent cases have seen the stress associated with combat exposure considered as a mitigating factor in sentencing: Porter v. McCollum, 130 S. Ct. 447 (2009), United States v. John Brownfield, No. 08-cr-00452-JLK (D. Colo. 2009). Since 2008 the Veterans Treatment Courts (VTC), a new treatment court model, has addressed Veteran defendants’ mental health and substance use issues (http://www.nadcp.org/JusticeForVets). The perceived prevalence of PTSD among justice-involved Veterans is often cited as the impetus for these courts’ formation (Russell, 2009; Clark et al., 2010). State legislatures have been active in proposing legislation that directs their court systems to address mental illness of Veterans in their courts’ shifting from the traditional focus on victims’ interests (retributive justice), toward defendants’ interests (therapeutic justice).

United States Correctional Settings

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Despite the steady frequency of media reports of law enforcement response to people with PTSD in crisis, the frequency of PTSD occurrence and the extent of training content for PTSD identification and management have not yet been identified. Epidemiological surveys by the United States Department of Justice Bureau of Justice Statistics, while estimating that 64% of jail inmates have a mental health problem (James & Glaze, 2006), have not reported specifically on the prevalence of PTSD. The National Co-Morbidity Survey of community populations
estimate a six month prevalence of PTSD among jail inmates of 4-8%. Lengths of incarceration are generally short, usually less than one year, and PTSD intervention in jails have not received attention in the clinical literature. The National Commission on Correctional Health Care reported an estimated lifetime prevalence of PTSD in prison inmates of 5-12% in state and federal prisons. Inmates serve longer sentences which allow opportunities for comprehensive mental health evaluation and treatment (Patterson & Greifinger, 2007). We will discuss the importance of assessing and treating PTSD and substance abuse co-morbidities. Much remains unknown about PTSD in forensic settings and research needs to be conducted to answer specific prevalence and outcome questions relevant to PTSD in correctional settings.

**PTSD: The Canadian Perspective**

Julian Gojer, *University of Toronto* (juliangojer@hotmail.com)

PTSD is well recognized in Canadian law. The case of *R v Borsch [2007] MJ No 343*, is examined from a criminal perspective in the role that PTSD had in war veterans. *R v Lavallee [1990] 1 SCR 852*, the “Battered Woman Syndrome,” and exculpation of criminal responsibility are re-examined and the understanding of the trauma of living with an abusive partner is compared with other similar situations (e.g. prisons, bullying etc.). In the civil realm, a growing number of cases have awarded trauma victims with settlements, as in *Gauthier v Brome Lake (Town) [1998]SCJ No 55*. On a national level, the overseas torture of Canadian Maher Arar, at the hands of national security officials, placed trauma at the forefront of the intersection of law and medicine. It is not surprising that Canadian Senator Romeo Dallaire, the humanitarian and former head of the United Nations peacekeeping mission in Rwanda, has become an advocate for individuals suffering from PTSD. The presenter will discuss PTSD and how it has impacted the Canadian medical and legal landscape.

**117. Pre-Trial Forensic Mental Health Evaluations in the Netherlands**

*Violence Risk Assessment in Forensic Mental Health Evaluations of Youth: Clinical and Predictive Aspects*

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Violence risk assessment instruments have been developed and tested in treatment settings, but not in pre-trial report settings. Risk assessment in the pre-trial report setting differs from assessment in the treatment setting: it is focused on recent index offences and possible psychiatric disorders, there is no conviction or sentence yet, the relation with the examinee is complex (poor cooperation, denial), and clinical judgment is based on less information. Discussion exists about the predictive validity of risk assessment instruments. An instrument, the RAP (Risk assessment Adolescents Pre-trial mental health evaluation), has been specifically developed for the pre-trial report setting. It relies on structured professional judgment. The results of two studies are presented. The first prospective clinical study examines the predictive validity of the RAP. Fifty-six forensic experts were trained in using the instrument in combination with the SAVRY (Structured Assessment of Violence Risk in Youth) in their pre-trial mental health evaluations of adolescents suspected of having committed a violent crime. Violent recidivism is measured with a follow-up of two years. In the second retrospective study the predictive validity of the SAVRY is measured and compared to the PCL:YV (Psychopathy Checklist: Youth Version) and clinical judgment with a ten year follow-up. Results will be presented and discussed.

**Predicting the Need for Forensic Psychiatric and Psychological Mental Health Evaluation**

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In 2005, a decision support model (BooG; Beslissingondersteuning onderzoek Geestvermogens) was developed for predicting the need for forensic psychiatric and psychological mental health evaluation. In a longitudinal study the predictive validity of the BooG has been investigated on 4000 cases from 2004 until 2011. The prediction-model contains twelve indicators of the committed crime – severity and repetition, behaviour of the accused but also the juridical weighing of the crime – for instance, is enforced treatment a possibility? The independent variable in the development of this model is the decision if a prosecutor would order a forensic psychiatric and/or psychological mental health evaluation. The predictive validity of the BooG will be presented by receiver operating characteristics (ROC). Better prediction possibilities by collecting data about recidivism, mental or personality disorders and verdicts will be presented and discussed.
Quality of Pre-Trial Forensic Mental Health Evaluations among Adults

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In the Netherlands, pre-trial forensic mental health evaluations ("pro Justitia" reports) play an important role in the Dutch justice system. The hospital care order (Terbeschikkingstelling; TBS) can only be imposed after the court has obtained advice from forensic experts (psychiatrist and psychologists) who have made such a pre-trial mental health evaluation. Due to the impact on decisions of the court, the quality of pre-trial forensic mental health evaluations should be of a high quality standard. The development of a structure in which feedback on quality is provided fits in today’s quality awareness. In the present research, which factors that are of importance when assessing the quality of reports of mandatory forensic health evaluations among adult suspects are studied. Results showed that the reports contained the required information about the psychological characteristics of the suspects. Important factors that gave information about the quality of the reports were “answering the posed questions” and “judgement about psychiatric disorder in relation to the suspected criminal offence.” Information about diagnoses and past criminal behaviour or mental health issues were found to be less important.


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In the past years, risk assessment research has been extended to offenders with intellectual disability (ID). Existing risk assessment tools are now validated and new instruments – specifically for offenders with ID – are being developed. However, most of this research focuses primarily on the prediction of (long term) recidivism, and relatively little attention has been given to the prediction of institutional aggression. The few studies that have been done show conflicting results. In this presentation, the results of a validation study in a Belgian sample of
offenders with ID will be presented in the prediction of aggressive incidents. An approved Dutch translation of the Violence Risk Appraisal Guide (VRAG), one of the most widely used risk assessment instruments, was scored in sixty forensic ID patients. This sample was then followed up for a period of six months regarding institutional aggression. Although the psychometrics were good, the VRAG failed to predict aggressive incidents in the clinic. In conclusion, while the VRAG has proven its value to predict aggressive recidivism, the instrument could not reliably predict aggressive incidents in the current forensic ID sample.

The TBS System with Cases Denied but Committed

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A person having a hospital care order (Terbeschikkingstelling, TBS) because he is considered to have committed a serious crime he consistently denies will be looked after as a person who has committed the crime which he does not confess to. Consequently, this means he cannot be treated, he will remain dangerous, and he has to be kept under a prolonged hospital care order. If the person does not confess, he will be brought to longstay care, where he will not be treated. The conviction is used as a fact and all the experience with the person is in fact not important. For example, although aggression that is predicted by forensic specialists in criminal cases has not been seen for many years, there is no reason to reconsider the former reports. A psychiatrist should write a report about the way a person behaves at that moment and not be influenced by a conviction. In the Netherlands, there have been serious convictions reconsidered in recent years. Forensic workers should consider the person they see and ask themselves questions about a conviction, especially when the convicted person has consistently denied that he has committed the crime. Years are lost for the person who is wrongly convicted, but it is difficult to make specialists analyze the individual completely and reconsider their own former forensic reports.

118. Prevention of Antisocial Behaviour in Children and Adolescents: Ethical, Social, and Philosophical Aspects

The Return of Lombroso? Ethical and Philosophical Aspects of Forensic Screening, Risk Assessment, and Prevention

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Italian nineteenth century criminologist Cesare Lombroso is notorious for his seminal ideas about criminality and anti-social behaviour resulting from physiological anomalies that should be detected by society and used for forensic preventive purposes. After an extended period of disrepute following World War II, similar ideas have been resurrected in psychiatry, genetics, neurology and criminology in the past decade or two. In particular, there is a growing focus on early detection and application of preventive measures. This development actualizes a complex
web of ethics and policy issues having to do with the well-known fact that screening and prevention in the health area are far from ethically clear-cut activities and actualize vivid prospects of doing extensive harm to individuals as well as society. Also, taken to its extreme, it actualizes the idea of using prenatal or preimplantation testing to preselect against children with a predisposition for criminal or antisocial behaviour. In the forensic case, such screening-prevention strategies will connect further to a complicated issue about the proper use of risk-assessment models for societal decision-making for precautionary purposes. Based on former work in all of these areas, this presentation will outline and analyze the basic issue of the defensibility of activities of this sort, with the perspective of forestalling unintentional harm to individuals and society.

“Budding Psychopaths:” Options for Appropriate and Ethical Early Identification and Intervention

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What reasons do we have for wanting to identify children at risk of psychopathy at a young age? If there are good reasons for early identification, does this mean we should also intervene early? If so, how early? And what technologies of intervention are appropriate and ethical? This presentation integrates an historical look at bio-prediction strategies with an analysis of potentially plausible, and ethical, management of “budding psychopaths.” The presentation draws on literature from developmental psychobiology as well as bioethics and the social sciences to construct a set of cases around which social and ethical concerns in this area can be illustrated and discussed. A primary focus of the analysis is to ask how we should balance public health concerns about potentially dangerous criminals and individual rights in the context of developing children. Answers to this question are hindered by the fact that bioethics lacks a substantive ethical framework to guide analysis of bio-technical interventions in children. In biomedical contexts, 335 interventions in children have been guided by a combination of the Geneva conventions on the rights of the child and by parental rights. One aim of this presentation is to demonstrate the need for a more specific, child-centred ethical framework, and to suggest some key values that could be incorporated therein.

What Researchers Want and Medical-Ethical Committees Loathe: Dilemmas in Examining Gene-Environment Interactions in Children’s Antisocial Behaviour

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Suppose you are a psychologist who gets a grant to conduct an experiment on gene-environment interactions that underlie children’s antisocial behaviour. Unfortunately, despite your new and relevant research ideas, it takes you one year and four resubmissions before you win acceptance
from your medical-ethical committee. How is this possible? Building from my own experience and gained insight, this presentation identifies some of the major ethical dilemmas in conducting a randomized trial that involves collecting data on children’s genetic make-up. The dilemmas concern: 1) the (un)desirability of giving participants information about their genetic make-up; 2) the (un)desirability of including a control group in an experiment of a known effective intervention; and 3) the fundamental necessity – or lack thereof – of collecting genetic data in both children and their parents. Based on a critical review of medical-ethical review procedures, I conclude that several fundamental flaws now limit their efficiency and relevance. A more systematic check of ethical difficulties in grant proposal reviews and the construction of an (inter)national database of previous ethical decisions and justifications can help to overcome these current flaws.

**Early Prevention of Antisocial Behaviour: Extending the Bioethical Debate**

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Recent biomedical research on the risk-factors and the development of antisocial behavior is met with widespread ethical and social concern. Biomedically informed means of early prevention and treatment in this regard are considered to come along with a series of serious pitfalls, drawbacks, and negative side-effects. Pro-active reflection on the (remote) possibilities of a new and fast developing area in biomedicine is of crucial importance. However, the potential areas of application are not completely new, yet have well-established predecessors informed by the social sciences. While the life sciences face critical ethical scrutiny even before implementation, the ethical implications of actually implemented psychosocial early detection and prevention practices appear to be largely neglected and ignored. The main justification of these existing practices seems to be the assumptions that early ASB prevention brings about a win-win situation and benefits juveniles and families concerned, as well as public safety. However, from what one might learn from current discussions in bioethics, this may be disputable also regarding established psychosocial practices which might entail the same or similar drawbacks and negative side-effects. This presentation will investigate whether this transfer of ethical concerns is plausible. It will further discuss which conflicts of interests between juveniles and society might result from any such drawbacks and how these are to be evaluated from an ethical point of view.

**119. Prevention of Suicide**

**Prevention of Suicide in a Forensic Psychiatric Clinic**

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Patients of a forensic psychiatric clinic are at high risk of becoming suicidal because they are mentally ill, in an exceptional situation, not knowing when or if they will leave the clinic. Many times they have drug problems or have already attempted to commit suicide. In the forensic psychiatric clinic in Andernach, four patients out of 390 committed suicide within sixteen months. Until last year, the clinic did not have structural management for suicide prevention, therefore it was decided to start a project. The aim was to develop a structural program of suicide prevention in order to recognize suicidal patients, to talk about this subject and also to get the staff to feel safe. The recommendations include: A quality standard with criteria regarding structure, process and outcome to identify suicidal patients in order to handle the crisis; giving a flyer to all patients; and offering patients the possibility to talk in a group about “suicide” including tailor-made teaching lessons. The aim is now to implement the standard, to create a flyer and to develop special teaching lessons. The staff needs further training regarding suicidality and clinic prevention of suicide, all this well-planned and computer-based.

**Suicide in German and Austrian Prisons: A Chance to Change?**

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Between 2000 and 2011, nearly eight-five prisoners committed suicide in Germany each year. This number is the result of a study conducted by the Criminological Services Unit of the Lower State of Saxony. In Austria, the average number of suicides in prisons for that period was a little more than ten. There was a reduction in these figures from 2000 to 2005, and in the last few years the number of suicides has been increasing again. Are there differences between suicides in Austrian and German prisons? What causes this high number of people to think they have no alternative to suicide? What are the most important characteristics of people with suicidal tendencies and what can we do in order to help them? This presentation addresses the following topics: (1) The background and main facts about prison suicides; and (2) explanations and basic knowledge about safety measures that play a decisive role in these settings.

**Crisis Line for Prisoners – An Attempt to Establish Alternatives: Talking Instead of Taking Away**

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The high number of suicides in German prisons gives us cause to concern. Are we taking enough care of prisoners, especially in the first instance of imprisonment? The normal method of handling people with suicidal thoughts is safety measures. This means separating the inmate
from others and accommodating him in a special safety cell. But is this the safest way? Or does isolation even heighten suicidal tendency? Out of this idea two projects emerged in prisons of Lower Saxony and Bavaria. In one of them, remand prisoners are given the opportunity to speak anonymously with a pastor over a “crisis line” during the night. In the other project, “listeners” in Bavaria give recent offenders with suicidal tendencies the possibility of spending the first night under arrest with a selected cell inmate. Both projects intend to test whether having this option helps to alleviate some of the emotional trouble typically experienced after initial offender intake to prison. In this presentation, the crisis line will be discussed, including the background of safety measures as well as the conceptualization and realization of the project. This presentation also addresses the development of the projects and furthermore results of its evaluation.

The Listener Scheme and Social Therapy for Violent Offenders: Helping “Both Sides”

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Suicide prevention is a common need among penal institutions around the world, and Bavarian prison authorities currently focus upon this issue extensively. Traditional approaches involving only correctional staff in suicide prevention efforts have proven to have their limitations, especially since recent studies have shown that prisoners would rather appeal to other prisoners with their concerns. The involvement of inmates in peer prevention efforts seems to be a reasonable alternative approach. In Munich Prison, volunteer prisoners, who are participants of the Social Therapeutic Institution for Violent Offenders, are in service as listeners for newly incarcerated prisoners. In this presentation we show results from a study about the effects on newly incarcerated prisoners, discuss framework requirements of the project and a training program for later listeners. Moreover, possible therapeutic effects for the listeners, which could be utilized within the therapeutic process, are presented.

120. Prison Mental Health and Forensic Care in a Changing Society

Changes in Dutch Forensic and Penitentiary Psychiatric Care: Where We have Come from and Where We are Heading

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The Dutch forensic and penitentiary care system has gone through major changes the last twenty years. The TBS system has had big problems with capacity in the late nineties and first years of 2000. It was normal for a TBS inmate to wait one to two years for the start of the measure.
Several serious incidents in 2004 and 2005 led to a stringent leave procedure and the arrival of the Advice College for leave in the Ministry of Justice. Now the problems are reversed, because inflow of new patients is diminished and there are treatment places vacant in TBS hospitals. A growth of forensic care, alongside the TBS system, has been seen from the early 1990s, when forensic psychiatric hospitals and outpatient facilities (like The Waag in Utrecht, which existed for twenty years in 2012) were started and it has come to a mature system the last few years. Also several successive governments have been active in this field and a new law on forensic care is expected this or next year. The main goal for this law is to organize better care and make society safer. This law will encompass a change in the financial system, which has been in effect from 2007, when all the costs for forensic care were transferred from the Ministry of Health to the Ministry of Justice. This has brought new possibilities, but also new problems, which have to be addressed. These changes and what it has meant for the forensic care system will be discussed.

**Diversion from the Prison Mental Health System into Forensic Psychiatric Care: Is It Better and Safer?**

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In prison, a large group of inmates have psychiatric disorders. In the Netherlands, it is possible to give basic psychiatric care if needed by a prison psychologist and/or psychiatrist. When specialized care or more intensive care is needed, an inmate can be transferred to a forensic psychiatric clinic or to a special unit in the prison system, a penitentiary psychiatric centre (PPC). With the development within the Dutch prison system in the last few years of less specific units for psychiatric patients, it has become more difficult to treat psychiatric disturbed inmates in a normal prison. Since 2008 each prison has a small extra care unit (EZV). When more care is needed a psychiatric disturbed inmate has to be transferred to a PPC or to a forensic psychiatric hospital outside of the prison system. Each day psychiatrists of the NIFP make these kinds of decisions in consultation with the prison psychologists. Every week patients are being discussed in the psychomedical consultation (PMO). Often patients who are in crisis will be transferred to a PPC; when patients are motivated for treatment and can wait for some time a transfer to a forensic psychiatric hospital is more common. This presentation will give an overview of all the possibilities of psychiatric care for inmates and will attend to the question of why certain choices will be made. Facts and figures will be presented.

**Routine Outcome Monitoring in Dutch Prison Mental Health: A Pilot for Measuring Feasibility in Four Prisons**

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In 2011 the NIFP started a pilot with routine outcome monitoring (ROM) in four prisons in the cities of Utrecht and Amsterdam. ROM has become standard practice in regular psychiatric care. The reason for this pilot was to establish whether it was feasible to do ROM in a prison setting. In this pilot we used the HONOS (Health of Nations Outcome Scale) and the BSI (Brief Symptom scale). Two different regimes (an extra care unit (EZV) and an ISD unit) were included; we chose these two regimes because we expected to find more inmates with psychiatric disorders in these regimes. All psychiatrists working in these units were trained to do the HONOS. The pilot lasted ten months and the HONOS and BSI were done at the start of treatment, and after each two months. First results showed that it was feasible to do the pilot in a prison with EZV or ISD regime. We found that a lot of the inmates were out of prison within two months, especially in the EZV regime. Overall we saw a decline in symptomatology on the HONOS as on the BSI. Recommendations to the board of directors of the NIFP were, among others, to implement ROM in ISD regimes, but not in EZV regimes, because of the shortage of stay in this regime. Further results of the pilot and recommendations will be presented.

**Indications for Forensic Psychiatric Care: Facts and Figures**

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With a new funding system for forensic psychiatric care in 2007, a system of formulating indications for the different levels of care was also established to determine both intensity of treatment/care as well as intensity of safety measures. Every person with a judicial measure who needs forensic psychiatric care, whether imposed upon him by court or when diverted from the prison system, needs such an indication. This system was introduced because it was difficult to place patients from the jail system into the psychiatric care system. There was also a huge problem with patients who from a safety point of view could move on from the TBS system into the regular psychiatric care, but often attempts failed because there was fear for recidivism and treatment difficulties by the care givers in the regular psychiatric facilities. With the introduction of the new system things have considerably changed in a positive way: patients are placed more often into forensic psychiatric care, there is more movement between treatment facilities, and it is possible to see where there is a lack of specific treatment facilities. An example is that it was difficult to find treatment for patients with mental retardation. More places for inmates with mental retardation were organised and now there’s less difficulty to get them in a specific treatment facility. Facts and figures will be presented for the period from 2008 to 2012.

**121. Prison Psychiatry I**

**Are Antisocial Personality Traits Less Frequent in Individuals Raised in Socialist Systems?**

Annette Opitz-Welke, *Berlin Prison Hospital, Berlin, Germany* (opitz-welke@web.de)
Introduction: In Germany there is a vivid discussion about whether personality is influenced by the fact that a person was born and brought up in the former German Democratic Republic (GDR) or the former Federal Republic of Germany (FRG). Of special interest is the question of whether antisocial personality traits are fostered or suppressed by a system that supports individuality. In the psychiatric department of the Berlin Prison Hospital the birthplace of all prisoners is documented, which offers the opportunity to compare prisoners who are born and raised in the former GDR to those from the former FRG.

Methods: The psychiatric department of Berlin Prison Hospital offers inpatient treatment for all mentally disturbed prisoners who need hospital care. All patients born in the former GDR are compared to an age-matched random sample of patients born in the Federal Republic of Germany. The PCL-R score, criminal records and sociodemographic variables of those 2 groups will be compared. A regression analysis will be performed to identify determinates of a high PCL-R score.

Results: Characteristics of both groups will be described. A multivariate model to explain variations in PCL-R scores will be presented. Further need for research will be discussed.

A Randomized Controlled Study on the Effects of Psychoeducational Interventions on Schizophrenic Patients in Prison Psychiatry

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Background: The efficiency of psychoeducational intervention in psychiatric inpatient treatment has been established over the past twenty years. Early psychoeducational intervention has been linked to increased medicinal compliance and less recurrence of schizophrenic episodes, and the inpatient treatment duration has been proven to decrease. However, there have been no studies in Germany that investigate the effectiveness of these interventions in prison psychiatry on schizophrenic inmates.

Objective: This study will examine the effects of psychoeducational interventions in prison psychiatry.

Methods: All male inmates who meet the criteria for an ICD-10 diagnosis F20.X will be randomly assigned to one of two treatment conditions. In the psychoeducational intervention condition, patients will be able to obtain knowledge and insight into their disease. Patients in the other treatment condition will receive TAU (treatment as usual) and psychoeducational intervention 6 months later. All participating patients will be tested with the following battery of tests: PANSS, SKID I and II, ESI, IRAOS and PCL Factor 2 at three different times in the study (pre-intervention, post-intervention and 6 months after intervention).

Results/Conclusion: It is expected that similar efficiency results will be achieved in prison psychiatry as those in inpatient treatment facilities in public hospitals. In addition, it is anticipated that due to the early intervention, the acquired knowledge and the increased medicinal compliance, a subsequent incarceration could be avoided. This would counteract further stigmatization and social descent.
**Relationships and Sexuality of Imprisoned Men in the German Penal System**

Thomas Barth, *Berlin Prison Hospital, Berlin, Germany* (thomas.barth@jvkb.berlin.de)

Sexuality among prisoners is one of the few taboo topics in the modern penal system and the perception in society is blurred by clichés and ignorance. The lack of concrete scientific data on the sexual behaviour of inmates in German prisons is surprising, especially given the existing international scholarship on prison culture and sexual violence. The first German study about relationships and sexuality of imprisoned men was conducted in an adult correctional facility for long-term prisoners in Berlin-Tegel, and data of one cohort-study unveiled for the first time in 2011. The survey, which is based on results of a questionnaire by voluntary study participants, has a special focus on the occurrence of consensual homoerotic contacts between heterosexual inmates. The emphasis is on the potential impact of such contacts on role behaviour during confinement and sexual identity after release. Different forms of homosexual contact between inmates include prostitution and “protective pairing,” both characterized as “dark” issues – nonconsensual sexual acts – which still have not been scientifically researched. Furthermore, the survey reveals first data on the incidence and prevalence of sexual violence and coercion within a German correctional facility. The complete data of both cohort-studies of the survey will be presented for the first time.

**Clinical Research on Prisoners**

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As a consequence of exploitation of prisoners by biomedical experimentation, several guidelines and regulations protecting prisoners were developed. Regarding the research needs in prisoner populations the right balance between protection from exploitation by research and providing access to research has to be guaranteed. Research should have a high probability of direct benefit to prisoners and offer a distinctly favourable benefit-to-risk ratio. Any other research involving prisoners is only justified if the results yielded cannot be obtained by research in the community, if at least a group benefit for prisoners can be expected, and if the risks of the research are low. Given the vulnerability of prisoners, the informed consent process and confidentiality afford extraordinary attention (especially to avoid false hopes) and ongoing as well as on-site scrutiny by the research ethics committee. Adequate health care facilities for all prisoners in the involved prison should be in place and fair and random recruitment procedures should be guaranteed. Research ethics committees should identify their independence from sponsors, investigators and prison administrations by statements of absence of conflicts of interest for each member. They should be composed of a fair distribution of scientists and lay members of different gender, race, cultural and social background and should be obliged to include prisoners or prison representatives as members of their boards. Central registration of research projects including
research projects involving prisoners should become obligatory and neither funding nor publication of research projects without approval of an independent research ethics committee should be authorized.

122. Prison Psychiatry II

Sexual Offending in Schizophrenia: Discussion and Implications in Comparing Previous and Recent Findings

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Studies suggest a complex relationship between schizophrenia and sexually offensive behaviour. Partly conforming to previous findings, we found in this study similarities in demographic and psychosexual variables as well as in sex offence features and behaviours in schizophrenic and non schizophrenic sex offenders. Furthermore, differences in offending variables became apparent within the heterogenous schizophrenic offender group. We compared illness related variables, comorbidity, psychosexual, demographic and offense related variables from our study with recent findings. Recent studies have found a relationship between psychosis and violent sexual offending, the direction of which remains unclear. Specific psychotic symptoms in schizophrenic offenders are an area for further research. According to our data, psychotic sexual offenders tended to have a history of sexual and non sexual offending, a psychiatric history, comorbidity with dissocial personality and substance abuse disorders, impaired psychosexual variables and adverse childhood experiences. The presence of a personality or substance use disorder seemed to increase the risk for violent and non-violent sexual offending. Focused studies are needed to elaborate on effective strategies of treatment and risk assessment.

Developing Trends in the European Prison System

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In Europe approximately 524,000 people are in prison, approximately 0.1% of the general population in the European Union. Per country there are, on average, 137.8 people incarcerated per 100,000 inhabitants. This study will describe the development of the prison population in 24 European countries from 1997 to 2008 by analyzing the data from the Council of Europe Annual Penal Statistics (Statistiques Penales Annuelles du Conseil du L’Europe). To characterize underlining developing trends, changes in sentencing and pretrial detention praxis as well as charged offenses are studied. During this time period many European countries increased their prison populations by increasing charges for drug offenses and property crimes as well as lengthening sentences. Because of the increasing number of prisoners, the development of prison mortality and prison suicides as specific risks are additionally studied on the level of time-series per country.
Legal and Psychosocial Risk Factors of Forensic Psychiatric Patients Withdrawn from Conditional Release

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Background: There are small but considerable numbers of forensic psychiatric patients who do not manage to comply with the legal requirements of conditional release from forensic psychiatric hospitals. These patients are usually referred back to inpatient treatment, with little chance of another timely release, especially if they have re-offended. As a matter of fact, all patients discharged from forensic psychiatric hospitals had, at the time, been considered fit for conditional release. From a risk assessment point of view, those who did not do well may be considered false negatives.

Objectives: 1) To investigate two sub-groups of patients released from German forensic psychiatric hospitals: 1a) patients who have done well under the legal requirements of conditional release and 1b) those who did not, i.e. the patients whose conditional release was legally withdrawn within a relatively short time at risk; 2) To investigate the reasons for withdrawal of conditional release in group 1b); and 3) To identify a set of legal and psychosocial person-related variables associated with the odds of withdrawal of conditional release from German forensic psychiatric hospitals.

Method: Several German forensic psychiatric hospitals were asked to provide data on legal and psychosocial person-related variables that might distinguish between the subgroups described above. The cut-off for group assignment was the legal status at thirty months at risk (i.e. the patients whose conditional releases were not withdrawn within thirty months from discharge were considered “to do well”). Assessments of over 800 patients discharged from 2009 to 2011 are analysed and compared with respect to their legal background, type of offence, psychiatric diagnoses, prior psychiatric treatments, and variables tapping psychosocial adaptation prior to admission.

Results and Discussion: Preliminary results will be presented and implications discussed.

The Peculiarities of a Psychiatric Inpatient Unit in a General Forensic Hospital in the State of Sao Paulo

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This presentation will describe a psychiatric inpatient service in a general forensic hospital, managed by Santa Casa for three years. It is a general hospital that provides care for the penitentiary population in Sao Paulo State (around 180,000 individuals). There are eight psychiatric beds, although the number of inpatients is often over the limit. The criteria for admission are divided in three main categories: acute psychiatric illness, being at risk of hurting him/herself or others, and the impossibility of staying in the original prison unit. The conditions are: to present a severe mental illness such as a psychotic episode or depression, with or without withdrawal syndrome; and also side effects due to psychotropic medications. The life risk is evaluated in those at high risk of suicide, self-harm, hetero aggressivity or victimization. In the second semester of 2009, 737 outpatients were booked for consultations, but only 520 were evaluated; among those, 22 became inpatients. In 2010, there were 1,642 consultations booked, 1,077 were evaluated and 66 became inpatients. In 2011, there were 1,550 consultations booked; 930 were evaluated and 56 became inpatient. In the first four months of 2012, 451 were booked, 294 were evaluated and 32 became inpatients.

123. Problem-Solving Courts

Improving the Criminal Justice Response to Offenders with Mental Illness in Remote Northern Communities

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In remote communities in the Far North, the capacity of criminal justice systems to deal with offenders with mental illness is taxed by limited available resources and the absence of specialized “mental health courts” and related “diversion programs” used in the south. This research explores the ability to incorporate principles of problem-solving courts that guide mental health courts and diversion programs into the criminal court structure and practice of remote communities. The application of problem-solving principles results in people with mental illness accessing community treatment rather than facing prosecution or incarceration when mental illness is seen as the main cause of criminal behaviour and the approach is appropriate to the nature and circumstances of the offence and the background of the offender. Exploration of the viability of this approach in northern communities is undertaken through: a) an exploration of
the essential principles of problem-solving courts; and b) mental health support systems that include a community-based rehabilitation model and/or the use of remote technologies. This research addresses a significant health need in isolated northern communities and provides an alternative approach to making criminal justice systems more responsive to mentally ill offenders in small, under-resourced and isolated jurisdictions.

Utility of Risk-Need-Responsivity Driven Case Management Strategy within a MHC Context: Criminogenic Needs Relative to Diagnostic Category

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The Saint John Mental Health Court (MHC) is a court in New Brunswick, Canada that offers specialty legal processing for mentally ill offenders. A significant body of research has shown a strong link between dynamic factors and recidivism, known as criminogenic needs (Andrews & Bonta, 2010). The purpose of the current presentation is to discuss research findings that address how these criminogenic needs (e.g., companions, education/employment, etc.) relate to general diagnostic categories (e.g., schizophrenic, bi-polar disorder, etc.) and severity of psychopathology among MHC clients. Criminogenic needs were identified by using the Level of Service/Case Management Inventory (LS-CMI) at the time of intake to the MHC program, whereas mental health diagnosis will be assessed by file review and the Symptom Checklist-90-Revised (SCL-90-R). It is expected that criminogenic needs related to psychosocial functioning (e.g., education/employment, the quality of intimate and family relationships, etc.) will be most strongly associated with severe mental health issues, whereas criminogenic needs related to personality and distorted thinking (e.g., antisocial personality, attitudes, etc.) will show weaker associations with severe mental health issues. Results will inform case management planning of MHC teams and speak to the value of targeting criminogenic needs within comprehensive case plans for MHCs.

The Working Relationship and Mental Health Court Participation

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MHCs are growing rapidly across the nation. Research is beginning to shed light on outcomes like reduced criminal recidivism and increased access to services. However, little is known about the factors facilitating change. This presentation focuses on one possible factor (relationships) by exploring the role relationships with MHC caseworkers play in promoting change. Participants were recruited from two mid-western, urban MHCs (n=80) and took part in a sixty minute structured interview involving a battery of empirically tested measures. Descriptive statistics, bivariate analyses, and multiple regression were used to analyze the data. The alliance with MHC caseworkers is significantly associated with service use. Specifically, the conflict subscale, rather
than the bond, is significant such that as conflict decreases, service use increases ($B = -0.12 \pm 0.23$, $p = 0.05$, $f^2 = 0.40$). Similarly, conflict with MHC caseworkers was significantly lower among participants who remained in or graduated from the MHC than individuals who quit or were terminated ($OR = 0.91$, $p = 0.01$). The alliance was not associated with recidivism. Among MHC participants, perceptions of conflict within relationships with caseworkers are one factor facilitating service use and engagement.

**Does Severity of Offense Differentiate Outcomes among Mental Health Court Participants?**

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A statewide evaluation of the implementation of eight mental health courts found great diversity across courts on legal as well as diagnostic eligibility criteria for participants ($n=659$). Some courts accepted only those with misdemeanor or civil infractions, while others accepted those with more serious felony offenses and others accepted both. Interviews with stakeholders within each court reflected the logic behind their legal eligibility criteria with many stating that they feared that serving those with greater risk (e.g. felonies) would result in failure or that the community would not support diversion for more serious offenders. Evaluation across the eight courts found that offense at admission did predict successful program completion, but did not predict long term outcomes associated with recidivism. More specifically, there were no differences in arrest or conviction rates between those with misdemeanor or felony offenses in the one year post discharge period. Furthermore, there were some indications that reductions in jail days were more likely for those with felony offenses. Although those with felony offenses had a greater number of days in jail the year prior, therefore a greater opportunity for decline, there were indications that jail days actually increased in the year after mental health court for those who entered with misdemeanor offenses. Interestingly there was little variation in length of stay or program models for participants entering with different levels of offense risk. The program models and matching program length and intensity to the criminal risk of the participant (responsivity principle) will be discussed.

**124. The Prognosis of Psychiatric Diseases**

**Specific Alcohol Dependence Treatment According to the Lesch Typology: A Prospective Two Year Outcome Study**

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**Introduction:** In guidelines from the European Medicine Agency (EMEA, 18. 02. 2010) and from the FDA it is clearly stressed that we need more homogenous phenotypes for clinical trials in alcohol dependent patients defined by ICD-10 and DSM IV. They should be defined multidimensionally and it is accepted internationally that four different subgroups are the best solution (e.g. typologies by Windle and Scheit, Del Boca and Hesselbrock, or Lesch). The Lesch typology has been investigated in many international basic and clinical trials and nowadays is used in daily practice in different countries (Portugal, Bulgaria, Poland, Germany, Switzerland, and so on).

**Objectives:** Using specific treatment approaches we hypothesize that we can significantly reduce relapse rates and durations. The aim of the present study was to assess the outcome of two years of Lesch-typology based treatment of alcohol dependent patients.

**Methods:** 321 alcohol dependent patients treated and classified during in- or outpatient treatment in our department were contacted two years later by a structured telephone interview. 101 (31.46%) persons could be reached and were included in the study. A profile of daily alcohol consumption was assessed with the “Timeline Follow back” method and categorized as abstinent, slips, episodic or steady. Furthermore the CCAD and a prognosis for each Lesch Type were calculated.

**Results:** 37% of patients had an abstinent course of alcohol consumption, 31% had slips, 12% had an episodic and 20% a steady course. The rate of abstinence in patients treated according to the Lesch typology was significantly higher than in patients who received treatment as usual. Using this intent to treatment method it is obvious that the results have serious limitations because we could only reach one third of our patients. These methodological problems should be discussed.

**How to Use Lesch-Typology in Forensic Questions**

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Following a decision of the Federal Constitutional Court, prior to hospitalization of an addicted offender in a detention center withdrawal unit, the prospects for success of withdrawal treatment are to be tested. In the Guidelines of the Federal Constitutional Court (BVerfG), a successful prognosis for “cure” or at least abstinence for “a certain period of time” is required by the therapy. So far, only limited meaningful forecasting tools have been available, so therapy and prognosis based on Lesch-Typology in forensic psychiatric evaluations and follow-ups have been used in detention centers. It has been determined that dependent patients according to Lesch-Type II have significantly better chances for successful therapy within forensic psychiatry. A computer-aided diagnosis facilitates the assignment to Lesch-Typology and “break-points” have been found suitable for a quick diagnosis in daily practice for definition of drinking patterns of alcohol addicts. These will be presented in relation to Lesch-Typology (I-IV).

**Predictors of Bipolar Disorders: Relevance for Forensic Examination**
Bipolar disorders and disorders of the bipolar spectrum are of great epidemiological importance. Evidence has been provided for a prevalence of at least 5% (Akiskal HS et al. 2000). In the last century different approaches have been evaluated to find predictors for affective disorders (Nurnberger JI Jr et al. 2011, Howes OD et al. 2011, Angst J, Clayton P. 1986). The concept of temperament and its linkage to full-blown pathology has been shown to be of central importance (von Zerssen D. 1996, 1998). Recently, the concept of the temperamental basis of bipolar affective disorders and of other psychiatric disorders including somatoform disorders and alcoholism has been extensively re-examined (Amann B et al. 2009, Vyssoki B et al. 2011, Skala K et al. 2012, Unseld M et al. 2012). The literature will be reviewed and the implications for forensic psychiatry will be discussed.

The Diagnosis of “Burn Out” Used for Forensic Questions

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The diagnosis of “burn out” is increasingly used in psychiatric praxis. In 1974, Freudenberger, a psychoanalyst, introduced the term “burn out” in the medical praxis. In 1976, Christina Maslach developed scientific instruments to assess this diagnosis and its severity. Burn out related psychiatric and somatic diseases seem to depend on the severity of the course of burn out assessed by MBI. The course of burn out will be presented and the diagnosis of burn out (problems to cope with life events ICD-10: Z 73.0) in relation to different psychiatric and somatic diseases will be shown. Chronic fatigue syndrome, depressive syndromes and addiction are the main psychiatric consequences. In forensic examinations, the long term course of depression or alcohol dependence often has to be discussed. The assessment of the course of burn out could be very helpful in answering these questions.

125. Psychiatric and Psychological Autopsy: The Alphen Spree Shooter

Psychiatric and Psychological Autopsy: Reasons and Principles

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On April 30th, 2009 a suicide attack on the Dutch queen resulted in eight deaths and multiple people wounded. On April 9th, 2011 a spree shooter killed six and wounded seventeen people in the shopping mall of Alphen. Both persons killed themselves. The Netherlands Institute of
Forensic Psychiatry and Psychology developed psychiatric and psychological autopsies of the offenders. These autopsies were to clarify eventual psychiatric conditions and behaviour in relation to the events. In a press conference answers were given to questions that arose in society and the media about the offenders. Clarification to the family of the offenders and the victims led to understanding and psychological coping. The final reason was to obtain, expand and exchange the expertise and knowledge on these (possible) offenders, not in the least for preventative means. Scientific research and a group of national and international experts are in development. In this presentation the development of the psychiatric and psychological autopsies is explained. Arguments are given why and how forensic psychiatry and psychology and public prosecution has to incorporate this post mortem knowledge on a national and international level.

Evidence in Multiple Homicide, Homicide, and Suicide

Erik Sikkens, Netherlands Institute of Forensic Psychiatry and Psychology, Amsterdam, The Netherlands (e.sikkens@dji.minjus.nl)

In this presentation the scientific literature on multiple homicide and homicide and suicide is summarized. Definitions and terminology are explained, and the existing literature and profiling issues with these offenders are presented.

Psychiatric and Psychological Autopsy: Methods and Practical Experience

Barend van Giessen, Netherlands Institute of Forensic Psychiatry and Psychology, Amsterdam, The Netherlands (b.van.giessen@dji.minjus.nl)

In this presentation the practical and personal aspects of a psychiatric and psychological autopsy are illustrated and explained.

Threat Management Teams: A Multidisciplinary Approach to Violence Risk Assessment in a University Setting

Yvette Guerrero, Consulting Psychologist, San Francisco, California (yguerrerophd@gmail.com)

Threat Management Teams (TMTs) were created in response to violent behaviours occurring in the workplace. Some of these behaviours had homicidal intent with lethal consequences, or catastrophic injuries sustained by targeted and non-targeted victims. The most recent Boston Marathon terrorist bombing highlights how the tentacles of such behaviours can extend into
university settings such as Massachusetts Institute of Technology, University of Alabama, Georgia Tech, University of California, San Francisco (UCSF), and other major universities, as TMT’s respond to potential or impending threats. UCSF’s TMT was established in 1994, in part precipitated by the “Unabomber” (Ted Kaczynski) attack intended to kill an internationally esteemed geneticist. Other domestic lethal terrorist attacks by him had taken place at other notable universities across the United States. These behaviours gave birth to other such multi-disciplinary teams in the United States and beyond. The overarching goal of TMTs is to safeguard faculty, staff, students and others, by “preventing or mitigating to the extent possible, consequences of potential or actual homicidal behaviours.” TMTs are now imbedded in many major institutions. Several core TMTs are comprised of psychologists, attorneys, police, and security. The role played by such multi-disciplinary teams is the focus of this presentation. A simulated case will be presented that illustrates team collaboration essential for swift response to threatening behaviours. The presence of TMTs in many notable institutions today, considered in the field of university threat management to be a best practice, demonstrates the important function they serve within the larger national and international landscape of violence risk assessment.

126. Psychopathology Behind Razor Wire: Mental Illness in Juvenile Justice

Youth Behind Bars: Prevalence of Psychiatric Disorders in State Correctional Institutions

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It is commonly understood that many youth who enter the Juvenile Justice System come from chaotic home environments, have experienced multiple traumas, and present with complex mental health needs. The majority of published studies examining the extent of psychiatric disorders among juvenile justice-involved youth in the United States have been based on small, predominantly male, youth samples held in pre-adjudication detention settings. Prevalence rates have ranged from 65-70% of detained youth meeting DMS-IV-TR criteria for at least one psychiatric disorder. How would this compare with adjudicated and sentenced male and female offenders with more extensive delinquent histories? With 116,698 arrests in 2010 alone, Texas has one of the largest incarcerated Juvenile Justice populations in the United States and its six secure correctional institutions serve as the last opportunity for rehabilitation before entering the adult Department of Corrections. Youth placed in these facilities have committed more frequent or egregious acts and have exhausted less restrictive graduated sanctions. We set out to investigate the prevalence of psychiatric disorders among 11,600 youth committed to a state-wide juvenile correctional system. This presentation will address the prevalence rates found when comparing youth across age, sex and race variables, as well as how these patterns compare to other juvenile justice samples.
Psychiatric Comorbidity in Secure Juvenile Settings: How Complex an Issue is It Really?

Joseph V. Penn, University of Texas (jopenn@utmb.edu)

One characteristic commonly shared by youth involved in the United States Juvenile Justice System is a history of experimentation with or use of illicit substances. The prevalence rate for a substance use disorder among youth in the community has ranged from 6-10% while the rate for youth in detention centers was found to be substantially higher (47-81%). It is also known that substance-abusing youth are likely to have contact with the mental health system, with many meeting criteria for at least one other psychiatric disorder. The existing literature primarily focuses on the extent of comorbid psychiatric and substance use disorders among juveniles in pre-adjudication detention settings, with only one study examining prevalence rates in a small adjudicated population. No published prevalence estimates exist to date of the co-occurrence of a substance use disorder with other psychiatric disorders from a large sample of youth committed to juvenile correctional facilities. This presentation will outline the recent study carried out in the Texas Juvenile Correctional System to more closely examine the extent to which youth met criteria for a substance use disorder in addition to a major psychiatric disorder, ADHD or another disruptive behaviour disorder. How this information may be used to guide programmatic decision-making and juvenile justice policy will also be discussed.

DOC in a Box: Is Telepsychiatry the Wave of the Future?

Christopher R. Thomas, University of Texas (crthomas@utmb.edu)

How can a statewide correctional health care system that spans 268,581 square miles ensure proper and reliable treatment by child-specialist psychiatrists when juvenile justice-involved youth are housed in remote locations several hundred miles away? Simply stating that the services are not available or do not exist is not an acceptable answer. Fortunately, technological advancements, specifically Telepsychiatry, has made this issue a thing of the past. Can a psychiatrist evaluate psychiatric symptoms just as effectively without interacting with a patient directly? How does the process actually work? Who needs to be involved? What are the pros and cons and challenges in providing care this way? And lastly, what must be considered when designing a training program for providers new to Telepsychiatry? This presentation will address one large system’s design and implementation of a state-wide process to ensure psychiatric services are accessible to incarcerated youth regardless of location.

Psychopathy and Behavioural Problems in Incarcerated Male and Female Juvenile Delinquents
Pedro Pechorro, *University of Algarve* (ppechorro@gmail.com)

The objective of this study was to compare incarcerated male and female juvenile offenders regarding psychopathic traits, behaviour problems, psychopathy taxon, conduct disorder, self-reported delinquent behaviour, and crime seriousness. Within a total forensic sample of 261 detainee participants, subdivided into a male group (n=217) and a female group (n=44), statistically significant differences were found. Female juvenile offenders show less callous-unemotional traits, more emotional symptoms, more prosocial behaviours, less self-reported delinquent behaviour, and lower crime seriousness. Conduct disorder prevalence was very high, but no statistically significant gender differences were found. The predictive importance of psychopathic traits, behaviour problems, psychopathy taxon, and conduct disorder for the prediction of group membership (female versus male) was established by binary logistic regression.

### 127. Psychopathy: Measures, Prognoses, and New Concepts


Pedro Pechorro, *University of Algarve* (ppechorro@gmail.com)

The main objectives of the present study were to validate a Portuguese version of the Antisocial Process Screening Device–Self-Report and to evaluate the predictive importance of some constructs in discriminating between inmate delinquent youth and community youth. With a total of 760 participants, male (n=543) and female (n=217), divided in an inmate forensic sample (n=250) and a community sample (n=510), the authors were able to demonstrate psychometric properties that justify the ASPD-SR’s use with the Portuguese juvenile population, in terms of factor structure, internal consistency, temporal stability, convergent validity, divergent validity, concurrent validity, and cutoff score. The predictive importance of psychopathic traits, self-reported delinquent behaviour, and behaviour problems on the prediction of sample membership (forensic versus community) was established by binary logistic regression.

**The Prognostic Value of the PCL-R in the Assessment of Successful Completion of Treatment**

Peter Rotermund, *Hildburghhausen Hospital for Psychiatry and Neurology, Hildburghausen Germany* (peter.rotermund@fachkrankenhaus-hildburghausen.de)

Psychometrical instruments to assist in the assessment of the likelihood of future criminal offense like the Psychopathy-Checklist-Revised (PCL-R) by Robert Hare have asserted
themselves in forensic psychiatry in recent years. Furthermore, several authors suppose that the PCL-R might assist in the assessment of which patients would complete and benefit from treatment. There are different findings about the prognostic value of the PCL-R Total score and the division of the Total score in two separate factors, as proposed by Hare. Factor 1 reflects the affective and interpersonal psychological traits and Factor 2 the socially deviant conduct. The present study investigates the prognostic values of the PCL-R Total score and the two separate Factor scores concerning a successful conclusion to therapy. We assessed ninety-one patients using the PCL-R during their treatment in the forensic professional clinic at the Hospital for Psychiatry and Neurology Hildburghausen. The results show significantly lower scores in the PCL-R Total score and Factor 1 by patients who completed treatment. Factor 2 showed no differences between patients who completed and those who aborted treatment. The results suggest that Factor 1 has a higher prediction strength for successful conclusion to therapy than Factor 2.

**Self-Disturbed Non-Emotional Offending: A New Concept in Forensic Psychiatry**

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Self Disturbed - Non Emotional Offending (SD-NEO) is a new concept characterising offending and offenders driven by motives that are emotionally disconnected to the context and without relation to positive psychotic symptoms. The offence/motive could often be explained as a consequence of so called self disorder/ipseity disturbance which in turn could be a sign of schizophrenia often present already in the prodrome of the illness. The offending in these cases is often spontaneous and totally arbitrary and very difficult to predict. It is also often very serious. It seems unmotivated in a normal sense, and the offender's own explanation is concrete and non-emotional. SD-NEO differs from another type of non-emotional offending associated with autistic disorder (e.g. Aspergers Disorder (ASD)). Even though the motive is emotionally disconnected to the context in some of the ASD cases, the offence is often planned in details. This is a presentation of: 1) SD-NEO as a concept illustrated by cases; 2) a discussion of how offending in some cases can be a sign of present and future psychopathology; and 3) a discussion of how to identify risk factors of SD-NEO.

**128. Quality of Life in Forensic Mental Health Medium Secure Units**

*Quality of Life Research in Secure Settings: An Overview of the Research Literature*
This presentation will help link the topic underpinning all of the other presentations. The term quality of life (QoL) is seen as significant as it is an important element in integrating patients' subjective experience of their life during illness into clinical care. In adult mental health services, a better quality of life has been associated with increased recovery, higher levels of engagement with services, and increased satisfaction with services. However, the role of quality of life for service users in secure mental health settings has not been examined.

Aims: 1) To examine the best current evidence regarding quality of life in secure mental health settings; and 2) To identify the clinical role QoL plays in secure mental health settings.

Methods: A systematic literature search was undertaken examining the research literature from 1995 to 2012 undertaken in secure mental health settings where QoL was an identified outcome. Qualitative and quantitative data will be collected and analysed separately.

Findings: The presentation will identify: the number of students and types of design used; the tools used to assess quality of life in these studies; the different settings where QoL research has been undertaken; the main variables are examined in conjunction associated with QoL; and the main results obtained.

**Parenthood in Medium Secure Psychiatric Care: Forensic Service User Experiences of Being a Parent**

Little research exists on the subjective experiences of mothers and fathers with severe mental illness. Parents in specialist forensic services may be a marginalised group in relation to attention paid to their parenting needs. Responding to this knowledge gap, an exploratory qualitative study was developed using a forensic medium secure unit (MSU) in south London as a case study, with male and female in-patients.

Aims: 1) To quantify the prevalence of parenthood and level of child contact at the research site, a specialist forensic service for men and women; and 2) To understand the experiences of parents on short and long-term medium secure and forensic rehabilitation wards.

Methods: 1) Analysis of patient records to establish the number and characteristics of parents in medium security and extent of contact, frequency analyses to explore distribution of cases, univariate analyses using chi-square or rank sum tests; and 2) Individual interviews with a purposively sampled group of eighteen parents (ten men, eight women) from short and long-term medium secure and rehabilitative wards.

Findings: The number of recorded parents and child contacts were noted as well as differences in the level of contact between different family members. The qualitative data noted five themes: impact of mental illness, positive experiences, support from staff, parent talk, and perceptions of
Families are the main caring resource for service users with severe mental health problems. Although carers of people using forensic mental health services have higher levels of stress, there is only a limited amount of work on the needs of this group of carers. It is crucial to recognise the impact an admission to a forensic mental health unit has on the carer’s quality of life. This study examined the carers’ views of services aiming toward an understanding of the experiences of carers of patients in a forensic mental health inpatient setting. A mixed methods approach was used with sixty-three carers interviewed by telephone using a semi-structured interview schedule to gain information from the respondents. The data was analysed by separate members of the team qualitatively and quantitatively. The results suggest most carers were pleased with the service provided, although some negative views were expressed. The most important need identified by this group of carers was to provide regular and appropriate information. The implications of the findings will be discussed.

A Research Approach in a Pilot Trial to Assess the Effect of a Structured Communication Approach on Quality of Life in Secure Mental Health Settings

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Forensic mental health services have largely ignored examining users’ views on the nature of the service offered to them. An intervention using a structured communication approach placing service users’ perspective of their care at the heart of discussions between service users and clinicians has been developed with a view of changing this situation. The intervention consists of two elements: a computer mediated discussion on patients’ quality of life and their satisfaction with treatment (DIALOG) and non-directive counseling based on Solution Focused Therapy. In previous research in community based psychiatric services this has been found to be an effective method of developing users’ involvement in their treatment. This presentation will outline the design of the randomized control trial to assess the effect of the intervention based on the structured communication approach in forensic mental health settings. The research approach proposed for this study embraces the concept of “patient involvement” in two different ways: the involvement of the patient is seen as an important factor influencing the patient’s quality of life, and as an important aspect of all research procedures.

**Preliminary Findings from a Study Assessing the Effect of Structured Communication Approach on Quality of Life in Secure Mental Health Settings in England**

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The effectiveness of a psychosocial intervention based on the structured communication approach in forensic mental health settings has been tested in a multisite randomized controlled trial in six medium secure units in England. The intervention combines a computerized tool guiding communication between patients and key workers (DIALOG) with brief counseling sessions based on Solution Focused Therapy. In the first two sites taking part in the trial, thirty-two patients and their key workers were allocated to DIALOG or to treatment as usual. Every month for a period of six months, service users met with their key workers to rate their satisfaction with quality of life and treatment and to identify the areas where they needed additional help. Their responses were displayed on the screen, compared with previous ratings and discussed. The primary outcome measure was quality of life. In this presentation, preliminary findings from the first two sites participating in the study will be examined. The
implications of presented results in relation to use of quality of life as an outcome measure will be discussed.

### 129. Restorative Justice and Elder Abuse

**“Access to Justice” for Victims of Elder Abuse in Wales**

Alan Clarke, Aberystwyth University (ahc@aber.ac.uk)

The Access to Justice Project is a Welsh Government initiative to facilitate criminal and civil justice remedies for older vulnerable people who are victims of domestic abuse. It seeks to address some of the difficulties encountered by older people who have been the subject of domestic abuse, in particular the need for agencies to work together to ensure that older victims do not feel that they have been denied justice. This presentation will report the findings from an evaluation of the project based on quantitative and qualitative data drawn from 200 victim case files and interviews with both professionals and lay people. Topics addressed will include the definition of elder abuse, different perpetrator typologies, the need for policies and practices to be sensitive to the complexities of the issue and the importance of an integrated, multi-agency response.

### “Cultural Iatrogenesis” in Health and Social Care Decision-Making in Cases of Elder Abuse

Sarah Wydall, Aberystwyth University (sww@aber.ac.uk)

Older people experiencing abuse in the home are often transformed by welfareist and justice interventions into “cases” processed through bureaucratic systems that can lead to outcomes in which their safety, choice and well-being are compromised in the best interests of maintaining family life. This presentation draws on findings from two empirical studies: the first is a collaborative pilot project that critically examines the feasibility of employing restorative justice techniques to address elder abuse, and the second is an evaluation of the “Access to Justice” initiative for older people in Wales. The presentation will use case studies to explore how cultural norms and practices across different professional domains may inadvertently lead to a form of iatrogenesis in which older people’s views are not always sought and their best wishes are overlooked. In light of these findings, the research team at Aberystwyth University is working collaboratively with policy-makers, practitioners and lay people to critically assess how Restorative Justice approaches could be used in this context. In particular, attention will be given to how victims might play a more active role in safety planning and decisions taken to promote their health and well-being.
The Failure of Traditional Justice Mechanisms for Victims of Elder Abuse

John Williams, Aberystwyth University (jow@aber.ac.uk)

Elder abuse is an international phenomenon. Reliable data are very scarce, as is often the case in relation to matters concerning older people. However, NGOs, practitioners and human rights activists report that older people are abused in their own homes and institutional settings. Perpetrators may be family, caregivers, friends, or practitioners. Very often abuse is also a criminal offense. Assault, attempted murder, sexual offenses, property and financial abuse and harassment are universally proscribed by the criminal law; however, such evidence that exists suggests that criminal prosecution is rarely contemplated and convictions rare. This can leave older people still vulnerable to abuse and also feeling that they have not received justice. A purely welfare response to elder abuse may in some cases be appropriate, but it cannot be right that we have effectively decriminalized elder abuse. What are the reasons for the lack of prosecutions? Is this failure a result of ageist assumptions about the physical and/or mental capacity of older people? If so, how can such ageism be effectively challenged by practitioners and others? Is it because of the often complex dynamics of elder abuse? Family and caring relationships create strong mixed feelings if the abuser is a relative or neighbor. This presentation will address the reasons behind what appears to have been a denial of justice for victims of elder abuse.

Research Opportunities in Restorative Justice and Elder Abuse

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Research opportunities in Restorative Justice and Elder Abuse are increasingly identifiable across the spectrum of academic and professional disciplines, including law, psychiatry, psychology, criminology, nursing, and social work. The methodologies and associated principles of Restorative Justice continue to pervade standardized approaches to social scientific data gathering, analysis, and policy recommendations, while inquiries into the phenomenon of Elder Abuse have graduated from mere reviews of institutionally tended arrest and incidence statistics to fully evolved investigations with a complex, stepwise blend of psychological assessment, interview, treatment, and intervention components. This presentation addresses optimal approaches to multidisciplinary team building, grant application, institutional review board communications, community relations, and ethical and safety considerations when interacting with a unique subject population that functions under a variety of socioeconomic, legal, and health-related stressors. A timeline for developing and executing Restorative Justice and Elder Abuse research will be reviewed within the context of a currently ongoing study, identifying and explicating distinct stages that progress from conceptualizing the original research question to popularizing research findings via academic publication and professional presentations.
Contrasting British and American Approaches to Restorative Justice and Elder Abuse

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Although the American legal system owes far more to traditions of British jurisprudence than to any other historically identifiable source, these two societies have adopted approaches to Restorative Justice and elder abuse that differ in several critical aspects. One might be tempted to assume that these differences were determined, at least in part, by key distinctions between early Celtic and Native American models, but in fact, modern British and American approaches reflect in both instances a deliberately eclectic blending of strategies and techniques unlimited by geographical or cultural boundaries. In each case, the true source of discernible methods for dealing with elder abuse from a Restorative Justice perspective can be found in relatively recent legislative and policy developments that reflect, for example, the influence of codified American sentencing guidelines and the comparative independence of the British judiciary when it comes to fixing penalties for criminal transgressions. This presentation will underscore salient differences with reference to case law, statutes, regulations, ethical codes, and sociolegal research. Participants will be encouraged to consider how the most humane, effective, and heuristic innovations can be adopted and applied from one system to another in enhancing Restorative Justice approaches to elder abuse.

130. Rights, Risk of Harm, and Decision-Making Capacity: International Responses to Involuntary Psychiatric Treatment in Light of the CRPD

Rising to the Human Rights Challenge: Capacity-Based Treatment Arrives in Australian Law

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Australian mental health law is on the verge of a major change. Legislative reviews in several states under the influence of the Convention on the Rights of Persons with Disabilities (CRPD) have seen the introduction of some important human rights based innovations. For example, Mental Health Bills in Tasmania and Victoria will only permit treatment without consent where patients lack capacity to make their own treatment decisions. However, problems still remain in the retention of risk-of-harm criteria which may unfairly restrict access to health services for people with mental illness. This session will give an overview of key rights based developments
in Australian mental health law and discuss the remaining challenges in ensuring true equal treatment for person with mental illness in line with the requirements of the CRPD.

**Compulsion in Mental Health Treatment: Is Capacity Really the Way Forward?**

Peter Bartlett, *University of Nottingham* (peter.bartlett@nottingham.ac.uk)

The tendency among progressive mental health policy advocates in the last years has been to move towards a system where capacity serves as the gateway of compulsion. This presentation considers the limitations of a capacity-based approach, with particular attention to the following issues: the international experience appears to be that patients will rarely be found to have made a capable refusal in the face of medical views that treatment is necessary. To what degree does “capacity” reduce to “doctor knows best”? This is a particularly difficult problem in psychiatric settings. These issues are particularly problematic when law is invoked: courts do not deal with these situations well. The Convention on the Rights of Persons with Disabilities (CRPD) raises issues as to whether capacity can be used in decisions regarding compulsory treatment. What options are left for us by way of compulsory treatment in serious situations?

**The State’s Duty to Protect the Suicidal Patient**

Neil Allen, *University of Manchester* (neil.allen@manchester.ac.uk)

A duty to take reasonable precautions to avoid real and immediate risks to life may seem uncontroversial at first. Indeed, it is now well-established in English law that a failure to prevent a psychiatric patient’s suicide may violate their right to life. But such human rights developments fly in the face of traditional common law thinking which has done little to encourage the Good Samaritan. This presentation will outline recent case law and consider how much further the duty to save life might extend before considering the potential implications.

**Risk Assessment: Trouble with Numbers – Why We Need to Move on from “Risk” and “Dangerousness” Criteria in Mental Health Law**

Matthew Large, *University of New South Wales* (mmbl@bigpond.com)

In the last fifty years, the concept of “risk” has become increasingly used as the basis for involuntary psychiatric treatment. In addition, risk is often central to civil claims against health providers after suicides. However, there is a strong statistical argument based on the low prevalence of severe harms associated with mental illness and the modest strength of the
association between high-risk categorisations and later suicide that indicate that risk assessment can never distinguish between high and low-risk patients in a way that is clinically meaningful. Despite the widespread acceptance of risk assessment as a method for reducing harm, Dr. Large will present research showing that risk assessment is a fundamentally flawed approach, and will argue that it should not be used as a rationale for coercive psychiatric treatment.

131. Risk Factors for Juvenile and Adult Offenders: The Role of Psychopathy, Attachment, and History of Violence

**Risk Factors of Different Types of Juvenile Antisocial Behaviour**

Teresa Braga, *University of Minho* (teresa.g.braga@gmail.com)
Rui Abrunhosa Gonçalves, *University of Minho* (rabrunhosa@psi.uminho.pt)

Juvenile antisocial behaviour describes a wide variety of actions that violate societal norms and the personal or property rights of others, such as physical aggression, theft, lying, vandalism, and defiance. Although the constellation of behaviours is widely recognized, major questions remain regarding the real nature of this phenomenon. Some researchers have maintained that all types of antisocial behaviours represent a unitary syndrome, while others have argued that these conduct problems represent distinct clinical entities, which may correspond to etiological variations in risk. The primary purpose of this study was to shed light on this subject by analyzing risk factors of overt, covert and authority conflict behaviours in a sample of 137 antisocial youth. Criminal history, family circumstances, education, peer relations, substance use, leisure, personality, and attitudes were evaluated using a risk assessment tool (YLS/CMI), and antisocial behaviour was measured through a self-report questionnaire developed by the authors (CAS-J). Using regression analysis, the contribution of each risk domain for the three types of behaviours was examined. The limitations of the results and their implications for theory and practice will be discussed.

**Risk, Needs, and Disruptive Behaviours in Prison: A Longitudinal Study with Portuguese Young Offenders**

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Criminological literature has systematically identified age as one of the most important predictors of inmates’ maladjustment in prison, associating young offenders with disruptive
behaviours and institutional violence. Yet, little is known about their adjustment pattern over time and which variables should be considered for their early classification and treatment. We assume that young offenders, as a group, have specific needs and use different coping strategies than the remaining prison population. This study explores institutional adjustment through a prospective method and using a sample of 75 Portuguese young males confined in a special prison. Coping strategies, attitudes toward the institution, psychopathology, personal attributes and socio-demographic and penal variables were assessed in three moments of prisoners’ sentences (1st, 3rd, and 6th months). Adjustment to prison is measured in terms of disciplinary infractions and clinical demands reported in the prison records during inmates’ first year in the institution. Those outcomes are also subdivided into major or minor infractions, and psychological or physical complaints, respectively. Additionally, a self-report measure of adjustment was employed to assess the concurrent validity among those measures. Results include descriptive analysis and mean differences across time moments, providing an indication of the adjustment process over time. Longitudinal regression analysis for count data are employed to identify major predictors of institutional infractions and clinical demands. Finally, predicted number of events is calculated according with different values on the risk/protective factors included in our models. Both limitations and implications of the results for theory and practice are discussed.

Attachment Patterns and Psychopathy in Adolescence: A Study with a Sample of Portuguese Teenagers

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Rui Abrunhosa Gonçalves, University of Minho (rabrunhosa@psi.uminho.pt)

This presentation aims to prove the possibility of identifying psychopathy features in adolescence, contrasting with the theoretical position that stands that psychopathy is an adult personality disorder. Additionally, we assume that the attachment patterns set up with parents and friends may be considered also as factors of risk vulnerability for the development of psychopathy features in adolescence. The study was based on a sample of 500 teenagers, between twelve and eighteen years of age (M=14.87), who attended normal classes of education and the other two related to professional courses. The main hypothesis was that the bad quality of attachment patterns (measured by Inventory of Parents and Peers Attachment - IPPA3) would predict the development of the psychopathy features (measured by the Inventory of Psychopathy for Adolescence - YPI), while considering different attachment targets: mother, father, or friends. The results corroborate partially this hypothesis. That is to say, the attachment patterns identified as factors of protection were: mother’s communication, father’s trust and friend’s attention and communication whereas the attachment pattern identified as a risk vulnerability factor was the father’s communication pattern.

Early Childhood Experiences of Intimate Partner Violence
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Research about intergenerational transmission of spouse abuse produced diverse results assigning different degrees of importance to parental abuse or to child witnessing of interparental violence as risk factors for future intimate partner violence. The present study analyses early experiences of abuse through childhood recollections of physical and emotional abuse and neglect and of witnessing interparental violence. Data were collected using a semi-structured interview specially conceived for this study. Some of the main issues explored were parental behaviour regulation, guidance, affection, attending child emotional needs and congruency between demands and expectancies and child development and interparental relationship and violence. Our participants are adults inmates arrested for violence or homicide against partner: twenty men and eight women arrested for murdering the partner and six men arrested for violence against the partner. A content analysis procedure was used to categorize the interviews transcripts. We did not find any regularity neither between mother or father’s physical abuse or witnessing interparental violence and the perpetration of intimate partner violence as adult. On the contrary, emotional neglect is constantly present in the childhood experiences of the individuals. We discuss the importance of emotional neglect and emotional abuse for emotional regulation and attachment in romantic adult relationship accordingly to attachment theory and for the construction of beliefs about the self and others accordingly to schema-focused approach.

Predictors of Intimate Partner Abuse Severity in a Sample of Adult Male Batterers

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Intimate partner abuse and intimate partner homicide has been identified as major violent problems and violations of women’s human rights. In this sense, it is important to determine the predictors of such violent behaviour, partly because predicting the risk of intimate partner violence facilitates searching for better solutions and better answers. This prospective study identifies the variables that best predict the severity of marital abuse in a sample of fifty male perpetrators of severe violence and 137 male perpetrators of less severe violence. To collect the data, a semi-structured interview was used joined with information extracted from the participant’s institutional files. Based on these data we coded the Spousal Assault Risk Assessment (SARA) whose items and other demographic variables were afterwards used as risk factors. A logistic regression analysis was performed to determine the predictors of severe violence. Results revealed that suicidal and/or homicidal ideation/intent and use of weapons or credible threats of death increased considerably the likelihood for severe violence. Inversely, assault of family members, violation of conditional release and medium socioeconomic level decreased the likelihood for severe violence. In general, findings provided support for the influence of prior violence and prior severe threats as major risk factors for intimate partner
violence severity whereas medium socioeconomic level appeared as an important protective factor. Implications for treatment strategies are considered.

132. Risk and Protective Factors Influencing Criminality for Offenders with Mental Disorders: Implications for Interventions

Preliminary Investigation of Patterns of Offending among Offenders with Mental Disorders

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There is ambiguous research on the role of mental disorder in increasing risk for offending and failure after release to the community. This may be due to mental disorder being related to specific offence patterns and not to offending in general. In this study, two groups of mentally disordered offenders, those newly admitted to prison and those being returned to custody after release to the community, were compared to groups of non-disordered offenders in terms of their offence history, crime types and offence characteristics. The results from the research revealed that mentally disordered offenders and non-disordered offenders differ significantly on an array of factors that suggest at least some of their criminal behaviour is linked to their mental health problems.

Male Depression and Domestic Homicides: Recognizing Risk Factors from Domestic Violence Death Reviews

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This presentation reviews the role of depression in male perpetrators of domestic violence and domestic homicide. The authors summarized the findings and recommendations from twenty-five Domestic Violence Death Review Committees (DVDRCs) from across the United States and Canada regarding depression and its link to domestic violence and homicide. The findings suggest that male depression is often overlooked as a warning sign for homicide. Although mental health professionals often screen for suicidal ideation, homicidal thoughts and ruminations over murder-suicide are rarely addressed. The implications and recommendations are grouped
into six major themes: 1) education and awareness; 2) training; 3) screening and assessment; 4) interventions; 5) firearms; and 6) research and investigations of domestic homicide/suicides.

**Criminogenic Needs in Sex Offenders: What Have Years of Actuarial Assessment Research Taught Us about the Critical Targets of Effective Correctional Treatment?**

Howard Barbaree, *Waypoint Centre for Mental Health Care, Penetanguishene, Canada* (howardbarbaree@bellnet.ca)

Over the last twenty-five years, the development of actuarial instruments to assess sex offender risk for recidivism has been accomplished through empirical studies of the relation between actuarial items and recidivism outcome. While this important development has been accomplished without any process of theoretically driven hypothesis testing, principal components analysis of actuarial items reveals putative latent risk factors. In the present study, the effects of aging were partialled from the data set using semi-partial correlation. Then, principal components analysis (PCA) was conducted on the residuals. The analysis revealed 13 factors that reflect easily recognizable and commonly understood risk factors. In this presentation, these factors will be grouped into super-ordinate factors that reflect Antisocial Behaviour, Sexual Deviance, and Sexual Impulsivity. Implications for risk assessment methodology, the relationship between static and dynamic risk assessment, and the treatment of criminogenic needs in sex offenders will be discussed.

**Protective Factors that Mitigate Risk among Justice Involved Clients with Mental Health Problems: Best Practice Guidelines for Promoting Favourable Outcomes**

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Marilyn Van Dieten, *Orbis Partners, Ottawa, Canada* (mvandieten@orbispartners.com)

While there is evidence of a number of risk factors associated with criminal justice involvement and re-involvement, only recently has an interest emerged in factors associated with resilience. Research has facilitated the identification of protective factors that can buffer or mitigate the impact of risk. In this presentation we will focus on criminal justice involved clients who have mental health problems to explore specific factors or combinations of factors that appear to contribute to favourable outcomes. Drawing from existing research and data from a large community sample, guidelines will be presented to support the delivery of effective supervision and interventions in community settings.
133. Sane Enough (for What)? Mental Capacity in Criminal Responsibility and Competency

Should an Incapacity Defense Replace the Insanity Defense?

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Defendants can be excused for their criminal actions because of legal insanity. Different jurisdictions may have quite different standards for criminal responsibility. For instance, a widespread legal rule is the M’Naghten Rule, which focuses on specific kinds of knowledge concerning the criminal act. Other legal standards for the insanity defense, like the American Law Institute’s Model Penal Code, include the defendant’s ability to control his or her actions. In this presentation I will explore the extent to which the insanity defense can be understood in terms of certain mental capacities that the defendant is lacking at the moment of the crime. In other words, is it possible – and perhaps desirable – to phrase criminal responsibility in terms that are usually applied to “competence”? Rather than answering the question of whether a defendant was sane enough to secure a conviction, the law should, then, be interested in whether a defendant was sufficiently competent during the commission of the crime.

Insight and Action Control in Forensic Psychiatric Reports

Susanna Radovic, University of Gothenburg (susanna@filosofi.gu.se)

Swedish penal law does not allow acquittal due to diminished accountability. If a court of law decides that a criminal offender has acted under the influence of a severe mental disorder s/he cannot be sentenced to prison, but may instead be sentenced to forensic psychiatric care, which is one criminal penalty among others. A recent addendum to the legislation (from 2008) allows prison sentences for offenders with severe mental disorders in some special circumstances. However, for offenders who due to a severe mental disorder “lack... the capacity to appreciate the nature of their actions or the ability to adjust their actions according to such knowledge,” a prison sentence is still ruled out. All such forensic psychiatric assessments are issued by a state authority – the National Board of Forensic Medicine – which is a branch of the Ministry of Justice. The present study surveyed all forensic psychiatric evaluations conducted in 2010 in Stockholm and Göteborg (121) where the questions of insight and action control were evaluated with the aim of representing what psychiatric symptoms and psychological impairments are connected to the assessment of diminished capacity for insight and control and how those conclusions are argued for.

Blameworthiness, Fitness to Plead, and the Diachronic Nature of Responsibility
In this presentation, I challenge the view that there is a clear-cut conceptual distinction between an insanity defence and a plea of unfitness to plead, a view based on the distinction between insanity as a doctrine of substantive law affecting the agent’s responsibility, and unfitness to plead as a doctrine of procedure affecting the legitimacy of trial. What this picture tends to conceal is the fact that responsibility has a diachronic nature, as far as it depends on the ability on the part of the agent not only to act according to reason, but also to engage in a reflection on his actions and the reasons for them. If so, a lack of the relevant capacities at the time of the trial may impinge on the responsibility of the offender, not only on the right to proceed with the trial against him. To highlight this point some cases of serious dissociation of personality are taken into account. These cases are particularly interesting, insofar as they concern agents who did not manifest any serious mental defect at the time of their wrongful action, nor at the time of trial. Still, doubts about these agents’ responsibility arise because of their apparent inability to recognize, at the time of trial, their actions as something that they did, for which they should now answer.

**Sane Enough for Execution and Other Punishments**

Nicole A. Vincent, *Macquarie University* (nicole.vincent@mq.edu.au)

What mental capacities should people have to be “sane enough” for punishment, and would mental capacities instilled, for example through forced medical treatment with anti-psychotic drugs, suffice? I will argue that to answer these questions we must consider at least four factors. Firstly, whether we take the aim of punishment to be retribution, deterrence (specific or general), reform, rehabilitation, therapy, incapacitation, communication (to/with the public, to/with criminals), expression of solidarity (with victims and their families), restoration of the law’s authority, revenge, etc. Secondly, supposing that we settle on retribution, whether our interpretation of what retribution requires is merely that the party should suffer, or that they should also understand the state’s reasons for making them suffer, etc. Thirdly, what mode of punishment is proposed – e.g. execution, imprisonment, flogging, community service, fines, etc. And fourthly, a range of normative considerations might also come into play – for instance, if retribution requires understanding of the state’s reasons for infliction of suffering, then what degree of understanding is required and why; if plural aims are being pursued (e.g. retribution and deterrence) then what is the relative importance of each aim; and why that particular mode (and degree) of punishment is seen as appropriate.

**Capacity and Autonomy: Qualifying for the Right to Self-Destruct**

Sascha Callaghan, *University of Sydney* (sascha.callaghan@sydney.edu.au)
Other presentations in this session have focused on the nature and implications of mental capacity in ascribing responsibility – both for criminal acts and for susceptibility to the punishments consequent on that. This presentation, however, will consider mental capacity as the key qualification for exercising personal rights, particularly the right to self determination in circumstances where we do no harm to others, but we may do harm to ourselves. I will argue that a basic functional test of decision-making capacity that requires an ability to understand information and to use and weigh it to make a decision, is both necessary and sufficient qualification to allow persons to exercise their rights to do risky, irrational, self destructive, or even “wrong” things. While notions of “irrationality,” “vulnerability,” and “risk of significant harm” may be relevant to determining whether and what kind of help should be offered to persons, they cannot provide sufficient ethical warrant for overriding the autonomous decisions of capacituous individuals using the coercive powers of the state.

134. Self and Other: Conceptual and Empirical Aspects of Identity and Difference

Patient Responsibilities in a Psychotherapeutic Alliance

Duff R. Waring, York University (dwaring@yorku.ca)

Patients in a psychotherapeutic alliance should act responsibly in their progression toward restoration of self. I will concentrate on the ethical virtues that patients should cultivate in this progression. The patient in this alliance is a “normative project” for both the therapist and him or herself. I focus on self-regarding ethical responsibilities. I elucidate them as virtue ethical aspirations to develop and strengthen one’s capacity for better responding to the demands of the world, i.e. commitments to aspire to self-improvement. This requires cultivation of a context-specific profile virtue of self-regarding care. This idea was foreshadowed by Hellenistic ethics and invites a reformulated contemporary expression. To that end, I will show how this virtue differs from Kantian duties to the self (Kant 1985) and from Foucault’s notion of “care of the self” (Foucault 1994, 2001). I relate it to Swanton’s profile virtues of self-respect and self-love (Swanton 2003). It subsumes more specific patient virtues, e.g., persistence, courage, honesty, hopefulness, and flexibility (Radden and Sadler 2010, 137). Psychotherapy can enable patients to respond to the ethical challenge of leading a critically good life. Meeting this challenge connects with moral respect for others (cf. Dworkin 2011).

Politics and Religion: Sources of Neurosis in a Country’s National Psyche

John O. Ifediora, University of Wisconsin at Platteville (ifedora@uwplatt.edu)
In all nations, the quality and relevance of countervailing social institutions matter. That this is the case is particularly of import since institutions are rules that govern individual and collective behaviour in any society. In this regard reference is made to primary and enabling rules and observances that inform and guide conduct; specifically religious, political and economic institutions. In nations where these social institutions have evolved to the point where individual rights and freedom of choice are accorded universal cognizance with appropriate checks and protection, the polity is reasonably well-adjusted. Under this state of affairs, malfunctions in any of the constituent institutions are unlikely to have lasting effects, and minimal corrective measures are needed to restore normalcy; this sentiment enjoys durable currency. In advanced democracies such as the United Kingdom, France, Japan, and the United States, abnormalities are generally reflections of discontent, and may pose no serious danger to established norms, unless left unattended. It is thus presumed that advanced democracies have built-in mechanisms that inexorably return them to long-run equilibrium in the event of temporary malfunctions in any of their institutions. Events within the last decade, however, have made this presumption less serviceable. In this presentation, I propound that malfunctions in religious and political institutions are always and everywhere responsible for all forms of societal neurosis that inflict a nation’s psyche in times of stress and uncertainty. That individuals, in extreme cases, are willing to kill the innocent in order to advance religious and political goals attests to the potency of deranged and malfunctioning institutions that guide and inform collective action. Suicide bombers readily come to mind – but whether society acknowledges it or not, these suicide bombers, once well-functioning members of society, were mentally deranged. No well-adjusted and healthy person wants to die; only the neurotic chooses to die. And to a large extent, they are victims of distorted religious and political institutions that cut across nations at various stages of socio-political development. My research highlights this growing epidemic in Nigeria, and grapples with solutions.

**Free Will: Responsibility and Cooperation are Constrained, Not Determined**

Danilo Garcia, *University of Gothenburg* (danilo.garcia@euromail.se)

**Background:** In past decades, voices from the scientific community have advocated rejection of free will and personal responsibility. Seeing the physical world as determined and the physical brain as the organ that enables the mind suggests that brains and minds are both determined. If free will is an illusion, the ramifications to penal law and personal responsibility need to be reconsidered. Failing to be aware of the self as the cause of one’s own actions leads to aggressive and less helpful behaviour. Nevertheless, even when confronted with setbacks, disappointments, and failures, humans have the ability to maintain a sense of personal responsibility.

**Aims:** To estimate the possibility to develop an adequate sense of responsibility and cooperation in the presence of genetic and environmental adversity.

**Method:** The variation of self-reported Self-directedness and Cooperativeness (measured by the Temperament and Character Inventory) was investigated among cotwins (monozygotic and dizygotic) of individuals with extremely low scores in these character traits and an objective...
behavioural disorder. These individuals were derived from population-based cohort of 15-year old twins (n=2714).

Results: The Co-twins had an increased probability of reporting extremely low Self-directedness and Cooperativeness compared to the general population. However, a considerable number had developed character in the average or high range, in spite of having exactly the same, or half the genetic susceptibility of the problem-laden individuals. Co-twins to probands with both self-reported and objectively observed problems did not differ from the overall pattern.

Conclusions: Environmental and genetic adversities give unequal opportunities to develop a sense of responsibility and cooperation, but with a substantial plasticity.

A Model for Understanding and Treating Burn-Out and Compassion Fatigue in Forensic Personnel

Lee Norton, Center for Trauma Therapy, Nashville, USA (norton@centerfortraumatherapy.com)

The term compassion fatigue was coined in 1995 by Dr. Charles Figley (1995, Compassion Fatigue: Coping with secondary stress in those who treat the traumatized) to describe the cumulative effects experienced by those who work with traumatized individuals. Compassion fatigue is sometimes used synonymously with secondary trauma, but Baranowsky and Gentry (2002), who developed the Accelerated Recovery Program for compassion fatigue, demonstrate a more edifying equation: primary trauma + secondary trauma + burn out = compassion fatigue. The unique value of this model is the inherent requirement that each care giver resolve his or her own trauma prior to and while they provide care for others. Only in this way can burn out and compassion fatigue be mitigated or avoided altogether. In the upcoming text Encyclopedia of Trauma (2012, Figley, ed.), Norton and Woods look at how compassion fatigue can affect individuals involved in the court system, specifically jurors, jurists, attorneys, and court room personnel. Continued exposure to noxious descriptions of violence, injustice, and humiliation can cause acute and chronic traumatic stress conditions, including compassion fatigue. This presentation will examine the ideas and practical applications of the Accelerated Recovery Program for treating burn out and compassion fatigue. Assessments will be provided so that participants may discover ways in which they may be vulnerable to or suffer from conditions that interfere with care giving or other work that involves exposure to trauma.
In *Sex Fiends, Perverts, and Pedophiles: Understanding Sex Crime Policy in America*, criminologist Chrysanthi Leon argues that punitive policies designed to protect us from sex offenders unfairly punish many offenders who are not the “worst of the worst,” creating an unjustifiable “one size fits all” approach. In *Monstrous Crimes and the Moral Failure of Forensic Psychiatry*, criminal defense attorney John Douard and professor of communications Pamela Schultz have written the first book to address the connections between the history of the monster metaphor, the 19th century idea of the criminal as monster, and the 20th century conception of the psychopath: the new monster. In *Yuck! The Nature and Moral Significance of Disgust*, Daniel Kelly has written the first comprehensive philosophical analysis of the place of disgust in our cognitive and affective economy. Disgust is at the heart of our moral panic over sex offending, and the concept plays a role in all three books.

**Yuck!: The Nature and Moral Significance of Disgust**

Daniel Kelly, *Purdue University* (drkelly@purdue.edu)

People can be disgusted by the concrete and by the abstract – by an object they find physically repellent or by an ideology or value system they find morally abhorrent. Different things will disgust different people, depending on individual sensibilities or cultural backgrounds. In *Yuck!*, I investigate the character and evolution of disgust, with an emphasis on understanding the role this emotion has come to play in our social and moral lives. Disgust has recently been riding a swell of scholarly attention, especially from those in the cognitive sciences and those in the humanities in the midst of the “affective turn.” I propose a cognitive model that can accommodate what we now know about disgust. I also offer a new account of the evolution of disgust that builds on the model and argue that expressions of disgust are part of a sophisticated but largely automatic signaling system that humans use to transmit information about what to avoid in the local environment. I show that many of the puzzling features of moral repugnance tinged with disgust are by-products of the imperfect fit between a cognitive system that evolved to protect against poisons and parasites and the social and moral issues on which it has been brought to bear. Finally, I use the account of this emotion to mount a sweeping argument against invoking disgust in the service of moral justification.

**Monstrous Crimes and the Failure of Forensic Psychiatry**

John Douard, *Rutgers University* (douard@rci.rutgers.edu)

Our focus in this book is on the monster as a contemporary metaphor for certain kinds of crimes and their perpetrators. The core meanings of that metaphor, however, have their roots deep in the history of modernity. There is a direct narrative line from the fascination with monstrous births
that ordinary people experienced in the sixteenth and seventeen centuries and our current fascination with monstrous crimes. That fascination incorporated then, and incorporates now, in addition to emotions such as fear and loathing, a kind of titillation, a powerful sexual interest in the unnatural. The physiognomy of the monster has changed from horrible, misshapen bodies to ordinary bodies – bodies that fascinate only because they appear to harbor strange and disturbing desires.

136. Sex Offenders and Public Policy: Bridging Research, Policy, and Practice

**Behind the Numbers: Understanding the Scope and Characteristics of Registered Sex Offenders in the United States**

Jill Levenson, *Lynn University* (jlevenson@lynn.edu)
Andrew J. Harris, *University of Massachusetts Lowell* (andrew_harris@uml.edu)

This presentation will discuss the scope and characteristics of the United States registered sex offender population and discuss the related implications for policy and practice. The data presented, drawn from the first nationwide sample of sex offenders collected directly from state public registry websites (n=445,000), will include demographic characteristics of offenders, offense characteristics, registry status, and risk related variables. We will then apply these findings to the current state of the research regarding sex offense recidivism and sex offender management practice, and in the context of federal sex offender registration standards in the United States as reflected in the Adam Walsh Child Protection and Safety Act. Finally, the presentation will provide an overview of sex offender management considerations in the context of American registration policies, including risk, needs, and community reintegration.

**Breaking the Impasse: Toward a New Generation of Sex Offender Policy Research**

Andrew Harris, *University of Massachusetts Lowell* (andrew_harris@uml.edu)

Recent years have produced a growing body of research evaluating the impacts of public policies designed to control known sex offenders within the community. In the United States, findings from these studies have frequently challenged the public safety efficacy of prevailing policies, pitting the research establishment against those advocating stronger and more extensive social controls over sex offenders. For those in the research community, the problem has often been framed as a battle between empiricism and ideology – the triumph of “moral panic” over reasoned policy development. From the vantage point of those advocating tougher policies, research data are often viewed with skepticism, particularly when such data are contravened by
individual cases with tragic outcomes. This presentation will explore the dynamics of this impasse, arguing that much of the problem resides in a failure of researchers to frame their analyses in a way that resonates within the policy domain. Presenting the results of a comprehensive study analyzing the methods, measures, and outcomes from recent sex offender policy studies, we will present a framework for a new generation of sex offender policy research – one that relies on building effective researcher-practitioner collaboration and that places greater emphasis on mixed-method approaches.

**Understanding Sex Offender Disclosure, Restorative Justice, and Reintegration in the United Kingdom: Practitioner, Policymaker, and Academic Perspectives**

Kieran McCartan, *University of the West of England* (kieran.mccartan@uwe.ac.uk)
Hazel Kemshall, *DeMontfort University* (kemshall@dmu.ac.uk)
Kirsty Hudson, *Cardiff University* (hudsonkj@cardiff.ac.uk)

This presentation will discuss the realities of sex offender reintegration in the United Kingdom, focusing on how the sharing of sex offender information with the public and how community members’ awareness of the identity of sex offenders in their communities helps sex offender reintegration as well as rehabilitation. The presentation will focus on the current public disclosure of sex offender information in the United Kingdom and on the role of restorative justice organisations (Stop it Now! & Circles of Support and Accountability). The presentation will discuss: the starting point and policy evolution of sex offender public disclosure in the United Kingdom; the research that has helped shape it; its impact upon sex offender management in the community and how it ties in with restorative justice schemes; and some of the barriers to the current schemes (i.e., assessing impact and access to the scheme by communities). In doing this, the presentation will discuss regional variations in the public disclosure of sex offenders in the United Kingdom and how they impact the national UK strategy. The presentation will also draw on practitioner, policymaker, and academic perspectives derived from across the United Kingdom based upon a knowledge exchange network.

**Prosecuting Sexual Assault: The Pre-Arrest Screening Process and its Implication**

Cassia Spohn, *Arizona State University* (cassia.spohn@asu.edu)
Katharine Tellis, *California State University at Los Angeles* (ktellis@exchange.calstatela.edu)

Research on prosecutorial decisions in sexual assault cases focuses on the post-arrest charging decision. This reflects an assumption on the part of researchers that law enforcement will arrest a suspect if they have probable cause to do so and that they then will present the case to the
prosecutor for a formal charging decision. Research on sexual assault case processing decisions in Los Angeles revealed that prosecutors play a role in screening cases prior to the arrest of the suspect. In this jurisdiction, law enforcement officials who have probable cause to make an arrest often present the case to the district attorney and, if the district attorney determines that the case does not meet the standard of proof beyond a reasonable doubt, they then clear the case by exceptional means. In this presentation, I present data on the prevalence of pre-arrest screening and I discuss the explanations given by detectives and district attorneys for this practice. I also identify the predictors of prosecutors’ pre- and post-arrest filing decisions and discuss the implications of the pre-arrest screening process and the overuse of the exceptional clearance.

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Emily Blake, *University of Kent* (eab28@kent.ac.uk)

Several studies have found an automatic power-sex association in sexually aggressive men (e.g., Bargh, Raymond, Pryor & Strack, 1995). This lends support to theorists who propose that a need for dominance and power are motivating factors for harmful sexual behaviour. Furthermore, evidence of such an automatic link provides evidence that non-conscious processes may play a role in the offence process. However, in a study designed to assess the strength of an automatic link between power and sex in rape prone men, we instead found a relationship in the opposite direction. This link was related to high levels of endorsement of rape supportive beliefs and sexual dominance. This indicates that men who report sexual dominance and who endorse high levels of rape supportive beliefs tend to associate weakness with sex, rather than power with sex. We propose that this unusual finding may represent an interaction between sexism, rape supportive beliefs, and sexual dominance. We hypothesise that the stimuli in our study designed to represent weakness as a concept may be interpreted by some males as a representation of traditional gender roles, or attributes sexually dominant men look for in a partner. These hypotheses are explored in terms of feminist theories of rape and more contemporary socio-cognitive theories. Finally, results are discussed with references to further research as well as treatment implications.

| Impulsive Violent Sexual Behaviour: Antilibidinal Hormonal Treatment Considerations in Mentally Disabled Perpetrators |

Rob C. Brouwers, *University of Tilburg* (rbrouwers@trajectum.info)
Jelle A. Troelstra, *Van der Hoeven Kliniek, Utrecht, The Netherlands* (jtroelstra@hoevenkliniek.nl)
Antilibidinal hormonal treatments, such as steroidal antiandrogens and gonadotrophin-releasing hormone (GnRH) analogues, seem to be effective in paraphilic disorders. This presentation discusses when to consider antilibidinal hormonal treatment in mentally disabled perpetrators with recurrent impulsive violent sexual behaviour. There is some evidence that antilibidinal hormonal treatment can be helpful in diminishing recidivism of impulsive violent sexual offences in mentally disabled perpetrators through delay of arousal and improvement of impulse control. If we apply the bimodal model of violence then antilibidinal hormonal treatment can be used in an earlier phase of treatment. Lowering of testosterone will diminish sexual arousal, decrease amount of violence, enhance control and perhaps decrease anger responses (inhibiting dominance and risk taking) in the impulsively violent mentally disabled perpetrator. Unfortunately it seems that the majority of offences by mentally disabled perpetrators are not impulsive in nature. Because it is difficult to understand all the considerations for the mentally disabled perpetrator and this kind of treatment is an ethical minefield, we recommend a special multidisciplinary committee that is not involved in the treatment and able to give independent advice. In the two years of experience we have with this kind of expert advice we have noticed that an antilibidinal hormonal treatment is not always necessary, especially in those cases when twenty four hour supervision is demanded.

**Student Sex Work Research in Wales: Enhancing Student Well-Being**

Tracey Sagar, *Swansea University* (t.sagar@swansea.ac.uk)
Debbie Jones, *Swansea University* (deborah.a.jones@swansea.ac.uk)

This presentation provides an overview of the All Wales cross sector research project “Interactive Health: Student Sex Work Wales,” which aims to uncover the motivations and needs of student sex workers and to provide a new innovative e-health service for this relatively invisible cohort of sex workers. It also reports on the findings from student sex worker focus groups carried out in July 2011 in the city of Cardiff. In particular, the presentation raises questions regarding the potential impact of sex work in terms of safety, sexual health, and mental well-being, and the need to reduce stigma and victimisation towards young sex workers. It is argued that reducing stigma amongst the general public and professional service providers could facilitate the disclosure of sex work as an occupation and that this would go some way to ensuring that young people are able to access appropriate services.

**The Relevance of Interpersonal Style to Aggression in Psychiatric Units**

Michael Daffern, *Monash University* (michael.daffern@monash.edu)

Recent research on aggressive behaviour in psychiatric hospitals has emphasized the importance of the interaction between characteristics of patients and aspects of the hospital environment.
Interpersonal style, a key component of personality and personality disorder that characterises the way individuals relate to others, influences how patients respond to the demands of psychiatric hospitalisation. The aim of this presentation is to explore the value of interpersonal theory as a parsimonious and unifying theory to understand the reactions of psychiatric patients to involuntary hospitalisation. A program of research describing the relationship between interpersonal style and aggression in patients admitted to civil and forensic psychiatric hospitals will be presented. The results of these studies reveal a consistent relationship between a hostile-dominant interpersonal style and aggression. Finally, results of recent research into the treatment of problematic interpersonal styles will be presented. The implications of research based on interpersonal theory that has been drawn upon to enhance patient satisfaction and compliance will be presented, and opportunities for preventing aggression will be introduced.

**138. Shifts in the Provision of Mental Health Care and Management Internationally**

**Distance Therapy Conundrums**

Terry R. Bard, *Harvard University* (terry_bard@hms.harvard.edu)

Distance therapy is an increasing practice globally, and models for such practice are emerging. Both benefits and limitations characterize such practice. However, nettlesome issues remain pertaining to privacy, confidentiality; treatment models, licensure, and professional responsibility have yet to be addressed formally. Several recent court cases have highlighted such concerns. These issues will be discussed, and a number of possible stratagems to rectify these concerns will be identified to facilitate workshop discussion about how to approach and protect this burgeoning model of health care.

**Special Problems in Forensic Telepsychiatry**

Thomas G. Gutheil, *Harvard University* (gutheiltg@cs.com)

Current literature stresses the benefits of forensic telepsychiatry in terms of cost savings, dealing with distance and remote settings (especially internationally), and the relative improvement over telephonic interviewing and testimony. However, a number of problems still exist with this otherwise useful method. These include lack of person-to-person physical interaction; alteration of the subjective response experience of in-room forensic evaluative interviewing; and the effect of the very common split-second delay experienced with a number of platforms for such interviewing. This presentation will address these problems and suggest solutions.

**Issues of Interpretation in Global Mental Health Care**
Clear and mutually shared and understood communication is fundamental to all human undertakings. From the adaptation and evolution of human personalities through the dyadic and passionate semiotics of a mother-child relationship, to the clinical forensic dialectic of multi-lingual international courts and treatment settings, shared and comprehensible meaning through translation is the foundation upon which all tasks are undertaken and successfully accomplished. This presentation lays out and discusses the process, challenges, and some possible solutions to the global complexities of sharing reliable and valid meaning-making in global multi-lingual, multi-person systems; it is designed to encourage a discussion of this process and identify strategies.

The Role of Virtual Technologies in the Mental Health World

M. Myra S. White, Harvard University (mswhite@fas.harvard.edu)

The explosion of new virtual technologies in the past ten years has changed the way we live and work. For mental health professionals these technologies provide new ways to deliver care, but their use also poses special challenges to a profession that has traditionally delivered care through the establishment of live human connections with patients. This presentation will consider the limitations and benefits of different virtual technologies in delivering care and coordinating mental health treatment teams. As part of this analysis it will also address legal and ethical constraints that should temper the adoption of virtual technologies.

139. The Social Construction of Risk in Mental Health and Justice Systems

An Exploration of the Discursive Construction of Risk in Forensic Mental Health Practice

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Within UK mental health services, “risk” has become a dominant discourse guiding discussions about service-users and broader service objectives. This trend has generated extensive attempts to specify and quantify risk of violence or self-harm at individual and population levels, accompanied by systematic and standardised approaches to risk through local and national guidelines (DoH 2009, Logan et al 2011). Despite institutional pressures to mechanise risk management processes, the persistence of concepts like “relational security” remind us that these are dynamic activities involving human interaction and co-constructed professional-patient
perspectives mediated by language. A core objective of mental health policy dictates that security is proportionate to perceived levels of risk, and that movement between high, medium and low-secure settings be guided by the principle of proportionality. It is vital that practitioners from different professional disciplines have a shared understanding of the meaning of “risk;” an uncritical assumption in much of the literature. This presentation reports findings from an ongoing qualitative study, based on discourse analytic principles, which critically engages with multi-professional accounts of risk, and decision-making, across levels of forensic provision. Data was collected from a series of discipline specific focus groups with psychiatrists, mental health nurses, clinical psychologists, and social workers.

**Pathologising Growing Up: The Re-Construction of Risky Behaviour as Mental Illness?**

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In 2008 the Department of Health (DoH) funded six pilot schemes in England for young people, with multiple social and health needs, in early stages of contact with the youth justice system. Reports highlighted unmet complex needs, levels of educational attainment and mental health needs of children and young people at various points in the UK youth justice system. Mental health problems and learning disabilities among this population are roughly double those of children in the general population. Lord Bradley (2009) defined “diversion” in a way that aimed to balance offender rights with those of the victim, and public protection. The YJLD initiative was developed to ensure health problems and vulnerabilities were addressed at the earliest opportunity. This presentation explores the extent to which these diversion schemes achieved intended outcomes, and questions whether they redefined normal risky adolescent behaviour as a mental health risk. Data is derived from a DoH funded evaluation which examined aspects of service delivery and short-term outcomes over the period 2008-11 using standard quantitative and qualitative research methodologies. The presentation is based on analysis of qualitative data which included in-depth interviews with children and young people, key stakeholders, representatives from the Department of Health and Centre for Mental Health.

**“Seeing Like Them” and “Being Like Them:” Masculinist Risk Discourses in a High-Security Hospital**

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Liz Perkins, *University of Liverpool* (e.perkins@liverpool.ac.uk)
The management of commercial pornography in secure treatment services for sexual offenders, detained under mental health legislation, has emerged as a clinical, ethical and professional concern in the United Kingdom (Fallon 1999). There is an abundance of behavioural science and feminist literature attesting to relations between sexually violent media and sexually abusive male behaviour. Little of this, though, has direct relevance to the working lives of practitioners who engage therapeutically with offenders in forensic settings; where estimating risk is a function of “individual” rather than “public health.” This presentation draws from a larger discursive project (Mercer 2012) into the way mental health nurses and incarcerated sex offenders with a diagnosis of personality disorder spoke about sexual crime and pornography. Findings revealed an overtly masculine discourse that dominated the institutional culture framed wards as male space and promoted gendered inequality. In this presentation, attention is given to the specific issue of risk discourses that focused largely on “fantasy” and “offending,” with pornography as the embodiment of men’s sexuality. A discourse analytic design illustrated performative aspects of language that socially and sexually positioned male speakers in relation to each other and to female staff on the unit, and discursive repertoires that constructed women as “other” and delineated the normal man from the deviant individual.

“Sex without a Story:” Female Nurse Discourse about Pornography and Risk in a Masculine Culture

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Since its inception in the mid-nineteenth century, the English “special hospital” system has been designed to contain and rehabilitate men deemed to be disordered and dangerous. Until recently, these institutions contained a small number of female patients, but political pressure and healthcare reforms eventually led to acknowledgement that this was an inappropriate treatment environment for vulnerable women. Though small in number, there is documentary evidence of their lives within an isolated, discriminatory and rigidly gendered world (WISH 1999). In contrast, hardly anything is known or written about the experiences of female nurses working in the male dominated culture of high-secure services, often looking after men who have committed sexually violent crimes against women. This presentation reports the findings from a discourse analysis of in-depth interviews undertaken as part of a larger study into the constructive nature and textual variations of language used to construct accounts of pornography and offending in one forensic hospital. Five female nurses, based on a Personality Disorder Unit, talked about strategies to maintain relational safety in an environment that prized masculine physicality. Female respondents spoke about being prevented from engaging with sexual offenders, surviving in a “dangerous” environment, coping with the sexism of male colleagues, and struggling to maintain a professional persona. “Risk management” in this culture both defined their role and constructed their identity.
Specialized Interventions for Persons with Serious Mental Illnesses in the Criminal Justice System: Moving the Field Forward

CIT – Moving Forward

Amy C. Watson, University of Illinois at Chicago (acwatson@gmail.com)

The Crisis Intervention Team (CIT) model is now considered a “Best Practice” model for police response to mental health crisis. The model generally includes 40 hours of specialized mental health training for a select group of officers, community partnerships and changes in police policy and procedures. Key elements of the model have been identified and there are now over 1,500 jurisdictions in the United States and elsewhere implementing some version of CIT. The primary goals of CIT programs are to increase safety in these encounters and divert individuals with mental illnesses away from the criminal justice system to appropriate psychiatric treatment. Some jurisdictions are implementing modifications and/or enhancements to the CIT model, while others are expanding the training portion of the program beyond law enforcement to other first responders and correctional officers. The research on CIT is limited, but suggests it may be having some positive impacts on immediate outcomes of police encounters. However, we have little information on the longer term effect on outcomes for persons with mental illnesses, the criminal justice and mental health systems, and communities. Additionally, research is needed on factors influencing successful implementation of CIT, modifications to the model that may facilitate success in varied contexts, and program maintenance over time. The presentation will first summarize the CIT model, variations in the model, and the research to date on CIT effectiveness. Then, next steps for the evolution of the CIT model and CIT research will be explored.

Moving Beyond Current Research on Mental Health Courts

Virginia Aldige Hiday, North Carolina State University (ginnie_aldige@ncsu.edu)

Those who established and wrote about the early mental health courts (MHCs) envisioned them to replace punishment with mental health treatment so as to address the presumed underlying problem causing offending and reoffending, mental illness or severe mental illness. The MHC was to marshal treatment and monitor mentally ill offenders to assure, with support and sanctions, that they complied with treatment long enough to become set on a course of non-offending. This presentation explicates how successful MHCs did much more than offer and assure compliance with treatment, describes the ten essential structural elements of MHCs, and presents hypothesized procedural elements that influence success. It then summarizes and critiques empirical research on the major intended outcome, criminal recidivism, and suggests directions for future empirical research.
Critical Time Intervention for Men with Mental Illness Leaving Prison

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The period following prison release is associated with a high risk of morbidity, mortality and adverse social outcomes. However, few theory-driven evidence-based models exist to support populations during this period. Critical Time Intervention (CTI) is an established EBP that has been shown to enhance continuity of support for persons with severe mental illnesses following discharge from hospitals and shelters. We posit that the focused transitional nature of CTI could be effective with men with mental illnesses leaving prison. Using a conceptual framework built around social capital, we hypothesize that CTI will be more effective than enhanced release planning in achieving engagement with mental health services. This, in turn, would lead to improved mental health and community stability outcomes, including reduced risk of re-incarceration. An NIMH-funded field-based RCT is currently underway, in which 216 men with mental illness recruited from the mental health services of a state prison system were randomized to either CTI or a comparison condition, Enhanced Reentry Planning (ERP). Participants were followed for up to eighteen months after release. CTI was associated with stronger engagement with community care practitioners ninety days after release. The accessibility and capacity of services in the community settings are a key challenge of this work. Further analysis will test the complete meditational outcome model towards varied outcomes relating to health, social integration, and criminal justice involvement. It appears that social isolation and limited network resources are more essential elements of the challenge than access to psychiatric care alone.

Inside the “Black Box” of Forensic Assertive Community Treatment

Beth Angell, Rutgers University (angell@ssw.rutgers.edu)

Concern about the overrepresentation of people with mental illness in the criminal justice system has led to the development and/or adaptation of interventions to divert offenders to mental health treatment in lieu of incarceration or during the reentry period. Forensic Assertive Community Treatment (FACT) represents the adaptation of an evidence based treatment program for mental illness to the context of justice involvement. Although preliminary evidence of FACT effectiveness is promising, its specific program elements continue to be debated and refined. According to a recent study, the most controversial area concerns the role of leverage for promoting adherence to treatment and behavioural expectations; some existing FACT programs insist that leverage is necessary to engage a high risk population, whereas others maintain that leverage is overly coercive and undermines trust and self determination. This presentation will outline an overview of the current evidence base for FACT, trace major issues of controversy.
and, drawing upon an ethnographic study of a FACT program designed for prison reentry in Chicago, discuss how practitioners use and strategize to find alternatives to leverage in the context of FACT. Specifically, the use of relational strategies of adherence management will be delineated and illustrated through specific cases.

**Envisioning the Next Generation of Behavioural Health and Criminal Justice Interventions**

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Over the past two decades in the United States, there has been a systematic effort to develop interventions to address the needs of persons with serious mental illnesses (SMI) who are involved in the criminal justice system. Despite the proliferation of these interventions, the prevalence of people with SMI in the criminal justice system has not been meaningfully reduced. We refer to these interventions collectively as “first generation” for two reasons: 1) To acknowledge that they are united by a common philosophy – the criminal justice involvement of people with SMI is reduced primarily by providing mental health treatment; and 2) To draw attention to the need for a more nuanced and evidence-based foundation for the next generation of interventions. The purpose of this presentation is to cast a vision for the next generation of behavioural health and criminal justice interventions by presenting a complex set of individual and environmental factors that directly and indirectly contribute to criminal justice involvement for individuals with SMI and are, therefore, critical targets for intervention. This framework acknowledges that persons with SMI, in general, display many of the same risk factors for criminal involvement as the broader offender population. We conclude by presenting structural and content recommendations for developing the next generation of interventions and suggest a research agenda for the future.

**141. Substance Abuse in Juvenile and Adult Criminal Justice: Research and Public Policy**

*Business and Clinical Challenges: Aligning Practices to Accommodate Scientific Advances*

Richard Brown, *Agency for Community Treatment Services, Tampa, USA* (rbrown@actsfl.org)
The behavioural health care delivery industry in the United States is presently engaged in a rapid change cycle to incorporate the best of science informed care while simultaneously adjusting business models to respond to policy changes in the financing of services. To effectively respond to these changes, service providers are incorporating perpetual review and alignment processes to evaluate clinical, technological, and administrative practices against consumer needs, payer preference and stakeholder satisfaction. To remain market responsive, providers must continually evaluate, and where appropriate, incorporate science informed interventions; medical and technological advancements; and business practices that support efficiency and promote productivity. This session utilizes experience gained in an applied behavioural health setting to frame the issues and demonstrate the benefits of employing a perpetual alignment process business model. Particular emphasis is targeted to practice alignments that focus on payer and consumer needs and preferences; workforce composition and the development of professionals and specialists; product branding and marketing; strategic alliances and affiliations; research to practice initiatives; outcomes and performance measurement; integrated care; and health information exchange.

**The Role of Advocacy Organizations in Better Linking Science and Public Policy**

David Shern, *Mental Health America, Alexandria, USA* (dlstampa@aol.com)

Despite important advances in behavioural sciences during the last three decades, the translation of knowledge into policy and practice remains abysmally slow. Advocacy organizations hold promise for helping to accelerate translation since they are interstitial between the research community and key implementation audiences. In this presentation we will explore the potential for better integrating advocacy and knowledge generation using examples drawn from the United States’ oldest mental health advocacy organization, Mental Health America (MHA). The integration of science and practice to improve care was an essential part of the founding rationale of the organization and this legacy continues. Advocacy organizations, like MHA, are well suited for this integrative task. Many advocacy organizations have national presence as well as state and local chapters located throughout the nation that can facilitate dissemination and foster successful implementation. Advocacy organizations are a communication hub that connects the general public, primary consumers, services providers, and policy staff with the scientific community. When effective linkages with the academic community facilitate actionable translation of science into practice, these channels can be used to build public support, consumer demand, provider skills and policy/funding mechanisms to support improved population behavioural health. Funding these activities, however, remains a challenge. A greater emphasis on dissemination/implementation on the part of the scientific community as well as creative, revenue producing partnerships may provide solutions to these infrastructure problems. Examples from recent MHA policy initiatives related to insurance parity and prevention science will be used to illustrate the potential of improved linkages.
The Dangerous Nexus between Research and Policy: Notes from a Thirty Year Career

Eric D. Wish, University of Maryland (ewish@umd.edu)

I have been fortunate to have been involved in a number of research projects designed to inform public policy. These projects have included Lee Robin’s classic follow-up study of Vietnam Veterans returning to the United States in the early 1970s commissioned by the President’s Special Action Office for Drug Abuse Prevention (SAODAP), the design and supervision of the launching of the national Drug Use Forecasting Program (DUF) by the United States Department of Justice, National Institute of Justice, and the pilot testing of the Adult Offender Population Urine Screening program (OPUS) in Maryland. Each of these projects involved politically sensitive topics fraught with potential pitfalls. I will describe these projects, some reactions to them, and how the researchers dealt with the politically motivated reactions to the results. Of special note will be my recent research involving the emerging epidemic of buprenorphine misuse in the United States and the unexpected resistance received from affected constituencies. The talk will incorporate a discussion of the CESAR FAX as a means to rapidly alert the public and research community to important policy-relevant research findings.

Predicting the Unpredictable? Findings from a Qualitative Study of the CTO Experiences of Psychiatrists and Patients in England

Krysia Canvin, University of Oxford (krysia.canvin@psych.ox.ac.uk)

Following years of debate in the United Kingdom, Supervised Community Treatment (CTOs) was finally introduced in England in 2008 under s17A of the Mental Health Act 2007. Despite extensive opposition prior to their introduction, 4,020 CTOs were invoked in the first year (2009-10), far exceeding government prediction of less than 400. Although the CTO was intended to reduce so-called “revolving door” admissions to hospital, a recent RCT found that CTOs make no difference to readmission rates or a wide range of other patient outcomes. This new evidence raises questions about how clinicians are using the CTO and how patients are responding. Little is known about clinicians’ or patients’ views of CTOs since their introduction or how clinicians are interpreting and applying the legislation. We conducted qualitative interviews with twenty-five consultant psychiatrists and twenty-six patients. This presentation will juxtapose clinicians’ and patients’ understanding of the CTO’s powers and their perceptions of its effectiveness. Our findings suggest that clinicians attempt to predict CTO effectiveness and report restricting their use to patients who agree to their use. From the patient perspective, the CTO was something “you have to agree to” and experienced as unpredictable: they found it difficult to provide coherent and consistent responses to questions about the impact of the CTO, its powers, and how/when the CTO ends.
Suicide and Assisted Suicide

A Long Way for Suicide Prevention in Japan

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The number of suicides in Japan has been more than 30,000 per year since 1998. Japan’s suicide rate per 100,000 people was 24.9 in 2010, which was one of the highest in the world. The main factor for such a high suicide rate relates to an increase in the population of the so-called “working poor,” which was accelerated by the amendment of the Worker Dispatch Law in 1999. The author outlined this situation, and Japanese government countermeasures, at the 32nd IALMH Congress. The Japanese government issued the Fundamental Principles for Comprehensive Suicide Countermeasure in 2007. However, the Japanese suicide rate has not yet significantly improved. The objectives of the government’s countermeasures are mainly mental disorders such as mood disorders, alcoholism, and schizophrenia. But the basic changes in Japanese society such as to the employment system are more important to lowering the suicide rate. The government, led by the Democratic Party in 2009, has been trying to reform the social system. The reform has not proved successful due to lack of experience. Further details will be discussed by means of case presentations.

Ideation and Attempted Suicide among Women Inmates of the Penitentiary Hospital of Sao Paulo

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Introduction: High prevalence of mental disorders and suicide risk among detainee populations has been described in the literature. Over the past four years the female prison population of Brazil has increased 37.47%, representing an annual growth of 11.99%. Several studies suggest that the prison population has higher rates of mental health problems than the general population, and there is a profile of women particularly at risk, which is characterized by being young, single and involved in drug abuse or addiction.
**Objective:** To show the prevalence of suicidal ideation and previous suicide attempts among women admitted to the Hospital of the State Penitentiary in Sao Paulo.

**Method:** Questionnaires by the Prison Mental Health Hospital (General Hospital) team. Assessing the presence of suicidal ideation and previous suicide attempts among inmates hospitalized.

**Results:** 31% prevalence of suicidal thoughts, 9% of women possessed a history of suicide attempts in a sample of 77 women, and 75% were aged between 21 and 30 years.

**Conclusion:** Knowing the prevalence of suicidal thoughts among hospitalized women is very important for the organization of mental health services in prisons in order to prevent further suicide attempts through intervention in precipitant symptoms.

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**Does Suicide Have to Be Intended?**

Dennis Cooley, *North Dakota State University* (dennis.cooley@ndsu.edu)

Michael Cholbi recognizes that the standard definition of suicide relies too heavily on a mistaken notion of intention and how intention works in suicides. As Cholbi shows in various examples, a person does not have to intend his own death primarily for an act of self-killing to be a suicide. Intentionality is sufficient to make the act one of suicide. The result of Cholbi’s work is a fuller understanding of what suicide is, which allows us to evaluate better its morality, and possibly, devise improved treatments for those who are suicidal. However, Cholbi’s definition should be broadened even further to include other mental states. Instead of using the actor’s intention or intentionality to determine if an action is suicide or not, we should focus on the notion that the actor’s acquiescence in his self-killing is sufficient to do all the work we want done in regard to identifying suicides, talking about their morality, and devising ways to help those who are suicidal.

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**First Do No Harm: Euthanasia and Terminal Sedation in Belgium**

Raphael Cohen-Almagor, *University of Hull* (r.cohen-almagor@hull.ac.uk)

On January 20, 2001, a commission of Belgium’s upper house voted in favour of proposed euthanasia legislation, which would make euthanasia no longer punishable by law, provided certain requirements are met. The aim of this presentation is to provide a critical review of euthanasia policy and practice in Belgium. Euthanasia is defined as practice undertaken by a physician, which intentionally ends the life of a person at her explicit request. Physician-assisted suicide is different than euthanasia in that the last act is performed by the patient, not by the physician. The physician provides the lethal drugs to the patient who takes them by herself. The methodology of this research is based on critical review of the literature supplemented by interviews and exchanges with leading scholars and practitioners from 2003 to 2011. First, background information is provided; then, major developments that have taken place since the
enactment of the Belgian Euthanasia Act are analysed. Concerns are raised about: (1) euthanizing patients without explicit request. Ending patients’ lives without request is a lingering problem; (2) euthanizing demented patients and people who are tired of life; and (3) terminal sedation, a procedure that does not require the patient’s consent. Finally, some suggestions designed to improve the situation are offered. Most importantly, given that ending patients’ lives without request is more common than euthanasia, and the significant number of terminal sedation cases, it is suggested to urge the Belgian medical profession to consider physician-assisted suicide (PAS), a practice that is not common in Belgium, instead of euthanasia. The Belgian legislators and medical establishment are invited to reflect and ponder so as to prevent potential abuse.

Quebec’s Proposition of Medical Aid in Dying as a Palliative Law: A Clinical and Critical Outlook

Mélanie Vachon, Université du Québec a Montréal (melanievachon@gmail.com)

In recent years, euthanasia has been at the forefront of social, medical, ethical, legal, and even academic debates. In Quebec, following a two-year special commission on Dying with Dignity, the government is about to adopt a proposition of legalizing euthanasia in the form of “Medical Aid in Dying” as a new option for end-of-life care. Legislation suggests that in exceptional circumstances, euthanasia may be a final step in the continuum of appropriate end-of-life care. This proposition raises major concerns among palliative care providers. The aim of this presentation is to offer a palliative care perspective on the Quebec proposition to legalize euthanasia. More specifically, based on empirical data, on clinical comprehension and on the philosophical values underpinning palliative care, three core issues will be raised. First, the possibility of relieving patients’ suffering in the current state of the law will be addressed. Second, the risks associated with the Quebec law legalizing euthanasia in specific circumstances will be explored. Finally, the compatibility of euthanasia in the form of “Medical Aid in Dying” with the philosophy of palliative care will be discussed. In conclusion, recommendations and alternatives to Quebec’s current proposition will be provided.

143. A Swedish Prison Study of Young Adult Violent Offenders

Young Violent and Sexual Male Offenders in Prison: An Overview of a Swedish Project

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Background: This project was based on the assumption that early-onset behaviour disorders form the antecedents of severe and complex psychiatric disorders, psychosocial marginalization, and a propensity toward criminal recidivism in adulthood. It includes a comprehensive assessment of
this problem constellation among young adult criminal offenders, integrating in-depth clinical and epidemiological methods.

**Aims:** The aims of our study were to map the mental health problems and needs of consecutive young adult perpetrators of violent and sexual criminality within the Swedish Prison and Probation Service and to test the specific hypothesis that childhood-onset behaviour problems are associated with broader patterns of coexisting psychiatric problems, maladaptive personality traits, psychosocial problems, and persistent violent offending.

**Methods:** From the western region of the Swedish Prison and Probation Services, 270 male inmates, ages eighteen to twenty-five and serving sentences for violent crimes, were assessed using multiple measures, including clinical and neuropsychological assessments, self-rating questionnaires, and collateral interviews.

**Expected results:** Preliminary results showed that more than 90% of young adults in Swedish prison settings had mental health problems requiring specialist treatment. “Early starters” (i.e. those who began violent offending at an early age) were also common in this group. This calls for special mental programs and psychosocial treatment programs.

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**Heritability Factors in Patterns of Substance Use among Young Adult Male Violent and Sexual Offenders**

Bamchad Behbahani, *Lund University* (bamchad.behbahani@skane.se)

**Background:** While the link between substance use and criminal behaviour is well established, little is known about substance-specific associations between substance use disorders and violent crime, and whether or not these potential associations are affected by heredity.

**Aims:** The present project aims to describe psychiatric diagnoses, including substance use disorders, in male prisoners sentenced for violent and/or sexual crimes, and to analyse the association between substance-specific substance-use patterns and the type of crime, with the hypothesis that a hereditary disposition toward substance use and/or criminal behaviour may mediate these associations.

**Methods:** Two hundred seventy male prisoners sentenced for violent and/or sexual crimes were assessed in nine facilities of the Swedish Prison and Probation Service. Subjects underwent diagnostic interviews and an array of neuropsychiatric tests, along with detailed data on hereditary dispositions toward substance use, other mental disorders, criminal behaviour and somatic disease. Statistical analysis is currently being finalized, and final results will be presented.

**Expected results:** The present study is likely to identify whether specific substance use disorders, including alcohol, cannabis, sedative, opiate and stimulant use disorders, predict the types of crimes for which clients are sentenced, and whether heredity variables influence these associations.
**Intimate Partnership Violence in a Forensic Setting: A Comparison between Subjects with General Violence versus Partnership Violence**

Anna-Kari Sjödin, University of Gothenburg (anna-kari.sjodin@neuro.gu.se)

**Background:** In Sweden, 12,000 to 14,000 women per year consult primary care due to injuries resulting from domestic violence. In approximately one fifth of all committed homicides, the victims are women killed by their partner or ex-partner. Many of the perpetrators of Intimate Partnership Violence have extensive mental health issues, but systematic research, especially with regards to Swedish specific conditions, is very limited.

**Aim:** The aim of the present study is to map individual characteristics and identify risk factors among men guilty of severe/lethal violence towards their partners or ex-partners. We want to: 1) describe individual social and psychological features; 2) estimate the rate of recidivism in Intimate Partnership Violence as well as in general violent criminality; and 3) identify risk factors for recidivism in Intimate Partnership Violence criminality.

**Subjects and methods:** The subjects consist of two groups, one with twenty cases of severe/lethal Intimate Partnership Violence and forty-three control cases of severe violent criminality who underwent court-ordered forensic psychiatric investigations between 1998 and 2001, and one group from the Malmö catchment area consisting of 16 cases of Intimate Partnership Violence and sixty-nine control cases of violent criminality who were sentenced to compulsory forensic psychiatric care between 1999 and 2005. The data available covers clinical characteristics, personality traits, neurocognitive functions, risk assessments, and register-based follow-up data concerning reconvictions for violent and general criminality up to December 31, 2008.

**Expected Results:** We expect to find specific patterns of mental problems and risk factors, as well as a differentiation between recidivism in subjects with Intimate Partnership Violence and those with other forms of violent criminality.

**Instruments to Rate Aggression: Psychometric Evaluations and Content-of-Items Analyses**

Örjan Falk, University of Gothenburg (ofalken@gmail.com)

**Background:** Aggression has been defined as a goal-directed motor behaviour that has the deliberate intent to harm or injure another object or individual. Aggression is, however, not a clear-cut concept. Distinctions have been made between verbal and physical aggression, introvert and extrovert aggression, and premeditated/instrumental (proactive) and impulsive (reactive) aggression, for example. Furthermore, aggression can be perceived both as a trait and a state. Since these distinctions and definitions are often made without clear empirical or theoretical underpinnings, the risk that they hamper systematic research on aggressive behaviour should not be underestimated.

**Aims:** (1) To review the relationship between a sample of frequently used aggression inventories i.e. Life History of Aggression (LHA), Aggression Questionnaire (AQ) and State – Trait Anger
Expression Inventory (STAXI-2) with respect to their theoretical background; and (2) to assess advantages and difficulties in the use of these aggression inventories in clinical and/or research situations.

Method: Applied Thematic Analysis will be used to study conceptualizations of aggression in selected inventory items, to detect vague and unclear inventory items, and to assess advantages and difficulties in selected inventories in relation to clinical or research situations.

Results: We will present weak points of inventories at item level, as well as possible weak relations between the theoretical basis of the instrument and the interpretation of aggression that the items actually entail. The results will hopefully have implications for clinical risk assessment, treatments, and/or research.

144. Symptom Validity Assessment in Patients with Mental Disorders

PTSD and Malingering: Tests, Diagnostics, Cautions, and Courts

Gerald Young, York University (gyoung@glendon.yorku.ca)

Mostly based on the book by Young (2013; Psychological Injury, Malingering, Ethics, and Law, Springer SBM), and concentrating on PTSD, this presentation examines issues related to: (a) defining malingering and related negative response biases in forensic disability and related contexts; and (b) its prevalence. Then, it explores the major instruments used in the field (stand alone, SVT, structured interview, personality inventory, embedded) as well as ways they are combined. Cautions/limitations are examined, leading to recommendations for practice and court. More specifically, the issue of defining malingering relates to whether even the mildest exaggerations should be included. About its prevalence, estimates range from about 1 to 50% in the forensic disability and related context. As for major instruments to use in malingering detection, consider using the MMPI family (MMPI 2, MMPI 2 RF) or other personality inventories, such as the PAI, given their negative response bias or validity indicators (e.g., the F tests, RBS), the SIRS tests (SIRS, SIRS-2) and related ones such as the M-FAST, and SVTs, such as the TOMM and the VSVT. Embedded neuropsychological tests might be applicable. There are dedicated PTSD tests, such as the CAPS and DAPS, with the TSI tests less relevant (TSI, TSI-2). There are no integrated malingering diagnostic systems, such as the MND for TBI, but the MPRD, for pain, has been proposed as appropriate for PTSD, and Young (2013) has developed a system for PTSD based on the MND and the MPRD. In PTSD malingering determinations, conclusions must be offered cautiously.

Why Are Few Diagnoses of PTSD Confirmed in an Independent Medical Examination?
Objectives: Diagnoses of PTSD made by treatment providers are frequently not confirmed in an independent medical examination. The present study analyzes why and how this happens.

Method: Archival data on 310 consecutive cases with an alleged diagnosis of PTSD were evaluated. 44% had survived a traffic accident, 27% a work accident and 15% armed robbery. Median time since the event was sixteen months. All were being treated for PTSD.

Results: In 91% of the sample, therapists maintained a diagnosis of current PTSD, but only 60% of the patients believed in suffering from PTSD. The most frequent complaints were concentration deficits (60%), nightmares (55%), increased startle response (50%), disturbed sleep (41%), irritability (41%), and intrusive memories (39%). The mandatory criterion A2 was satisfied in only 5.8%. None of the patients fulfilled the DSM criteria to confirm a current diagnosis of PTSD. Patients claiming to suffer from PTSD endorsed twice as many symptoms and were twice as likely to fail the Word Memory Test compared to those who said they did not have PTSD.

Conclusions: Apparently, treatment providers do not systematically evaluate the diagnostic criteria but diagnose PTSD when some telltale complaints are proffered. They are not likely to confirm complaints by findings and they do not consider negative response bias. They seem to be unconcerned about whether their patients agree with the diagnosis and the ensuing treatment.

An Introduction to Cognitive Symptom Validity Assessment

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Symptom validity assessment can be considered as a success story of clinical and forensic neuropsychology. Neuropsychologists have developed and validated a wealth of empirical methods that are most prominent in the detection of malingering, symptom exaggeration and other forms of uncooperativeness. An introduction into the rationale of cognitive symptom validation is given for non-neuropsychologists. A case vignette of a patient with claimed complete autobiographical memory loss in the absence of objective signs of brain damage is given. Despite considerable resistance from some parts of the psychiatric community, cognitive symptom validity assessment is a useful diagnostic tool not only in neurological conditions and in cases of pseudoneurological symptom presentation, but also in a number of patients with claimed mental disorders, both in clinical and in forensic contexts.
Resistance Against Symptom Validity Assessment: The Psychiatry Debate in Germany and Switzerland

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Although psychiatrists in Germany and Switzerland are increasingly explicitly asked to validate symptoms presentation in independent medical examinations, they usually rely on clinical judgment to identify deceptive behaviour rather than on empirically developed objective methods. Personality inventories including validity indicators (MMPI-2, PAI) are rarely used in both countries. While Swiss psychiatrists recommend the use of symptom validity tests (SVT) in special cases of claimed mental disorders, a number of German psychiatrists started a campaign against the use of symptom validity tests. However, most of their arguments rely on poor knowledge of evidence-based forensic decision-making and false beliefs. These include questionable ethical and economic arguments against symptom validity assessment. To increase the quality of forensic assessment in cases of claimed mental disorders, neuropsychologists and psychiatrists should cooperate instead of opposing each other.

145. Tales of Unmet Needs: Mental Health in Juvenile Justice

Juvenile Court Records in Belgium: What is Included for Minors with a Mental Disorder?

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Sofie Merlevede, Ghent University (sofie.merlevede@ugent.be)

Purpose: This study examined: (1) which information was present in the juvenile court records in Belgium; and (2) whether differences can be found when one compares the information between juvenile court records with and those without a mention of a mental disorder.

Method: The sample consisted of 107 juvenile court records. SPSS version twenty was used to analyze the information.

Conclusion: Within the juvenile court records, information could be found on juvenile court characteristics (applied measures, reason for referral), child demographics (age, gender, ethnicity), school-related factors (education level, suspension, truancy, repeated grades and regularly attending school), functioning of the minor (running away, aggression, discipline, destructive behaviour, mental health, bad peers), and family characteristics (family structure, employment status of the parents, mental health of the parents, destructive behaviour, criminal antecedents, domestic violence). When focusing on the juvenile court records with a mention of a mental disorder, significantly more information was found on school problems (suspension, truancy), functioning of the minor (aggression, running away from the institution, destructive
behaviour), and the received mental health care than in the records without a mention of a mental disorder.

**The Decision-Making Process of Belgian Juvenile Judges Concerning Minors with Mental Disorders**

Leen Cappon, Ghent University (leen.cappon@ugent.be)

*Purpose:* Over the years, numerous studies have examined the factors that influence the decisions of juvenile judges. These factors can be organized in an analytical framework consisting of four categories (legal factors, characteristics of the minors, structural context and social context). Despite high prevalence rates of mental disorders in minors in juvenile court, decision-making research has rarely focused on this subgroup of the juvenile court population. Therefore, this presentation aims to gain insight into the decisions of juvenile judges concerning minors with mental disorders.

*Method:* The judgments of 104 juvenile court records of minors with mental disorders (n=792) from two juvenile courts in Belgium were analyzed based on the four categories of the analytical framework. The analysis was executed in Nvivo 9.

*Results:* The majority of juvenile judges in their judgments concerning minors with mental disorders referred to legal factors and to the information present in the juvenile court record (structural context). Remarkably, almost no references to the mental health problems of the minors were found in their judgments.

*Conclusion:* This presentation concludes that the judgments more frequently referred to so-called legal factors than to factors related to the minor with mental disorders. These results urge further research on the decision of the juvenile judge concerning this subgroup.

**Placement Moves in the Care of Minors with and without Mental Disorders in Juvenile Court**

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*Purpose:* This study examined the placement sequences in care described in juvenile court records and made a comparison between the placement sequences found in the juvenile court records with and without a mention of a mental disorder.

*Method:* Data were collected through a file study of records at the juvenile court for at least 24 months (105 files). This study replicated James et al.’s (2004) inductive methodology to identify common patterns of movement for both groups.

*Results:* Within the juvenile court records, the number of placement moves varied between one and nine. This variation was attributable to two main reasons. First a small number of records
accounted for a disproportionate high number of placement changes. Second, stepping down in care also resulted in placement moves. Three main patterns of movement were found: a stable pattern, a variable stable pattern, and an unstable pattern. Within these patterns, the patterns found in the records with a mention of a mental disorder were studied in depth.

Conclusion: In the presentation, the main patterns of movement and the specific profile of the patterns in the court records with a mention of a mental disorders are discussed.

Mental Disorders in Detained Adolescents

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Purpose: To provide insight into the prevalence of mental disorders among detained adolescents, with a particular focus on gender differences.

Method: The past-year prevalence of mental disorders was measured in a sample of detained boys (n=245) and girls (n=196), using the DISC-IV youth version.

Results: In boys, the past-year prevalence of any disorder was 83.5%. Pure externalizing disorders were most frequently found (58.8%), followed by comorbid ex- and internalizing disorders (18.8%) and pure internalizing disorders (1.6%). In girls, the past-year prevalence of any disorder was 94.9%. Comorbid ex- and internalizing disorders were most frequently observed (48.7%). Criteria for pure externalizing disorders were met for 37.4% of the sample. The prevalence of pure internalizing disorders was 8.3%. Prevalence rates will be presented in detail during the presentation.

Conclusion: Both detained boys and girls bear substantial mental health needs, indicating the need for effective mental health services for this population. Rates of many disorders are higher among girls, urging further research on gender-specific prevalence rates and protective and risk factors.

“Once I Leave Care, I Will Feel Fine Again:” Experiences of Young People Leaving Care with Regard to Health Care

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Context: For most people, young adulthood is a period in which they start taking definite steps to achieve independence. Most young people succeed in making this transition to adulthood smoothly. However, young people who have been cared for in residential facilities experience considerable difficulties during their transition to adulthood.
Purpose: The purpose of this qualitative study is to understand the experiences and needs of young people in youth care with regard to mental health at the eve of their transition to adulthood.

Method: To obtain an elaborate picture of the transition period, a follow-up study is used. The young people will be interviewed twice: once before they leave the youth care and once 18 months after the first interview. The research data are derived from in-depth qualitative interviews with 80 youth (ages 17 to 20). The research data of the first phase of the follow-up are presented. This presentation will focus on the voices of the youth themselves and what they need to manage the transition to adulthood successfully, with specific focus on the life domain “mental health.”

Results: The interviews reveal that the experience of residing in youth care is overall negative. Young people experience a series of significant losses and they perceive their time in care as leaving negative emotional scars. Few respondents develop strategies for coping and resilience during these experiences. They expect that the mere fact of “leaving care” will help them in establishing a balanced mental health. They feel they do not need the support of mental health services to achieve this balance.

Conclusion: Attachment, grief, traumatic stress, and resilience can help to inform best practice for youth care practitioners and caregivers involved in youth care.

146. Terrorism

The Nexus between Terrorism and Latin American Drug-Trafficking Networks

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The nexus between crime and terrorism has received much attention after 9/11 and since then several narco-terrorism links and terrorist financing sources, ranging from Colombia to Afghanistan, from Morocco to the Bekka Valley, from Europe to Southeast Asia and to other parts of the world, have been brought to the light. During the last ten years, drug trafficking, transnational gangs, and other criminal organizations have grown in size and strength and, according to Drug Enforcement Administration sources, Al Qaeda groups in West Africa were charging protection fees from cocaine drug-trafficking groups affiliated with the Revolutionary Armed Forces of Colombia (FARC). Terrorist group operatives would also be linked to Mexican drug cartels, providing the terrorists with easy access to the United States and would be receiving support, training, weapons and cash from Latin America. Through the analysis of facts we will try to understand how strong the complicity of criminal networks with terrorist organizations are today and what trends can be predicted.

The Norwegian Breivik Terrorist Case
Anders Behring Breivik (1979) is a Norwegian terrorist. On July 22nd, 2011, Breivik bombed the government buildings in Oslo, which resulted in eight deaths. He then carried out a mass shooting at a camp of the Youth League (AUF) of the Labour Party on the island of Utoya where he killed sixty-nine people, mostly teenagers. Breivik was diagnosed with paranoid schizophrenia by the court-appointed psychiatrists and was found to be acting compulsively based on a delusional thought universe. Among other things, he alluded to himself as a future regent of Norway pending a takeover by a Templar-like organization. Breivik’s far-right militant ideology is described in a compendium of texts, titled “2083 – A European Declaration of Independence,” and distributed electronically by Breivik on the day of the attacks. His worldview includes cultural conservatism, right-wing populism, Islamophobia, zionism, anti-feminism, and white nationalism. In Norway, the outcome of Breivik’s competency evaluation was fiercely debated by mental health experts, lawyers, and philosophers, among others. Counsel representing victims filed requests that the court should order a second opinion. In February 2012, a new period of psychiatric observation began, this time more encompassing. This report stated that Breivik has a personality disorder without being mentally insane. The court found him criminally responsible for the offences and he was convicted to a life sentence in jail. Breivik did not appeal this conviction. In this presentation, the psychiatric evaluations will be reviewed and the outcome of the court case will be discussed.

**Efficacy of Combined Interviewing Techniques in Detecting Deception Related to Bio-Threat**

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In the absence of objective evidence, forensic psychiatrists working in conjunction with security and law enforcement professionals must rely on subjective judgments in order to determine whether a person being questioned is being genuine or deceptive. This research assessed the efficacy of two well-validated “detecting deception” methods (aIAT and Cognitive Interviewing) when applied to a group of interest (i.e. scientists) with expertise in an issue of interest (i.e. production of biological materials) under conditions of interest (i.e. low base rate deception). In addition, we compared the efficacy of these methods to professional judgments. The results suggest that cognitive interviewing yields data that is superior to professional judgments regarding truthfulness or deception; aIAT was not significantly better than professional judgment data.

**Real-Life High-Stakes Lies: Using Verbal Cues to Detect Deceit**

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Deception is an integral aspect of human social interaction and we are much better liars than we are lie detectors. However, an examination of language can potentially reveal a great deal about an individual, including whether or not they are lying (Pennebaker, Mehl, & Niederhoffer, 2003). Automated language analysis programs are particularly useful in cases where aspects of language use are not easily measurable by human coders. The current study used three automated programs including the Dictionary of Affect in Language (DAL; Whissell & Dewson, 1986), the Linguistic Inquiry and Word Count (LIWC; Pennebaker, Francis, & Booth, 2001), and the Wmatrix (Rayson, 2008) to investigate language use among a sample of seventy-eight individuals pleading for the return of a missing loved one during a televised press conference. Subsequent information revealed that approximately half of these individuals were being deceptive and had caused the disappearance. Transcripts of the pleas were coded on a variety of linguistic properties such as emotional intensity, past-tense slip-ups, and optimism. Results revealed important linguistic differences between liars and truth tellers, demonstrating that liars are unable to control all aspects of their language that may be indicative of deception. Results and implications will be discussed.

**147. Theory and Research in Criminal Psychology I**

**Functional Diagnostics in Forensic Psychiatry**

Stefan Bogaerts, *Tilburg University* (s.bogaerts@uvt.nl)

Studies on personality disorders and the relationship between clinical factors such as insight into problem behaviour, (lack of) empathy and the quality of coping skills is often done retrospectively. However, most studies are primarily focused on the question of whether individuals with a specific personality disorder differ on these clinical factors compared to individuals without a personality disorder. Unfortunately, within forensic psychology and psychiatry, the severity of the personality disorder, more particularly the presence of multiple personality disorders in individuals as they relate to clinical factors, is very rarely examined, while scientific research points out that relevant factors in the past, such as conduct disorders and experiences of neglect and abuse in youth, are strong predictors for the development of a problematic personality structure. This gap in forensic scientific research has obvious implications for treatment, social reintegration of forensic psychiatric patients, and the likelihood of recidivism. This presentation will address the relationships between the severity of personality disorders, empathy and coping skills in adulthood, and negative childhood experiences and conduct disorder.
Sexually Violent Predators and State Appellate Courts’ Use of Actuarial Tests in Civil Commitments

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The transfer of the use of the term “predator” from pop culture to law coincided with the exponential accumulation of research in the area of psychopathy, sexual deviancy, and violent crime. In recent years, psychopathy has emerged as one of the more robust indicators of chronic offending and violent recidivism. In the United States, some laws have been enacted that focus attention on violent offenders who are diagnosed to be sexual predators. The state laws provide for the civil commitment of those deemed to be a sexual predator either prior to or after their criminal sentence has been completed. In order to understand how civil commitment of sexual predator determinations are handled on appeals, this presentation examines 107 state appellate court cases whose central legal issue was whether a defendant was a sexually violent predator in need of civil commitment. These state court appellate cases, rendered between 1990 and June 2011, utilized a variety of psychological forensic assessments to make sexually violent predator determinations. We focus on expert testimony provided to state courts and the degree to which courts utilized forensic tools in their findings of psychopathy, sexual violence, and predatory aggression. Implications for the use of the actuarial predictors of dangerousness in sexually violent predator civil commitments are discussed.

Profiling Psychopathic Traits in Serial Sexual Homicide: A Case Study of the Personality and Personal History of the Green River Killer, Gary Leon Ridgway

Loren T. Atherley, Seattle University (lorentatherley@gmail.com)

Psychopathy is believed to be a defining personality trait in violent sexual offenders – research conducted on serial sexual homicide offenders reveals psychopathy to be a contributory, functional aspect of the offender’s personality. Commonly accepted modes of aggression (i.e. predatory and catathymic) suggest an exclusivity; this study suggests the comorbidity and collusion of these factors to enable a series of sexually motivated homicides. This presentation is adapted from thesis research conducted on the offense behaviour and personality of the Green River Killer, Gary L. Ridgway. The conclusions of this study suggest that Ridgway operated as both predator and catathymic actor when he killed seventy-eight prostitutes in and around King County, Washington. Allowing for this duality challenges concepts of the role of aggression. Implications for investigations and criminal profiling are discussed.
The Popular Conception of the Psychopath: Implications for Criminal Justice Policy

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The scientific conception of psychopathy has become clear in recent years as researchers have reached a consensus regarding the definition and understanding of psychopathy with the development and widespread use of the Psychopathy Checklist-Revised. The popular conception of the psychopath is not so clear. The term is widely used in culture – in films, television shows, true-crime novels, the news media, the Internet, and everyday conversation. The meaning of the word “psychopath” among the general public and how the popular conception of the psychopath influences criminal justice policy has not been empirically studied. The purpose of this presentation is to outline results of a general public survey on the popular conception of the psychopath conducted during an era of legislative change in Washington State to determine what the term psychopath means to people and the ways in which the popular conception of the psychopath shapes decisions about criminal justice policy. Three-hundred and fifty-three respondents were randomly selected from the Seattle-area telephone directory for participation in a telephone survey. Results suggest that the popular conception of psychopathy is inconsistent with the scientific conception and impacts citizen beliefs about criminal justice practice. Implications for criminal justice policy are discussed.

Actuarial Prediction in Determinate-Plus Sex Offender Release Decisions

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In 2001 the Washington State Legislature enacted Determinate-Plus Sentencing for sex offenders convicted of certain sex offenses who are subjected to an indeterminate life sentence with discretionary release by the Indeterminate Sentencing Review Board. Little is known about the factors that influence Indeterminate Sentencing Review Board decisions in Determinate-Plus Sex offender release decisions. The purpose of this study is to determine the factors that influence Indeterminate Sentencing Review Board decisions to release determinate sentencing-plus sex offenders with a focus on the role of actuarial tools in these release decisions. The study examines 688 Determinate Sentencing-Plus cases reviewed by the Washington State Indeterminate Sentencing Review Board from 2003 to 2010. Research questions include: What is the profile of a determinate-sentencing plus case that results in release? What role do clinical judgment versus actuarial scores play in release decisions? What role does offender expression of remorse play in release decisions? Does completion of sex offender treatment influence release decisions? Factors including nature of crime, victim type, actuarial risk scores, expression of empathy and remorse, completion of treatment, offender accountability, and victim
impact are examined. Implications for parole decision-making, sentencing policy, and offender reentry are discussed.

148. **Theory and Research in Criminal Psychology II**

*Emotional Correlates of Radicalization and Terrorism*

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Limited attention has been paid to the intersection of emotions and the etiology of terrorism. Instead, research priorities have tended to focus on the structural (e.g., poverty; weak and failing states), sociopolitical (e.g., American foreign policy), or dialectical. The aim of this study is to outline an agenda which transitions discourse related to the “body” of the terrorist (i.e., his/her historical and social positioning) to one focused on intrapsychic and interpersonal emotional processes. In our view, criminology is well suited to assess the expressive by-products of humiliated fury, contempt, moral outrage, and disgust and how such emotions may distillate as impulses that form a basis for terror. One compelling theoretical lens is provided by strain-based explanations of terrorism, whereby collective strains increase the likelihood of terrorism under select conditions.

*Female Desistance from Criminal Offending: Exploring Gender Similarities and Differences*

Elaine Gunnison, *Seattle University* (gunnisone@seattleu.edu)

Over the past several decades, researchers have more fervently examined female offending. The criminal career research paradigm put forth by Blumstein and colleagues in 1986 offers an opportunity for researchers to examine offending, including female offending, from multiple perspectives, including onset, persistence, and desistance from a multitude of theoretical traditions (e.g., psychological and sociological). The purpose of this presentation is to provide a brief overview of theoretical perspectives on female offending as they relate to desistance as well as presenting research results from an investigation into female desistance using data from wave six of the National Youth Survey. The results from the examination of the similarities and/or differences between female and male discrete offender groups (desisters, persisters, late onsets, and conformers) and theoretical predictors of desistance from general delinquency will be provided. The research and policy implications will be discussed.

*Beyond RNR: Risk Limits Responsivity*
A thorough review of the empirical evidence supporting the Risk-Need-Responsivity Model suggests that the formula needs to be revised to incorporate new empirical evidence and the concept of desistance. This presentation will review a third generation of RNR models with a focus on desistance. The presentation reviews the empirical literature on offender change, which notes that offender outcomes may be a product of stabilizers in a person’s life which serve to prevent criminal offending. Stabilizers are factors that promote stabilization and include family relations, employment, housing, mental health status, and other factors that are supportive of positive behaviours. Destabilizers such as substance abuse, mental health illnessness, periods of unemployment, residence in a crime “hot spot,” and other factors should be used to identify higher structured interventions. The new model advances a focus on responsivity by focusing on temporal factors that can be altered to promote a prosocial lifestyle. Empirical models will be provided to demonstrate the new models.

The Media Construction of Mental Illness in Offenders Perpetrating Extremist and Terroristic Violence in America

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Through the utilization of content and theme analyses, this study examines the media and journalistic accounts of terroristic and extremist violence in the United States, specifically focusing on the discussion and presentation, if any, of an offender’s mental state prior to and at the time of the act. Data from the Extremist Crime Database is used to examine open-source documentation related to violent, ideologically motivated extremist incidents that occurred in the United States between 1990 and 2010 by the far-right, Jihadists, and environmental and animal rights extremists. The vast majority of American society has no direct experience with ideological violence and therefore the frames through which they understand and discuss the events and the mitigating and aggravating factors specific to offender motivation, such as their mental health, are developed primarily through the media. The analysis of these frames is important as they can inadvertently, or otherwise, impact policy depending on whether the public and policymakers view extremists as rational or irrational actors.

149. Torture, Trauma, and Abuse

The Right to Rehabilitation in International Criminal Law and the Role of Mental Health Professionals in the Post-Conflict Reconciliation Process
This presentation investigates the parameters of the right to rehabilitation of war criminals and veterans under international criminal law and seeks to identify specific rights in relation to health, in this context mental health, as means towards social re-integration and, ultimately, reconciliation. The presentation highlights inherent problems associated with immediate post-war inequalities in accessing mental health resources between military personnel, veterans and convicted war criminals on one hand and victims of the conflict on the other, who are more likely to be recipients of reconstruction efforts and help from international organisations. Dealing with mental health issues of those who have or are perceived to have committed crimes, or have been convicted of war crimes, is more difficult, as this requires greater social and political will as well as infrastructure. The presentation then explores roles and scope of mental health professionals in the post-conflict rehabilitation process of war criminals and veterans as well as the role of those professionals in facilitating social reconciliation. Generally, military rules provide little privilege on information offered by those seeking therapy, such as admissions of war crimes, which may result, through the suppression of guilt, anxiety or depression for instance, in misdiagnosis and/or aggravation of symptoms for which help is sought in the first place. Two issues are considered: firstly, the extent to which military confidentiality rules hinder psychotherapist-patient relationship, and secondly, the impact this has on the effectiveness on collective reconciliation, coupled with issues of stigmatization of mental health.

**Torture-Sanctioning Health Professionals: A Case Study**

Peter Golden, *Victoria Coalition for Survivors of Torture, Victoria, Canada* (petergolden@shaw.ca)

The participation of health care professionals in torture and other forms of cruel, inhuman and degrading treatment is an on-going and increasing problem in most countries throughout the world. Despite being contrary to international law, health care professionals continue to design and implement these practices with impunity. A proposal for an International Health Professionals Ethics Oversight Committee developed by the Victoria Coalition for Survivors of Torture has been presented at previous meetings of the IALMH. The proposal continues to be revised, and to garner interest and support. This presentation will outline a case study of how the Oversight Committee would address the gaps in national and international regulations to sanction health workers involved in unethical standards of practice. In particular, the case study considers a professional misconduct complaint against a psychologist. The psychologist is alleged to have participated in the development of “enhanced” or abusive interrogation techniques used by the military and security forces of a western democratic country. The alleged conduct violates various local statutes and falls below the standard of conduct established by the professional governing body. Despite compelling and publically available evidence, the professional governing body with the local jurisdiction to consider the complaint against the psychologist rejected the complaint without comment. The case study looks at what other avenues of
investigation and censure are available in these circumstances and underlines the shortcomings these alternatives present to an effective system of oversight for health professionals involved in torture or other cruel, inhuman, or degrading treatment or punishment.

**A Comparison of the Response of the World Psychiatric Association to Psychiatric Abuse and the World Medical Association to Organ Transplant Abuse**

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David Matas and David Kilgour co-authored a report which concluded that Chinese hospitals and detention centres, since 2000, have put to death large numbers of prisoners of conscience – practitioners of the spiritually based exercise regime Falun Gong – through the harvesting of their vital organs, which were then sold at high prices. Ethan Gutmann later concluded that other prisoners of conscience – Tibetans, Uighurs and house Christians – have been victims of the same abuse. The Government of China acknowledges that almost all of its organs for transplants come from prisoners. The Soviet Psychiatric Association withdrew from the World Psychiatric Association in 1983 when it faced almost certain expulsion. This presentation will compare the response of the World Medical Association to organ transplant abuse in China to the response of the World Psychiatric Association to psychiatric abuse in the Soviet Union. The conclusion would be that, even taking into account the fact that organ transplant professionals are only a small component of the Chinese Medical Association and that China today is in a far different situation geopolitically than the Soviet Union was in 1983, the response of the World Medical Association to organ transplant abuse in China has been inadequate.

**The Role of the Lawgiver: Preparing the Reintegration of Child Soldiers After Civil Conflict**

Lawrence D. Blake, *University of New Brunswick* (lawrence.blake@unb.ca)

This presentation will discuss the importance that disarmament, demobilization, and reintegration programming has in shaping effective interaction with law in the Global South. I argue that effective integration of ex-child soldiers is a necessary precept to the creation of good laws in the development context. The law in a republic, which is the expected product of development, is meant to guarantee both the liberty of the citizen as well as guard against the corruption of the body corporate that shapes government. Such a purpose relies upon the engagement of the citizen. When such engagement is impeded by vectors of overt arbitrary interference, or domination as defined by Pettit (1997), the polity is unable to affect progressive change and civil society collapses under the weight of arbitrium. The active life, or “vita activa,” is impeded in stigmatized populations, as they are robbed of the efficacy that creates citizenship. In order to support progressive growth, developers must co-construct avenues of engagement
with child soldiers that are cognizant of the traumas they have experienced. Developers should build curriculum and programming that not only have the goal of addressing trauma, but also of long-term reintegration. This serves both a humanitarian and a civic purpose.

150. Towards Better Evidence-Based Forensic Practices: The Experience of Institut Philippe-Pinel de Montréal

Forty Years of Evolution at Institut Philippe-Pinel de Montréal: Was There a Place for Evidence-Based Practices over the Years?

Renée Roy, Institut Philippe-Pinel, Montreal, Canada (renee.roy.ippm@ssss.gouv.qc.ca)

Forensic institutions follow an ongoing transformation process by which they are constantly looking to improve evidence-based clinical practices. It enhances assessment, treatment, system management and patients’ care. We will examine the clinical, legal, and organizational aspects of this transformation process and its impact on patients and staff. Since its creation in 1970, Institut Philippe-Pinel de Montréal (IPPM) is a forensic high-security institution that emphasizes development and implementation of new ways for assessment and treatment of patients presenting violent behaviours related to their mental illnesses which are often complicated by comorbid addictions. This session intends to take a critical look at this long-standing evolution at IPPM since its founding, in looking for better practices. Presenters will talk about the past, the present and future outlooks regarding patients, staff and administration. It will be done from clinical, legal and organizational standpoints. This presentation will briefly describe the history of IPPM, its initial mission and most important changes over the past forty years. Reasons underlying these changes over time will be addressed. The IPPM’s role in the development of Quebec forensic psychiatry will be discussed as well as its role in forensic psychiatry in general.

The Transformation of Care Over Time: Organizational Perspectives and Current Treatment Programs

Marion Lepage, Institut Philippe-Pinel, Montreal, Canada (marion.lepage.ippm@ssss.gouv.qc.ca)

This second presentation will discuss organizational aspects related to current intervention and treatment programs. Some thoughts will be shared on the evolution of treatments over the past decades. As in similar institutions around the world, changes were imposed by new knowledge, but also from the arrival of new clienteles, new programmes and new treatments. For example, there were no female patients in IPPM until 1985. Their arrival in the hospital was seen as a potential source of difficulties related to sexual activities between patients, but also to the under or over-evaluation of women’s violence potential. We will also consider the future trends, taking into account our current challenges, in an institution where security remains a key issue. It
involves providing a safe environment for all patients, for the staff members and for the general population. Indeed, security is sometimes brought forward as a main preoccupation when new politics are set. This creates turmoil in the clinical teams. It may cause resistance in the application of the new rules. Other topics will include the assessment of quality of programmes, the recovery’s perspective, the resistance to new politics and strategies, and the new directions in philosophy of care. We will also consider the most efficient strategies to implement new policies and the allies involved in the preparation of those changes. Since formal training and education have always occupied an important part of the institution’s mission, this topic will also be covered. The arrival of trainees in an institution by itself is a vehicle of change, questioning routines and informal rules. Another excellent support for change is research, in which results will be better adopted by clinical teams if they are kept well informed and involved in the process.

Clinical Practice over Time: The Maturing of Approach through Forty Years of Assessment and Treatment of Violent Patients

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The third presentation will be dedicated specifically to the clinical aspects: assessment and treatment as well as rehabilitation and reintegration into society. Over the years, forensic psychiatry and psychology have developed more relevant ways of assessing, understanding and treating the co-morbidity between mental illness and violence. Better assessment lead to more specific treatment goals. This accounts for a more rapid and comprehensive rehabilitation and reintegration into society. We will discuss this evolution at IPPM. Assessment, in particular assessment of violence risk with specialized and efficient tools and instruments, will be a major topic. From the clinical to the actuarial and the structured professional judgement (SPJ), assessing risk is more specialized and efficient. In recent years, the concept of protective factors and their role in mitigating risk factors has been included in risk assessment. Many new instruments have been created and improved (HCR-20, PCL-R, SAPROF, etc.). IPPM has tried to follow these trends through the implementation and use of these new tools, improving treatment goals. New types of intervention and treatment (Integrated Psychological Treatment, groups for substance abuse and comorbidity, pharmacological innovations, etc.) have been part of the evolution. The adjustment of our programmes to ensure that they correspond to our patients’ profile (patients suffering from severe and persistent mental diseases, cognitive impairments and legal implications) and the implementation of new evidence-based programmes will be another important part of this presentation. These topics will be discussed according to the implications for patients, staff and the institution. The potential bridging between clinical practice and research, in order to go further in better practices will also be addressed.

The First Forty Years of a Forensic Hospital: The Place Taken by Human Rights and How Far Can We Go?
Louis Letellier de St-Just, *Institut Philippe-Pinel, Montreal, Canada*  
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The fourth presentation will be dedicated to the human rights approach related to mental health issues within a forensic environment. The promotion and protection of human rights of mentally ill offenders remains a constant challenge. If over the last forty years, legislation, policies, protocols, or guidelines targeted concerns such as confidentiality, privacy, voluntary and involuntary treatment, seclusion and restraint, attitudes and knowledge have to change and improve. Being the first forensic institution in the province of Quebec and one of the Canadian pioneers in the treatment of mentally ill offenders, IPPM had to create an environment that would provide a framework for treatment and support rather than follow the punishment mentality which was the daily bread in prisons, where its patients were coming from. Innovation in the approach was the main objective at a time when the province was going through social changes. Patients are individuals. Some, like mentally ill offenders, carry strong stigma. The comprehension as well as the resistance to changes brought by a human rights approach will be part of our concerns. Under the eye of relevant international human rights treaties, this section will notably cover the influence of human rights on mental health treatment, the legislation adjustments and the changes within the judicial system.

**Future Transformations towards a Forensic Institute: Perspectives and Challenges**

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Forty years ago, forensic mental health policy plans and programmes practically did not exist. Moreover, forensic psychiatry was just beginning to be organized in prisons. Different reforms have contributed to the organization of services for mental health. In the forensic psychiatry field, we cannot deny that we have improved the access to services, to psychotropic medication and to better treatment programmes. However, over the past few years, we must admit that we have faced a certain slowdown towards the funding of forensic psychiatry services. Challenges exist for creative projects to ease the rehabilitation for our patients, notwithstanding the reduced budgets. The violence risk that characterizes our patients’ environment also dictates organizational trends and professional behaviours. Still evolving in a high security environment, being recognized as a hospital and therefore promoting ethical values, we have to wonder about the place we give to patient’s control, which is closely linked with the notion of security. With these thoughts for background, this last presentation will bring out the general trends of IPPM’s
transformation over time and see how they are related to evidence-based best practices in forensic psychiatry, in particular the latest developments. With their respective experience and knowledge, each speaker will share his views on the following questions: Do we really nowadays offer better care? Has the patients’ situation really improved? What should be our goals? What are the benefits of this evolution for patients and clinicians? In conclusion, future perspectives and challenges will be discussed.

151. Transfers between Penitentiary and Forensic Institutions

Transfer of Mentally Ill Prisoners to Psychiatric Facilities

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The transfer of mentally ill prisoners to psychiatric facilities raises a number of complex interlocking problems. Psychiatric hospitals have lost funding and therefore there has been a dramatic increase of mentally ill individuals kept in prisons with little treatment. The laws regarding access to mental health services have also become more restrictive. Curiously, there seems to be an opposite phenomenon going on regarding hospitalization of sex offenders; here there has been an expansion of so called treatment facilities under the pretense that these people are more dangerous than other inmates and that there is effective treatment for them. Neither of these assumptions is correct. When mentally ill people are in fact transferred to psychiatric facilities, they are frequently returned to their home prisons rapidly due to an overuse of the diagnosis of malingering. Finally, even when the system operates properly it frequently overlooks the due process rights of the individuals involved.

Bringing Forensic Psychiatrists into Prisons or Mentally Disordered Offenders into Security Hospitals

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For reasons well known and researched in detail, prevalence rates for mental disorders are much higher in prison populations all over the world than in general, not only for prison inmates but also for prisoners on remand, asylum seekers on warrant for deportation, and others. In addition, the proportion of imprisoned people is rising in most countries, with an increase in preventative detention to ensure public safety, leading to longer prison stays, and excessive aging of this population. Therefore, forensic psychiatry not only has to deal with the typically young criminal population, vulnerable to becoming mentally ill for social reasons and in a period of life where incidence of schizophrenia, suicide, drug abuse, and most personality disorders are highest, but also with an increasingly older population with high incidence of affective disorders and dementia. While treatment standards for these mental disorders are largely published and accepted, and scientific evidence about the screening for mental disorders in prisoners is growing, it remains unclear where to treat them: in the prison, in special medical wards in the
prisons or in security hospitals. This discussion presents an algorithm based on considerations about public safety, criminal proceedings, criminal theory, medical safety and needs, human rights, ethics, and availability of services at the interface between prisons and mental hospitals.

**Hospitalization of Criminal Defendants and Prisoners: From Arrest to Release**

Alan R. Felthous, *Saint Louis University* (felthous@slu.edu)

As in the community, individuals within the criminal justice system can suffer from a mental disorder in need of mental health service, and in some cases, mental hospitalization. Such treatment needs can arise at any time along the continuum from initial apprehension to eventual prison release after sentence completion. Many conditions such as uncomplicated psychosis or acute suicide risk can be effectively treated and safely managed in a suitably staffed and equipped jail or prison facility. A much smaller number of mentally disordered individuals require the higher level of care that can only be provided in a mental hospital. The conditions requiring hospitalization, mechanisms, and challenges for effecting hospitalization vary somewhat depending upon where the individual is along this continuum: being arrested in the community, being screened and booked into jail, detained in jail, awaiting trial or serving time for misdemeanor, serving sentence in prison, or being released from prison at the end of one’s prison sentence. This presentation will concisely address the issues and challenges of affecting hospitalization at each of these phases during an individual’s course through the criminal justice system.

**152. Treatment of Mentally Disordered Prisoners**

**The Treatment of Sexual Offenders**

John Bradford, *University of Ottawa* (john_bradford@sympatico.ca)

The treatment of sexual offenders has become highly developed and well documented in the recent scientific literature. The psychological treatment for sexual offenders was well documented in the first report of the collaborative outcome data project on the effectiveness of psychological treatment for sexual offenders (Hanson et al., 2002). This meta-analytical review looked at the effectiveness of psychological treatment by summarising data from forty-three studies (n=9454). Averaged across all studies, the recidivism rate for sexual offenders was lower for treatment groups (12.3%) than comparison groups (16.8%). There was also a reduction in general recidivism. Current psychological treatments, specifically cognitive behavioural treatments, were associated with reductions in sexual recidivism (17.4% to 9.9%) and general recidivism (51% to 32%). Psychological treatments applied prior to 1980 did not have much effect on treatment outcome and recidivism. Pharmacological treatment approaches were
supported by the publishing of the World Federation of Societies of Biological Psychiatry Guidelines for the biological treatment of the paraphilias (Thibaut et al., 2010). This was a review of all available literature from 1969 to 2009 for antiandrogen treatments and from 1990 to 2009 for SSRI treatment. Each treatment was evaluated according to evidence-based guidelines. These reviews have extensively documented the scientific basis for the treatment of sexual offenders and the efficacy of evidence-based treatment approaches.

Pharmacological Treatment of Impulsive Aggression

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Aggressive behaviour is a major concern in both mental health and criminal justice settings. Although pharmacotherapy is often used in the treatment of the violent individual, no medication is presently approved by the United States Food and Drug Administration specifically for such use. The research literature has implicated several neurobiologic deficits associated with impulsive (reactive) aggression, including reduced central serotonergic functioning, executive dysfunction, and prefrontal deficits. It has been suggested that the neurobiologic deficits specific to impulsive aggressive behaviour may serve as indicators of an ineffective behavioural control system. A review of the literature finds that several pharmacological agents are effective in reducing the frequency and intensity of impulsive aggressive outbursts both when used as the primary agent of treatment and as an adjunct to ongoing pharmacotherapy. This presentation will discuss empirical evidence for treatment efficacy in impulsive aggression for a broad range of pharmacological agents.

Suicide in Jail and Prisons: A Comparison of Two Research Designs

Alan R. Felthous, Saint Louis University (felthous@slu.edu)

Questionable generalizability bedevils the interpretation of results of the many studies of suicide in correctional settings. In searching for suicide-associated factors that are highly generalizable, two comprehensive approaches are compared: the international meta-analyses of suicides in jails and prison by Fazel and colleagues and the nationwide surveys of suicides in American jails by Hayes. Factors are classified as demographic, situational, clinical and methodological. In the Fazel international meta-analyses, suicide victims were significantly (p<0.001) male, white, married, pre-trial and charged or convicted of violent offenses. Positively correlated clinical factors were psychiatric diagnosis, alcohol abuse, taking psychotropic medication, and suicidal ideation. In the Hayes studies more than 50% of the American jail suicide victims were male, white, unmarried, charged with minor or drug-related offenses, and intoxicated with alcohol or drugs. In the Hayes study, most suicide victims were under twenty-eight years of age, whereas in the Fazel meta-analyses suicide victims were distributed more evenly over age groups. The possible meanings of the common and divergent findings will be discussed.
Legal Standards Controlling Forcible Medication of Jail and Prison Inmates in the United States

Henry A. Dlugacz, New York Law School (hdlugacz@blhny.com)

The administration of antipsychotic medications to jail and prison inmates involves two related components: conducting the informed consent process in a coercive environment and, where consent is not obtained, forcible administration of medication. Complex legal standards have been developed to balance the interests at stake when forcible medication is considered. When hearing challenges to forcible medication of inmates serving a prison sentence, the Supreme Court of the United States has treated the interest of the institution in maintaining security as paramount. In the pre-trial context, the Court’s concern for the fair trial rights guaranteed by the Sixth Amendment seemingly has led to moderate this emphasis. This distinction may be breaking down, as the recent cases demonstrate. The presentation will discuss the various legal standards applicable to both informed consent and forcible medication and their implementation in the correctional setting. The discussion will focus on issues related to the United States.

153. Treatment Programs: Prisoners and Parolees

A Prison Transition Support Service for People with Mental Illness Discharged from Prisons in South East Queensland

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Robert King, Queensland University of Technology (robert.king@qut.edu.au)

The prevalence rate of psychosis in the prison population is thirty times higher than the non-prison population (Vicserv, 2008). Upon release from prison, the experience of people with mental illness has been characterised as “extreme social disadvantage.” People are seen to be at an increased risk of premature death and often face significant difficulties accessing community resources and having their basic rights respected (Kariminia et al, 2007; Kinner et al, 2006). The provision of re-entry support for people with mental illness leaving prison is clearly a social inclusion imperative in an urgent area of need. Richmond Fellowship Queensland (RFQ) has been delivering a prison Transition Support Service to such people in South East Queensland (Australia) for over four years. RFQ works to address different aspects of social exclusion through provision of direct support and counselling and by working with community services and the Prison Mental Health Service. This presentation describes the service model and program structure of the Transition Support Service. Referral trends, activity to date and client outcomes will also be discussed. The presentation will include a case example and provide some brief reflections on RFQ’s experience.
Parolee Treatment Outcomes: The Impact Of Programs, Practice, and Practitioners

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In recent years, the evidence indicates that the consequences of inadequate treatment for substance use disorders among parolees re-entering the community pose significant public safety and health risks. In response to high rates of recidivism among drug using parolees, California implemented a statewide in-prison drug treatment and community aftercare program intended to reduce drug use and recidivism. This study examines the effect of the workforce composition and standards of care on parolee outcomes following program completion. The program level data is derived from interviews conducted with program directors and counselors at ninety community based programs across the state and the participant-level data used to answer the research questions are from the 1,200 parolees who completed baseline surveys. A logistic regression model determined that parolees in programs that included stress management groups were less likely to successfully complete the program and those that were in programs that included cognitive behavioural criminal thinking groups were also less likely to complete. How aftercare retention and program completion are influenced by program, practitioner, and the use of evidence based practices, predict completion and recidivism with implications for practice are discussed.

Implementation of Occupational Therapy in the Mental Health Unit at the Penitentiary System Hospital Center

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**Objective:** To present the process of implementation of Occupational Therapy (OT) in the Mental Health Unit at the Penitentiary System Hospital Center.

**Method:** The mapping of the population for the investigation of demands, creating a specific screening instrument for OT.

**Results:** The mapping was performed with hospitalized patients between August 2009 and December 2011. Among women, there was a high prevalence of histories of illicit substance use, anxiety and depressive symptoms. Among men, there was a predominance of young people and a high prevalence of persecutory thoughts, illicit substance use and depressive symptoms. Main indication criteria for OT monitoring were: difficulty in adapting to imprisonment, suffering, conflicts in interpersonal relationships, and lack of treatment adherence.

**Conclusion:** Due to the particularity of the prison population in this Hospital, needs were evaluated to expand and create more flexible forms of OT assistance for group and individual assistance for women (pregnant and puerperal women) and for patients with infectious diseases. For the male population, membership of rival criminal factions precluded group treatments, and only individual assistance was evaluated.

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**Doing Justice in Prisoner Rehabilitation: Relapse Prevention**

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To date in the United States, the prisoner reentry literature largely points to an overall failure of nationwide reentry programs to effectively reduce recidivist behaviours. Despite the millions of dollars poured into the early 21st century reentry-rehabilitation efforts, most programs yielded, at best, ambiguous results. This presentation reports on multiple measures used to assess the success of a statewide and a local prisoner reentry program, with success defined as offenders incurring fewer incidents of recidivism than matched reentering prisoners who received a less structured course of reentry services and/or reentering prisoners who received no reentry services at all. In addition, a subsample of offenders participated in the same reentry program at least twice, making it possible to test a relapse prevention hypothesis (i.e., that rehabilitation involves a process that extends over multiple failures and multiple program exposures). The results of the large scale program evaluation and of the multiple exposure analysis suggest the need for a more dynamic approach to offender rehabilitation, involving the whole of the offender: mind, body, assets, and liabilities; and the whole of the community: economic resources, public policy, and a spirit of patience and tolerance.
Both “risk” and “capacity” are cited as the basis of involuntary psychiatric treatment. In the setting of outpatient care, these concepts require more contextualised definitions, given that risk of harm or severe impairment of reason are less prominent than in the setting of detention in hospital. In this study, the views of forty-two mental health consumers, their carers, clinicians and legal decision-makers were derived by in-depth interviews and qualitative analysis using a general inductive approach. The study identified a conceptually valid model of risk involving four domains: risk of harm to self or others (e.g. suicide or victimisation); risk of social adversity (e.g. homelessness); risk of excess distress (e.g. symptoms or interpersonal conflict); and risk of compromised treatment. In accounting for “capacity” there were three domains - the capacity to manage illness; the capacity for self-care; and the capacity to maintain a social role. In regards to risk in mental health, these findings mirror those of other research findings in that it is a broadly defined construct that is well beyond the limited scope of “harm,” particularly in the views of consumers and their carers. The model of “capacity” extends beyond traditional medical or legal models of time and task specific considerations of competence to acknowledge the capacity to engage in a life journey of flourishing in a social and interpersonal role. The legislative, public policy and clinical implications of the study are discussed briefly.


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Community Treatment Orders (CTOs) have become prevalent in a number of countries, and most recently in 2008 were enacted in England and Wales with the policy purposes of reducing “revolving door” admissions, increasing the ability of clinicians to manage risk and encouraging recovery. CTOs work by imposing conditions on how mental health patients live in the community, as well as providing a mechanism for them to be recalled for treatment in hospital if they fail to meet mandatory conditions and/or they are deemed to be becoming a risk to
themselves or others. Perhaps unsurprisingly, their introduction has brought with it debate on the ethical implications of extending compulsory treatment into the community. Much of the research on CTOs has tended to ask the question, “Do they work?” In this presentation, findings from an ethnographic study of the implementation of CTOs in England will be used to address the more ethically engaged and pertinent question for mental health practice, namely, “Who might CTOs work for, in what circumstances and why?” Taking an ethnographic approach has involved immersion in service settings over an extended period, enabling the incorporation of contextual influences and causal mechanisms into the analysis, which in turn has led to the development of a CTO typology that categorises the ways CTOs may be used. Such analysis highlights the complex nature of CTO outcome formation and the factors that could support practitioners to navigate the ethical balancing act that CTO practice can entail.

Developing Psychologically Informed Criminal Justice Environments (Part 1)

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Eddie Kane, University of Nottingham (eddie.kane2@btinternet.com)

Over the past three years, there has been a significant political focus in the United Kingdom on individuals with mental disorders who are detained within the justice system. This has led to a series of policy responses that have been developed in order to address the needs of these individuals. In 2011, six psychologically informed planned environments (PIPES) were introduced in the UK justice system. These pilot schemes were designed to offer staff additional training to help them develop a more psychologically based understanding of their work. This understanding enables them to create a safe and supportive environment that can facilitate the development of those who live there. PIPES are designed to have a particular focus on the environment in which they operate, actively recognising the importance and the quality of relationships and interactions. They aim to maximize ordinary situations and approach them in a psychologically informed way. PIPES look at the social context and interactions of the individuals who live and work there and stress the importance of the relationships which underpin daily living in what are often pressured environments housing individuals who have lived a life of exclusion from these common interactions. Of the six pilots, four were developed within prison environments and two within community justice environments. This presentation reviews the rationale and development of these pilots, the interventions deployed and the workforce and development challenges and the training strategy used to address them including the use of the Knowledge and Understanding Framework for personality disorders commissioned by the Department of Health and Ministry of Justice in 2007.

Developing Psychologically Informed Criminal Justice Environments (Part 2)
Eddie Kane, *University of Nottingham* (eddie.kane2@btinternet.com)
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Over the past two decades in the United Kingdom, there have been initiatives designed to divert offenders with mental health problems away from the criminal justice system into more appropriate services within health and other agencies. These have generally been ad hoc initiatives and subject to closure or significant reduction by local service commissioners at times of financial constraint. The services also tended to be local initiatives and no national pattern of coverage developed. The importance of diverting individuals with mental health problems out of the criminal justice system continued to be widely supported across political parties and the public sector agencies responsible for both health and justice, but in reality little or no investment was made and organisational boundaries continued to present real barriers to effective change. In 2010, the then Labour Government published the Bradley Report which made wide ranging recommendations for reforms at the health/justice interface. The new coalition government adopted the recommendations of the Bradley report in full in 2011 and also announced a substantial new investment (£59 million) in further developing these services. In 2012, a collaborative of the National Association for the Care and Rehabilitation of Offenders (NACRO), the Centre for Health and Justice, University of Nottingham, Revolving Doors and The Centre for Mental Health were commissioned to assess and further develop one hundred existing liaison and diversion pilots and develop a template to commission a further group of pilots to ensure that national coverage of these services. This presentation will report progress on this initiative including a review of best practice evidence and training needs.

155. Two-Stage Sentencing

*Two-Stage Sentencing*

Albert Kruger, *High Court, Bloemfontein, South Africa* (albertkr@vodamail.co.za)

Traditionally courts sentence a person for a criminal act. The act is the basis for sentencing. In South Africa section 286A of the Criminal Procedure Act makes provision for an indefinite sentence to be imposed on a dangerous criminal. Dutch TBS legislation and psychopath laws in other countries can usefully be compared to section 286A. After the period determined by the judge imposing the sentence (usually between ten and twenty years) the convicted person has to be brought before the same judge again. At that stage the judge gets a report from the prison authorities, dealing with rehabilitation. The judge then re-assesses the sentence, and can at that stage impose further imprisonment, or order release. The Children’s Act 75 of 2008 provides in section 76 that the court sentencing a child under twenty-one years old can direct that the child be brought before the court when the child reaches the age of twenty-one years old. The court then re-assesses the sentence. Two-stage sentencing procedures create the means for the court to impose a sentence, and to determine later whether the sentence has had the desired effect. The two-stage sentencing procedure should be encouraged and expanded.
Renewing and Prolonging Sentences: Dutch Variations on South African Two-Stage Sentencing

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Similarities and differences between Section 286A of the South African Criminal Procedure Act (two-stage sentencing) and the Dutch law for mentally ill offenders (adults and minors) will be discussed. The TBS-system for adults and the PIJ-measure for children and adolescents aged twelve to twenty-three share the dual purpose of protecting society and treatment/rehabilitation for the mentally ill offender or disturbed child. If the risk of serious reoffending remains unchanged, the TBS-measure can last for life, sometimes in a special longstay unit without the perspective of rehabilitation. The TBS-measure for adults will be regularly evaluated by a judge, even in a longstay situation. Assessment by an independent psychologist and psychiatrist will be done at these occasions. The PIJ-measure will expire at the age of twenty-three, without re-assessment of the original sentence. Some politicians have proposed to increase the maximum sentence for sixteen and seventeen year olds, and to make it possible to convert the PIJ-measure into a TBS-measure for adults. A child could thus remain in the system for a long time. These proposals have been met with much criticism.

Section 76(3) of the Child Justice Act 2008: A Disguised Route to Prison or an Incentive for a Child to Improve and be Able to Benefit through an Early Release?

Annette van der Merwe, University of Pretoria (annette.vandermerwe@up.ac.za)

The Child Justice Act 2008 (s 76(3)) introduced a new type of sentence applicable to child offenders who commit serious crimes in South Africa, and which, if committed by an adult, would have justified a term of imprisonment exceeding ten years. In such cases, the court may, if substantial and compelling circumstances exist, in addition to a child and youth care sentence (s 76(1)&(2)), sentence the child to a period of imprisonment to be served after completion of the time at the child and youth care centre (CYCC). The child will, however, first appear before the child justice court for reconsideration of the sentence of imprisonment in the light of a report prepared by the head of the CYCC. This presentation examines the following aspects: the history of and rationale for this section, the requirements for its application, the required report, and the extent to which the CYCCs can make this sentence work well for young people if they can encourage the young person to behave well during his or her time at the CYCC. Foreign jurisdictions, such as Canada and England, are also briefly evaluated for comparison in this regard.
Sentencing of Children and Juveniles Convicted of Serious Crimes: The Option of Diversion

Frits van Oosten, High Court, Johannesburg, South Africa (fvanoosten@justice.gov.za)

Sentencing is often the most difficult facet of a criminal case. Young offenders, children in particular, deserve to be treated differently from adult offenders. Children are given protection in our Bill of Rights (s 28). Generally, the paramount consideration is the child’s best interests. Difficulties arise once a child has committed a serious crime such as murder, robbery or rape. It is accepted that children, as a category, are less culpable due to the fact that juveniles are more vulnerable or susceptible to negative influences and outside pressures, including peer pressure. The Supreme Court of the United States has pointed out that “their vulnerability and comparative lack of control over their immediate surroundings mean juveniles have a greater claim than adults to be forgiven for failing to escape negative influences in their whole environment.” Since the character and personality of children under the age of eighteen are not yet fully formed, child offenders may be uniquely capable of rehabilitation. In South Africa, the Child Justice Act 75 of 2008 aims to establish a criminal justice system for children “who are in conflict with the law” that accords with the values underpinning the Constitution. It provides for an informal, inquisitorial pre-trial procedure aimed at implementing diversion directed at addressing the conduct of juveniles on a social rather than reactive means used in the criminal system. Sentencing options under the Act include community-based sentences, restorative justice sentences, fines or alternative to fines, correctional supervision, compulsory residence of the child in a youth care centre, imprisonment and postponed or suspended sentences. The age of the offender, of course, is not the only factor to be considered: a balanced approach to sentencing is required.

Two-Stage Sentencing: A Psycho-Forensic Perspective

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The prediction of human behaviour, and therefore also of antisocial conduct, has to a large extent been an Achilles’ heel of mental health professionals. Although predictions have become more reliable during the last decade or two, research data is often contradictory. Because South Africa has a high crime rate and large prison population, of which more than 70% are recidivists, the prediction of future antisocial conduct is of crucial importance to both the mental health and legal fields. The unique multicultural situation in South Africa adds to the dilemma of reliable predictions of future recidivism of prisoners. The fact that parole boards are not always empowered to make reliable decisions in this regard aggravates the situation. The problem (especially when the person might be a danger to society) could be addressed by applying the option in the South African law which allows a two-phase sentence where the person’s sentence is finalized only after he or she has served a certain time. This would provide more time and an
environment to reach a more reliable conclusion about the person’s future antisocial conduct. Well-known cases in South Africa will be used as examples.

156. Understanding and Improving the Use of Community Treatment Orders (CTOs)

The Challenges of Applying Recovery Theory to Involuntary Treatment

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Robert Bland, University of Queensland at Brisbane (r.bland@uq.edu.au)
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Personal recovery has emerged as a central concept for mental health and has now been explicitly adopted as the guiding principle for the provision of mental services in Australia and internationally. Personal recovery includes internal conditions such as empowerment, self-determination, hope, healing and connection, and external conditions such as human rights, a positive culture of healing, and recovery oriented services. Involuntary admissions, at face value, are a distinct contradiction to the concept of recovery, as mental health crises that lead to the legal provision of involuntary treatment would appear to challenge the very principles of recovery. Involuntary treatment can, by definition, be a denial of agency and citizenship, a destruction of hope as well as reinforcing stigma associated with a mental illness. Yet involuntary treatment can also be a point from which the recovery journey can gain direction and momentum. This presentation will outline the findings from a qualitative study investigating what aspects of the recovery model are relevant to involuntary mental health admissions and attempts to reconcile the perspectives of consumers, their carers, and health care professionals. This presentation will focus on the experiences of twenty-five consumers who have experienced an involuntary mental health admission.

Achieving Reciprocity for People on Community Treatment Orders

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It is estimated that one in four people accessing clinical community based mental health services in Victoria, Australia, are on a Community Treatment Order (CTO). Concerns about CTOs include the potential for over use, increased reliance on coercion, and for people to appear to be languishing on these orders for many years. In the author’s experience, across multiple projects investigating the experience of the implementation of CTOs, there is consistent evidence to suggest that many people on CTOs do not gain access to the level of service delivery that it may be argued is required both to justify a CTO and also to achieve positive outcomes. Current law
reform in Victoria is attempting to address these issues, but previous attempts at law reform have tended to be unsuccessful. The introduction of statutory treatment plans appears not to have met the aim of having more consistent evidence that people on CTOs have been collaboratively engaged in treatment planning and goal setting. It is also apparent that many people on CTOs are not gaining access to recovery orientated services and psychosocial interventions. Thus it appears that in many cases the principle of reciprocity, the right to adequately resourced care in exchange for infringement of civil rights, has not been met. This presentation will discuss the meaning and implications of the evidence and make recommendations about how these problems might be addressed beyond law reform, including the significant potential for peer support services to assist in this context.

**Improving Policy and Practice to Prevent the Revocation of Community Treatment Orders**

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This presentation will revisit the findings from an investigation the authors made in relation to the revocation of community treatment orders in Victoria, Australia. The findings confirmed that CTOs are frequently revoked, resulting in the CTO recipient being sent back to hospital, especially in the first few months after the recipient is discharged from the acute inpatient unit. In many cases, this involves the police or ambulance services and, as well as being resource intensive, this process is often very distressing for consumers, their carers and families and staff involved. After undertaking a mixed methods study that included a detailed investigation of eighty-one revocation episodes and a broader investigation of the revocation process as perceived by stakeholders in the period from 2008 to 2010 the authors have developed a number of recommendations regarding how: 1) The revocation of CTOs may be avoided; 2) If a revocation does occur how police involvement may be more carefully considered and minimized; and 3) How all involved could be better supported before, during and after a revocation episode. These ideas and recommendations have been welcomed locally and have supported a proposed change in service delivery that seeks to provide a more seamless service that discourages the silos that have emerged through the previous separation of crisis and continuing care teams and roles. This presentation will report on the findings of a further investigation the authors are conducting in relation to whether, based on their previous findings, there is evidence of improvements in policy and practice and reduction in the amount of coercion experienced by people on CTOs.

**Community Treatment Order Oversight Hearings and Patient Outcomes**

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The legal oversight of the use of community treatment orders (CTOs) has proceeded with little consideration of how it might be enhanced and or improved. The purpose of this study is to consider how various components of the oversight process are related to patient outcomes. In a twenty year investigation of Mental Health Review Board Oversight of CTO utilization in Victoria, Australia involving almost 19,000 individual placements on orders, this study considers how review board hearing procedures – e.g. legal representation of patients, presence of translators, presence of significant others (professionals involved with the hearings, or friends and relatives) – scheduling process – e.g. time to initial hearing, discharge immediately prior to a hearing – review board actions, and revocation of orders are related to patient outcomes.

**The Effect of Compulsory Community Treatment on One and Two Year Survival**

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**Background:** There is controversy as to whether community treatment orders (CTOs) can improve health and social outcomes, including questions about their effectiveness in preventing admission to hospital. Less is known about any effect on the increased mortality experienced by people with severe mental illness.

**Objectives:** We investigated whether CTOs can reduce one- and two-year mortality over the decade following their introduction in Western Australia (WA).

**Method:** A population-based record-linkage analysis of all CTO cases in WA over ten years. We compared one- and two-year mortality rates for CTO cases with matched controls. We used Cox regression analyses to adjust for demographics, education level, prior health service use, diagnosis and length of psychiatric history. We collected data on successive cohorts for each year of CTO use to measure changes in numbers, characteristics and outcomes.

**Findings:** We identified 2,127 CTO cases from November 1997 to December 2008 along with the same number of controls matched on age, sex and mental health diagnosis. 64% were males with an average age of thirty-seven years. The most common diagnoses were schizophrenia and other non-affective psychoses (76%), followed by affective disorders (14%). 476 patients (8%) died. Patients on CTOs had significantly lower mortality rates at one and two-year follow-up with hazard ratios of 0.6 (95%CI=0.5-0.7) on each occasion.
Conclusions: CTOs may reduce one- and two-year mortality. This may partly be explained by increased contact with health services in the community and better access to medically necessary treatments.


The Social Model of Disability in the CRPD: From Theory to Practice

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The “social model of disability” gives substance to the “paradigm shift” which is hailed as the pivotal contribution of the CRPD to the human rights landscape. This presentation examines the implications of the social model of disability for the mental health law. It begins with an examination of the theoretical and conceptual underpinnings of the social model of disability in sociology and critical disability studies. It then considers the manifestation or expression of the social model of disability in the CRPD, with reference to the “definition of disability on the basis of disability” and the concept of reasonable accommodation. The presentation shows that the adoption of the social model of disability in the CRPD marks a critical juncture in international human rights law by recognising in an international covenant the social production of knowledge, the social production and reproduction of human rights abuse, and the social determinants of health and well being. It argues that the social model of disability provides a framework within which the entrenched relationships, attitudes and assumptions that underpin traditional forms of social and legal engagement with people with disabilities, including people with mental illness, may be challenged. In practical terms this approach destabilizes “capacity” as a workable construct in mental health law, augmenting it with a strong preference for the principle of participation.

Swedish Mental Health Law Revisited: Discrimination and the Values at Stake

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Should all people with disabilities be decision-makers in their own lives, or should the decision-making in some cases be left to a third party with the former person’s best interests at heart? This was the core question throughout the negotiations of the Convention on the Rights of Persons with Disabilities (CRPD). Even though this question is answered with ambiguous silence, that itself is ground-breaking. Previous human rights instruments explicitly legitimized involuntary
interventions in mental health care and focused on minimizing the use of coercion, provided safeguards and ensured that compulsory treatment was only applied to those who needed it, i.e. those who are “really mentally ill.” The CRPD is different. It contains no provisions explicitly legitimizing compulsory psychiatric care. Instead, references to equality set the limit for non-consensual interventions. But what does equality mean in the mental health context? And what constitutes legitimate interventions? To answer these questions, we explore different understandings of equality as well as unveiling the values and conflicts of interests in Swedish mental health law. We argue that certain changes are urgently needed in the Swedish context, regardless of which understanding of equality one adopts.

**Appropriate Types of Involuntary Treatment: Can Human Rights Standards Provide Greater Guidance?**

Jill Stavert, *Edinburgh Napier University* (j.stavert@napier.ac.uk)

The European Court of Human Rights (the Court) has emphasised the enhanced vulnerability of detained persons with mental disorder. However, it has also ruled that non-consensual treatment of such patients will not constitute inhuman or degrading treatment (prohibited under Article 3 of the European Convention on Human Rights (ECHR)) where such treatment is permitted by law and therapeutic necessity is convincingly shown. That being said, although the Court has further indicated that excessive or unwarranted mediation may amount to inhuman or degrading treatment or a breach of the right to respect for private life, it remains unclear as to exactly what types of non-consensual treatment will result in ECHR violations. The United Nations Convention on the Rights of Persons with Disabilities 2006 (CRPD) reinforces and defines more specifically the rights of, and responsibilities relating to, persons with mental disorders and has increasingly been referred to in cases before the Court. By considering literature and cases that mention the CRPD this presentation will therefore discuss whether it has the potential to provide greater clarity and protection for patients and staff in involuntary treatment situations.

**The CRPD and the ECHR: Uneasy Bedfellows?**

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The CRPD is frequently said to introduce a “new paradigm” into international law. However desirable this new paradigm may be, it begs the question of how institutions designed under the old paradigm are to adapt. An obvious example is the European Court of Human Rights, which for instance specifically allows for the detention of “persons of unsound mind” (art 5(1)(e)), in direct conflict with the prohibition of disability being used as a factor in detention in the CRPD (art 14). This presentation will consider how far the ECHR can reasonably be expected to go in integrating the new paradigm of the CRPD into its jurisprudence.
158. Using Mental Health Legislation and Coercive Interventions: Dilemmas for Professionals and Service Users

Caring for Distressed and Disturbed Mental Health Service Users: An Exploration of Service Users and Nurses’ Experiences of Coercive Interventions

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Across Europe, enhanced community care services have enabled those with mental health problems to remain out of hospital for longer. Admission to hospital is required only when individuals become very distressed and disturbed, necessitating some compulsory detention. Due to the acuity of their illness, an individual’s safety and that of others may be at risk. Consequently, health care professionals may resort to the use of coercive interventions such as rapid tranquillization, physical restraint or seclusion. Using such methods results in both clinical and ethical dilemmas for health care staff, mainly nurses. For service users, being subjected to these interventions can generate negative feelings. To better understand the implications of using such approaches from the perspectives of both groups, two separate but inter-related studies were conducted using individual in-depth interviews with service users (n=19) in the United Kingdom and focus groups with nurses (n=130) in acute psychiatric inpatient units in Finland, Ireland, Italy, England, Lithuania and Portugal. Findings suggest that nurses have strong negative feelings regarding the use of coercive interventions, including fear, discomfort, apprehension, vulnerability, intimidation, and a sense of internal struggle. Service users reported lack of preventative techniques and therapeutic engagement, poor staff attitudes, lack of empathy and “us versus them” culture. The findings from these studies will be discussed in detail and the implications for practice and education explored.

Decisions and Dilemmas Surrounding the Use of Section 136 of the UK Mental Health Act in South West London

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In the United Kingdom, individuals experiencing a mental health crisis can come to the attention of police in a public place, be issued Section 136 (S136) of the Mental Health (1983 & 2007) and taken to a hospital place of safety. Legal decisions with the potential loss of liberty are entrusted to agencies such as police and clinicians. As such, the S136 pathway is viewed as contentious and ethically sensitive and less is known about stakeholders’ experiences of this process. Findings from focus groups with: (i) service users; (ii) carers; (iii) mental health professionals;
(iv) police; and (v) ambulance workers in a United Kingdom National Health Services Trust revealed experiences of variable practice, resource constraints and lack of clarity in accountability following a S136 event. This resulted in practitioners feeling pressured to make decisions impacting on the quality of care and at times the safety of detained individuals. This presentation considers the significance and implications for the parties involved in following through their decisions, along with the need to work in unison in identifying potential resolutions.

Legal Coercion to Take Medication: Mental Health Consumer Perspectives

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This qualitative grounded theory study analyses mental health service-user and carer perspectives on medication compliance and compulsory treatment. Data were generated from interviews and focus groups with twenty four mental health service users/carers with a history of repeated admission under the Mental Health Act (1983) due to medication non-compliance. Following data analysis, eight initial categories emerged to tell the story of medication non-compliance and compulsory treatment: the experience of desperation meeting with what is perceived as professional indifference; loss of a credible identity; playing the game; medicalisation of experience; meeting therapeutic competence; enabling collaboration; or alternatively, meeting therapeutic incompetence; disabling collaboration. Although initially reluctant to comply, service users accepted the need for treatment but then found that the behaviour of professionals could enhance or hinder medication compliance. Where professionals were seen as working collaboratively the coercive effect of compulsory treatment was minimised. Conversely, where treatment was not perceived as collaborative, this maximised feelings of coercion and created resistance. The core category: negotiating the Janus Face of Mental Health Care encapsulates the substantive theory explaining the process.

A Longitudinal Assessment of Outcome One Year after Being Admitted under Section 136 of the UK Mental Health Act

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Section 136 of the Mental Health Act is issued by police in the United Kingdom to bring people suspected of suffering from mental disorder to a place of safety for assessment. The 136 suite at a south London Mental Health Trust serves a population of one million people. Preliminary data analysis suggests that the number of Section 136 admissions is increasing. It is not clear if this is
a) because the need is increasing; b) the threshold of the police to use Section 136 is changing; or
c) the result of problems in community services. This study will follow six months of admissions
to the 136 suite (approximately 200 people) for one year following the initial admission. Socio-
demographic details will be established, comparing the cohort to the wider population. Reasons
for admission under Section 136 will be documented; in particular whether any criminal offence
was committed. The proportion of subjects intoxicated with drugs or alcohol will also be
established. Outcome data at one year will include (for those taken on by services) whether they
are still in contact with services, whether they have been admitted to hospital in the year and
measures of social inclusion such as employment, family relationships and housing will be
recorded.

**Nurses’ and Patients’ Stories of How and Why Section 5(4) (Nurse’s
Holding Power) of the Mental Health Act 1983 is Implemented**

Russell Ashmore, *Sheffield Hallam University* (r.j.ashmore@shu.ac.uk)

Section 5(4) of the Mental Health Act 1983 (DH, 2007) empowers mental health nurses in the
United Kingdom to legally prevent informal in-patients from leaving hospital for up to six hours
for their health or safety or the protection of others. Since its introduction in September 1983,
there have been over 34,000 applications of the section, an average of 1460 per annum. Despite
being a significant coercive intervention there is a paucity of research evidence reporting on how
and why the section is implemented. This study sought to address this deficit by examining
nurses’ and patients’ accounts of their experiences of the implementation of Section 5(4).
Multiple sources of data were generated from case studies including narrative interviews with
both nurses (n=30) and patients (n=4); and written accounts of the detention process (n=20). The
findings suggest that on the whole, both nurses and patients perceived the implementation of the
section to be a negative coercive intervention. Although nurses believed that implementing the
section served an important function in protecting the patients and/or others they also reported
strong negative emotions associated with its use. Such emotions included; sadness, a sense of
failure and fear. Patients reported that coercion started before and on admission to hospital. They
also reported that a lack of information and choice along with discrimination and exclusion
within acute psychiatric settings impacted negatively on their relationships with healthcare
professionals and their medical and life recovery. The presentation will outline the findings of
the study in detail and discuss their implications for policy, practice and education.

**159. Victimization and Women Offenders**

*Implications of Sexual Victimization History for Female Prisoner
Adjustment*

Kayleen Islam-Zwart, *Eastern Washington University* (kislamzwart@ewu.edu)
The proportional representation of women in United States prisons has been increasing since 1980. Along with this growth, there has been greater attention to the adjustment process for female inmates. Several personal factors have been identified as impacting prison adjustment. With as many as 78% of women in prison reporting a trauma history, the impact of sexual victimization on adjustment is of particular interest. Results from a longitudinal study involving minimum-security women at a state prison suggest sexual assault history impacts adjustment to incarceration in a complex manner. Specifically, after controlling for physical abuse history and need for approval, women with a sexual assault history report significantly more initial concerns about personal safety, but less interpersonal and physical discomfort than women with no victimization history. Women assaulted exclusively as adults report more internal adjustment problems (interpersonal discomfort, insomnia, anger), safety concerns, and altercations than women victimized as children and adults. Over time, inmates reporting a sexual assault history show consistent levels of internal adjustment problems (high for women with no assault history and low for women reporting childhood and adult sexual assault) from the first to third weeks of incarceration, while inmates without a history of sexual assault report initially higher levels of internal adjustment reaction that decrease to levels below that of the sexually assaulted group. Findings articulate the link between victimization history and adjustment to incarceration for female offenders, and highlight the importance of assessment of victimization history and tailored interventions to facilitate rehabilitation.

**Juvenile Victims of Sex Trafficking: A Gendered Pathway to Crime for Women**

Emily J. Salisbury, *Portland State University* (salisbury@pdx.edu)

Criminologists continue to debate whether a single, general theory of crime is favored over typological, or taxonomic, etiological explanations. The debate is becoming particularly relevant in the study of women’s offending patterns. For three decades, qualitative research has supported a gendered pathways perspective, and more recent quantitative data also demonstrated empirical support of female-specific trajectories toward crime. One pathway that continues to emerge in the research involves prior sexual victimization as a primary distal factor in the etiology of women’s offending. Using data from a juvenile detention facility in Washington state (United States), this presentation argues that within the commonly cited sexual victimization pathway is perhaps another sub-pathway, one that reflects childhood victims of sex trafficking (i.e., commercial sexual exploitation of children or child “prostitution”).

**A Mixed-Methods Study of Women’s Pathways to Jail: The Role of Mental Illness and Trauma**

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This multi-site study, funded by the United States Department of Justice, Bureau of Justice Assistance, examined victimization and serious mental illness among women in jails. Jail administrators have reported that the presence of persons with mental illness is an increasing problem in jails, with many of the same inmates “cycling” in and out of jails repeatedly. We used clinical diagnostic interviews as well as life-history calendar interviews with women in rural and urban jails in five American states. Our findings indicate very high prevalence of post traumatic stress disorder, substance dependence, and serious mental illness. In many instances, these illnesses were co-occurring, such as when a woman experiences PTSD in conjunction with major depression and substance use disorder. Event-history analyses were performed to examine how trauma exposure and serious mental illness relate to onset of offending for different crimes, and women’s qualitative narrative data was used to elucidate dynamics of associations between mental health, trauma, and offending. The project has important implications for mental-health screening for justice-involved females, as well as for gender-responsive and trauma-informed programming to address women’s complex treatment needs.

**The Influence of Victimization on Involvement in the Criminal Justice System and Recidivism: Comparing Women in Prison to Women on Probation**

Women are entering prisons in the United States at nearly double the rate of men and are the fastest growing prison population. Literature focuses on the prevalence of punitive policies affecting women such as incarceration and community corrections, but little exists that emphasizes their different trajectories to the criminal justice system. This is despite women offenders experiencing more victimization, more reports of mental health problems, and higher rates of substance use problems than their male counterparts. Yet, despite these differences, most offender rehabilitation programming is based on the needs of men, indicating the importance of understanding the relationship between childhood victimization and recidivism with mental health and substance use issues as mediating variables for women offenders for the sake of effective programming. The purpose of this presentation is to discuss these relationships with two different samples: 240 women from one of two state prisons in North Carolina that were interviewed between 30 and 120 days prior to release and 354 women on probation or parole in Kentucky. The presenters will: 1) compare and contrast the prevalence of childhood victimization, mental health problems, and substance use problems between the two samples; 2)
compare and contrast pathways from childhood victimization and recidivism for women in prison to women on probation; 3) identify subgroups of women based on type of victimization, substance use, and psychological distress; and 4) discuss the importance of gender-specific programming that enables women offenders to resolve their trauma associated with previous victimization and current mental health/substance use issues.


Simulating Subjectivity: Demonstrative Evidence of Perceptual Experience

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Demonstrative evidence is typically offered to represent external reality, but in a handful of cases litigants have presented visual or auditory exhibits that purport to enable judges and jurors to experience for themselves what it is like to have the litigants’ subjective perceptions (such as impaired vision due to accident or malpractice). These simulations may be derived from litigants’ self-reports, clinical testing, or physical measurement of their sensory apparatus. Each type of simulation makes a different sort of claim to provide reliable knowledge about the litigant’s subjective experience. Yet almost all have been readily admitted as mere visual aids rather than substantive evidence, based on litigants’ testimony that they fairly and accurately represent what the litigant sees or hears. This presentation describes the various types of simulations, analyzes their epistemological bases, and argues that applying the same minimal evidentiary standard to all, regardless of their provenance, tends to discourage careful inquiry into their vastly differing probative values and judgmental risks.

The Hidden Consequences of Racial Salience in Videotaped Interrogations and Confessions

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Evaluations of videotaped criminal confessions can be influenced by the camera perspective taken during recording. Interrogations and/or confessions recorded with the camera directing observers’ visual attention onto the suspect lead to biased judgments of the suspect. Although a camera perspective that directs visual attention onto the suspect and interrogator equally appears to promote unbiased judgments, investigations to date have relied on videotapes that depict only Caucasian suspects and/or interrogators. The current work examined the possibility that even equal-focus videotapes may become problematic when the suspect is a minority (e.g., Chinese or
African-American) and the interrogator is Caucasian. That is, to the extent that Caucasian observers are inclined to direct more of their attention onto minorities, an effect documented previously, we expected biased judgments of the suspect to also occur in equal-focus videotapes. Three experiments provided evidence of this racial salience bias. Implications are discussed, including one practical way of avoiding the bias.

**Hindsight Bias: Emerging Challenges and New Solutions**

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Hindsight bias occurs when people feel that they “knew it all along,” that is, when they believe that an event is more predictable after it becomes known than it was before it became known. The topic of nearly forty years of psychological research, hindsight bias represents a significant impediment to sound legal decision-making, particularly in cases involving negligence or malpractice. I will review research showing that technologies for visualizing accidents and crimes (e.g., forensic animation) can have the unintended consequence of increasing hindsight bias, but that factors centering on the presentation format of visualizations can mitigate this effect. More general techniques for “de-biasing” judgment and decision-making will also be discussed.

**Empathy Disorders and Moral Enhancement**

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Empathic mechanisms differ between individuals in different types of clinical populations, and empathy has also been proven a plastic skill among neurotypical individuals. This plasticity points to possibilities of empathy enhancement but leaves open the question of what or whom should be enhanced. I will address that question by first briefly discussing the “normal” span of empathic responses, and different types of empathy disorders. In particular, the difference between a lack of the capacity for empathy versus a lack of motivation for empathy will be investigated. This discussion will be followed by a comparison of suggested treatments for different types of empathy disorders to empirically investigated mental techniques recently shown capable of enhancing empathic skills for neurotypical individuals. The role of empathy in moral behaviour is contested, but if there are ways to enhance empathic mechanisms, and these are important for moral responses, then we need to understand why certain types of moral enhancements are thought to be suitable only for clinical populations and others only for neurotypicals. I will argue that, for moral reasons, a general and implicit attitude in favor of promoting empathic and moral enhancement solely for clinical populations should be questioned.

**161. Witnesses and Expert Evidence**
Behind Closed Doors: What Expert Witnesses Can Teach Us about Drug Company Activities

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In light of the growing number of lawsuits against drug companies for their marketing of psychiatric drugs, it is important for a conference on law and mental illness to explore what researchers may learn from these cases. From 2010 to 2012, Sheila Rothman (Mailman School of Public Health, Columbia University) and I served as consultants to the Texas State Attorney General’s Office in its successful suit against Johnson and Johnson for Medicaid fraud in promoting Risperdal. This presentation will draw on our experience to illuminate the following issues. First, an explanation of the database of materials that is made available to consultants and its organization. Second, an analysis of the unique opportunities presented by such lawsuits to examine source materials otherwise unavailable to researchers. Pharmaceutical companies, like other commercial enterprises, guard their internal operations closely. Only when forced through legal “discovery” does this type of information become available. Third, a discussion of what such lawsuits can teach us about the role of drug companies in the formation of psychiatric treatment guidelines. Finally, an analysis of what such lawsuits can teach us about the role of drug companies in the publication of articles in psychiatric journals, including ghostwriting.

Automatism: The Different Definitions in Case Law and Expert Evidence and How this Impacts on the Sleepwalking Defense

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There are several subtly different definitions of legal automatism and the literature on forensic sleep disorders, recorded instructions to the jury, and my research interviews suggest that there is confusion among expert witnesses and lawyers. This has implications for the expert evidence given and how it is treated by the courts. The difficulty in defining automatism satisfactorily is partly related to the difficulty in defining voluntariness. In addition, many cases described as automatism are in fact decided on unconsciousness rather than involuntariness. The definition of automatism as “total loss of control” is controversial and academics debate whether this definition applies to all offences or just driving offences. Sleepwalking is universally accepted as a state of automatism even though the range of actions seen is incompatible with the “total loss of control” definition. They would not be accepted as automatistic with other disorders like diabetes. A more sophisticated definition of automatism based on current neuroscientific understanding, expert evidence, and the work of legal philosophers HLA Hart and RF Schopp is offered as a solution. This would result in greater consistency by the courts regardless of the underlying disorder causing automatism.
Effects of Suspect Demeanour on Eyewitness Judgments

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Eyewitness evidence plays a crucial role in forensic investigations. It can also be unreliable, with eyewitness reports and identifications vulnerable to distortion by various biasing influences. We investigated how eyewitness identification decisions are biased by subtle behavioural or demeanour cues. Specifically, a smiling face has been shown to enhance feelings of familiarity; consequently, the presence of this cue could make a lineup member appear more familiar than other non-smiling members. Witnesses viewed two mock-crimes for either a short or long exposure duration and attempted an identification of the culprits from culprit-absent photo-lineups. In one condition, all lineup members had neutral facial expressions; in the other, one had a smiling face. For witnesses with a weak memory of the culprit (due to a brief exposure at the time of the crime), the smiling (innocent) lineup member was more likely than other lineup members to be the one rated as being most like the culprit. The biasing effects of such demeanour cues increase the risk of mistaken eyewitness identifications. The broader implications of these findings for how judgment and decision-making in other forensic contexts (e.g., clinical forensic interviewing, evaluating the veracity of testimony) may be biased by demeanour cues will be discussed.

Why Do Witnesses Withhold Information?

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Nathan Weber, Flinders University (nathan.weber@flinders.edu.au)

Eyewitness reports provided during forensic interviewing are often the key to prosecuting a suspect: the more detail, the stronger the leads available to investigators. During an interview, witnesses have the option of providing a very detailed, or fine grained response (e.g., he wore a dark brown leather coat), or a much less detailed, or coarse grained response (he wore a dark coat). Often witnesses withhold coarse-grain details despite the fact that these can offer vital investigatory leads; they apparently prefer to provide fine grain information or be maximally informative. We investigated social psychological mechanisms that may explain why witnesses may withhold such information. Experiment 1 examined whether characteristics of the audience or interviewing context explained the apparent drive for informativeness reflected in the privileged reporting of fine grained information. The results questioned whether informativeness is the driving force underlying information withholding. Experiment 2 manipulated the value of coarse grained information (using situations where the only possible response was a coarse grained one) to determine whether coarse-grain information would be withheld even when it was the informative response. The implications of our findings for maximising the amount of
A feminist lens was used to explore how race, gender, trauma and criminal history coalesced to become women’s pathways to crime and homelessness. The study findings indicated that women’s pathways to crime were defined by traumatic childhood experiences, addiction, criminal role models, economic marginalization (the need for income), and damaged self-images. Pathways to homelessness were attributed to traumatic childhood experiences, addiction, low social and human capital, destructive personal relationships, criminal involvement, loss of public benefits, and pride. The study findings demonstrate the importance of providing homeless African American women with criminal histories with culturally relevant substance abuse treatment; gender-informed medical, psychiatric, and dental care; counseling that repaired self-esteem and self-image; access to subsidized housing; life skills training; employment readiness workshops; and spiritual resources to assist them in taking pathways away from crime and homelessness.

“Change is Good – You Go First:” Helping MH/JJ Organizations Become Trauma Informed Using the Sanctuary Model of Care

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For the last thirty years, mental health and juvenile justice service systems have been under relentless assault, with dramatically rising costs and the fragmentation of service delivery rendering them incapable of ensuring the safety, security and recovery of their clients. Our social service systems become organized around the recurrent stress of trying to do more under greater pressure. Complex interactions among traumatized clients, stressed staff, pressured organizations and a social and economic climate that is often hostile to recovery efforts recreate the very experiences that have proven so toxic to clients in the first place. This presentation will highlight challenges, barriers, and opportunities of implementing organizational culture change in large juvenile justice systems as they move from coercion and control to treatment. Staff ACEs (Adverse Childhood Experiences study) scores will be presented to highlight the ripple effect of
an organizational parallel process. Finally, the Sanctuary Model of Care, which has been effective in helping agencies fortify and inoculate themselves, staff, and their clients from the vicissitudes of toxic stress and trauma, will be discussed.

**Addressing Trauma with Refugee and Immigrant Women with a Multi-Modality Trauma-Informed Approach**

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Refugee and immigrant women are often victims of extreme trauma: war, persecution, and gender-based violence are common experiences of many. For refugee women living at VIVE La Casa, an asylum shelter on the East side of Buffalo, NY, their experiences of trauma are often perpetuated as they await asylum protection from the United States or Canada. This presentation will highlight the work of the Institute on Trauma and Trauma-Informed Care through the University at Buffalo as they developed a group trauma treatment that was implemented with long-term female residents at VIVE La Casa. The treatment was anchored in the principles of trauma-informed care (Harris & Fallot, 2001) and combined with material from the evidenced-based treatment Seeking Safety (Najavits, 2001) and mandala art work. Seeking Safety is rooted in Cognitive Behavioural Therapy (CBT) and coping skills affect regulation. Through the use of mandalas, loosely translated to “circle,” the women were able to focus and express their thoughts and feelings, and process the material in a therapeutic way. The curriculum was crafted very deliberately and with the input and consultation of many experts, including Dr. Hilary Weaver, an expert on historical trauma and issues related to refugees and immigrants. The treatment showed very promising results, including the women reporting increased daily functioning, increased physical health, and decreased anxiety.

**Symptoms of Post-Traumatic Stress Disorder (PTSD) in Victims of Trafficking in Greece**

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Recently studies have emerged that examine various traumatized populations, which have shed light on the course of Post Traumatic Stress Disorder (PTSD). The differences in the symptomatology of PTSD between “at risk” populations must be understood, so that people are not misdiagnosed and therapeutic interventions are tailored to each group. The purpose of this study was to examine the symptoms of PTSD in victims of trafficking, an under researched population, and to establish how their symptoms differ from those experienced by other victims of abuse and by females in the general population of Greece. Fifty two females, ages seventeen to sixty-five completed the Trauma Syndrome Inventory (TSI), twenty-six from the general population and twenty-six from a women’s shelter. Of the twenty-six women in the shelter, eleven are victims of trafficking. The twenty-six participants from the women’s shelter also completed the Brief Betrayal Trauma Survey (BBTS). A one way Analysis of Variance was
computed to determine whether there were significant differences in symptomatology between the females from the general population, the women in the shelter, and the victims of trafficking.

### 163. Women and Families in Adverse Life Situations

**Eggshells in the Nest**

Debra Bastien, *University of New Brunswick* (debralynnbastien@gmail.com)

Combat-induced PTSD has historically generated psychological casualties of war and has been an ongoing concern for Canadian Forces (CF) personnel, their wives and families. There has been extensive media coverage on the escalating number of PTSD diagnoses since deployments to Afghanistan, however little attention has been given to CF families at risk for “secondary traumatisation” (Hoge, 2010). 70.8% of military personnel are married and 54% of these families have children, the majority of which are under the age of eleven (Triscott & Dupres, 1996). Violence and instability create upheaval amongst families dealing with PTSD (Harrison & Laliberte, 1994). Croatian authors Franciskovic et al. (2007) recommend that treatments offered to veterans with PTSD must also be offered to their families. Veterans with PTSD return from war expecting home to provide safety and security, yet stress can intensify when they have difficulty reintegrating into spousal and parental responsibilities. Spouses are generally unprepared for the unpredictable and violent reactions that may emerge when traumatic memories are triggered. All members of the family walk on eggshells in navigating this unknown high risk terrain. To date, few studies have addressed this complicated family dilemma. In this narrative inquiry, the silent and secret stories of the trauma and healing of military wives are examined. Narrative offers a means of giving voice to personal experiences. Uncovering the private realm of these intimate stories can provide health care workers and policy makers with a deeper understanding of how PTSD disrupts the dynamics of home and family. In this presentation, I will discuss some of these women and family’s stories, as well as the insights and recommendations gleaned from them.

### Health PIES for Disadvantaged Children

Mary Lou Batty, *University of New Brunswick* (mbatty@unb.ca)

It is well documented that health professionals and educators often work intimately with children while ironically being oblivious to the adverse circumstances these children live with at home or within other parts of their lives. Their ability to learn at school may be diminished by chronic stress and self-care deficits (e.g. poor hygiene and nutrition); they may be unable to self-regulate or establish healthy friendships. Because many of their situations will never be identified, they will miss access to support and resources that could change the course of their health. The subsequent costs to the children and to the health care system cannot be ignored. Therefore and by way of reaching out to these children, the Health Promotion in Elementary Schools (Health
PIES) initiative was developed. Using a strength-based universal approach to build relational and health promotion capacity, Health PIES provides a cost-effective way to help children, and by extension, their families. Within this initiative, nursing students engage with children, staff, and the school community in classroom work, and also work with children in small groups who have been identified as “at-risk” for developing health challenges. Activities conducted by the nursing students are inclusive of family structure and describe community supports which are accessible to families regardless of income level, culture, learning style, and family circumstances. This enables the children to draw on the information to meet their own needs. Children who receive little support at home tend to build skills in resilience and independence. Such children have reported learning the connection between hygiene and infection prevention and that material possessions do not equate to happiness. The children acknowledged that the activities they learned through participating in Health PIES helped them through difficult times at home.

**Hallowed Be Thy Name: Women’s Stories of Surname Change**

Kathryn Weaver, University of New Brunswick (kweaver@unb.ca)

A name is a symbol of self and a large part of the construction of one’s identity; however, little attention has been given to the topic of women’s surname change. Thus, women who contemplate entering or leaving marital relationships can experience a quandary as to whether they will take their husbands’ surnames or retain their birth surnames. To understand women’s experiences with surname change or retention and the meanings women draw from these experiences, a narrative approach was used to elicit women’s stories and explore individual perspectives within the broader beliefs and values of family, culture, and society. Fourteen women in the process of surname change were interviewed. In addition, collateral interviews with fourteen family members were conducted to add validity and richness to the developing core narrative. Analysis involved examining stories for elements of temporality (past, present, future), relationships (marital status, nuclear, extended, or family of origin), and voice (dominant social discourse, individual motivations, social pressures, and values). The experiences of women concerning surname change reflected interaction, critical thinking, and at times, sheer unreflectiveness wherein women did not give thought to decision-making. Women who kept their birth surnames chose to retain their professional identity, preserve relational equality, or honour their parents. Women who took their husbands’ surnames did so for tradition and to establish a new shared identity. While most divorced women did not return to their birth surnames because they wanted the same name as their children, women who did reclaim their birth surnames after marital dissolution described a time of joy and empowerment. The findings suggest that taking their husbands’ surnames can lead to loss of identity and marital inequality for women, and may negatively influence their health, well-being, and family relationships.

**Positive Practice Environments: Millennium Mandates**

Dolores Furlong, University of New Brunswick (dfurlong@unb.ca)
The World Health Organization’s professional member groups (i.e., World Medical Association, International Council of Nurses, and World Federation for Physical Therapy) have focused their attention on an unusual international phenomenon – unhealthy workplaces across the world that result from bullying and unmanageable occupational stress. To this end, these organizations have designed educational initiatives and performance directives under the umbrella of “positive practice environments.” Due to downsizing of personnel (mostly women) in health care, the diminished resources and increasing expectations for those aging workers (women) left on the job, workers in today’s health care organizations face burnout and mental health issues not seen in previous generations. With a loss of confidence, and often hope, in their leaders’ ability to guide them through the looming crises in health care workplaces (as described by WHO, ICN, and WFPT, to name a few), female professionals in health care are facing caregiving exhaustion not only for others (their patients) but also for themselves. In this presentation, I will discuss these adverse workplace dynamics, some of their causes and casualties, as well as some of the programs that have shown initial success.

164. Women’s Health

The Inclusion of Pregnant Women in Clinical Research: Balancing Safety with the Need for Data

Barbara A. Noah, New England University (bnoah@law.wne.edu)

In the past two decades, there has been unprecedented growth in medical research utilizing human subjects, with much promise for new treatments that extend life, improve quality of life, and prevent disease and disability. Such research involving human subjects provides the necessary bridge from scientific theory to practical medicine. Safe prescribing of drug therapies requires that researchers design clinical trials to test products for the benefit all persons who suffer from the studied diseases, not just a limited population. For this reason, it is essential that clinical trials include women and racial minorities, because these populations sometimes exhibit different patterns of response or adverse reactions compared with white males. Government regulations in the United States have made excellent progress in including women in clinical research. The latest data demonstrate that women now make up the majority of clinical trial participants. Nevertheless, there is a dearth of sound research data on the safety and efficacy of various approved and commonly used medications for pregnant women. At this point, nearly all medications used to treat illness in pregnant women, including common chronic conditions such as hypertension, diabetes, epilepsy, and cancer, are used off-label – that is, without FDA approval. Physicians must make prescribing decisions for their pregnant patients without the benefit of randomized, controlled clinical trials testing the safety and efficacy of drugs in pregnant women. Serious challenges in study design, institutional review board (IRB) oversight, and research participant safety make the thought of research in pregnant women daunting, but it is important to find ways to test commonly used drugs in pregnant patients. Pregnancy is a common condition, even among women who suffer from serious and chronic disease.
Researchers must, therefore, design clinical trials for both new and already-approved drugs and therapies that will generate data for the safe use of these drugs. Phase IV trials involving careful monitoring of efficacy and adverse events in pregnant patients who receive approved drugs off-label will also contribute to the development of better data on which to base prescribing decisions. This presentation will describe the current status of inclusion of pregnant women in research and will suggest new FDA policies, educational initiatives, and incentives to improve the availability and quality of data to support safe drug therapy during pregnancy.

**Antidepressant Use and Depression Screening in Pregnancy: Do Benefits Outweigh Harm?**

Barbara Mintzes, *University of British Columbia* (barbara.mintzes@ti.ubc.ca)

Modern drug regulation was introduced in response to the thalidomide disaster of 1958-1961. In the face of the possible devastating and unpredictable harm, clear evidence of benefit was seen as needed. For the first time, systematic scientific evidence of effectiveness was required before a drug could be marketed. Thalidomide led to caution with medicine use in pregnancy. Ironically, however, regulatory oversight remains limited, with most drugs used “off-label” in pregnancy. Antidepressants are increasingly used in pregnancy, with rates reaching 8-10% in North America. This is despite a growing body of evidence of harm, including miscarriage, cardiac malformations, poorer neonatal adaptation, and persistent pulmonary hypertension of the newborn. Pregnant women are often told they must weigh harm from antidepressant use against the harm of untreated depression. This assumes that antidepressants effectively mitigate poorer maternal health and birth outcomes associated with depression. This presentation will unpack the evidence supporting claims of benefit. I also review the evidence supporting depression screening in pregnancy. Antidepressant use in pregnancy highlights the failure of current approaches to regulation to protect pregnant women from medical interventions without proven benefits. I conclude with a discussion of why this is occurring and recommendations for change.

**Off-Label Uses and Women’s Health: Improving Risk Assessment and Marketing Control**

Patricia Peppin, *Queen’s University* (peppinp@queensu.ca)

Once drugs are approved for marketing, professionals are permitted to prescribe them for other uses. These uses include prescriptions for other therapeutic purposes, to groups other than those tested during clinical trials, and in other dosages. A significant number of drugs have proved to have serious risks that appeared when prescribed for off-label uses. Antidepressant use in children and adolescents leading to suicidal thinking and the combination diet drug Fen-Phen leading to heart valve problems are two examples. Gabapentin became a highly profitable drug for the off-label use of pain relief, but its excessive marketing campaign resulted in a
multimillion-dollar settlement. The structure of clinical trials contributes to an unequal allocation of risk. Off-label uses of drugs pose particular problems for those groups insufficiently included and analyzed during the clinical trials process. Because women continue to be under-represented in early stage clinical trials when the drug’s safety and drug dosages are determined, and are also excluded from particular types of trials, off-label uses pose greater risks to women’s health. Short-term trials and small sample sizes increase uncertainty. Marketing of off-label uses, while prohibited in whole or in part, increases the sales of drugs whose safety and efficacy may be largely unknown. This presentation concludes with an assessment of legal remedies to improve risk assessment and provide marketing control.

The Right to Health: A Brazilian Perspective on the Female Prison Population

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Debate on the right to health in prison populations is relatively recent in Brazil. Prisoners have historically been considered vulnerable populations, especially those with mental disorders and subjected to Safety Measure, a kind of criminal commitment (CC) for people found not guilty by reason of insanity, however presumed to pose risks to society. Mentally disordered people under CC have difficulties maintaining family relationships and tend to suffer the effects of this double stigma as well as of social exclusion, which certainly impair the health and recovery of these individuals. In addition, the scarcity of appropriate support to families and the negative stereotypes of mental illness, including a conviction that mental disorders are untreatable, add further difficulties to making these individuals rejoin society. Conversely – and paradoxically – the mere confinement of a mentally disordered person to a forensic hospital, with no access to effective treatment, turns hospitalization essentially into a social control tool. The objective of the present work is to describe the results of a survey conducted with 147 women as part of a cross-sectional, case-control study. The study group comprised thirty-eight patients with mental illness admitted to a forensic hospital in the municipality of Porto Alegre, southern Brazil (Forensic Psychiatric Institute Forense Maurício Cardoso). Finally, the work also aims to describe current legislation on the right to health in prison populations from the perspective of the Brazilian Unified Health System (SUS).

Exposing through Litigation the Over-Promotion by Pharmaceutical Companies and Resulting Safety Risks of Drugs Related to Women’s Health Issues

Karen Barth Menzies, Attorney-at-Law, Los Angeles, USA (kbm@rcrsd.com)
Prozac is considered the original “blockbuster” drug. Ever since, pharmaceutical companies’ predominant sales goal is to “break the billion dollar barrier,” and targeting women’s health issues has proven to be an avenue to commercial success. Research shows women are more likely to visit their doctors, take prescription medications and make the family decisions related to healthcare. Accordingly, pharmaceutical companies spend billions in market research and promotion to women. With the advent of direct-to-consumer advertising, the internet and social media, the traditional model of sales representatives detailing doctors has gone by the wayside. Targeting “Women’s Health Issues” has become the favorite marketing strategy of the makers of prescription drugs. Some examples include mood disorders (SSRI anti-depressants), PMS/PMDD (birth control), osteoporosis/osteopenia (bisphosphonates), and menopause (hormone replacement therapy “HRT”). But the marketing departments’ efforts to “expand the market,” “shift the treatment threshold,” “create a sense of urgency” for a “must have” treatment, and use “key opinion leaders (KOLs)” to promote off-label uses are all tactics that rise to a level of over-promotion. Over-promotion of women’s health treatments is responsible for countless injuries and deaths. As a result, litigation claims relating to over-promotion and a failure-to-warn healthcare providers and patients of associated safety risks seemingly have become a predictable cost of doing business. I will discuss examples of litigation exposing over-promotion and safety risks, and conclude with a comparison of resulting financial consequences as compared with benefits of such commercial behavior.

165. Youth, Recklessness, and the Juvenile Justice System

**Detecting and Treating Sexually Transmitted Diseases among Arrested Juveniles: Lessons from a Multi-Agency-Research Collaboration**

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Richard Dembo, *University of South Florida* (rdembo@usf.edu)
Steven Belenko, *Temple University* (sbelenko@temple.edu)

Newly arrested juvenile delinquents are at high risk for sexually transmitted diseases (STDs), yet there have been few attempts to implement screening, prevention, or treatment services for these young at-risk persons. Because delinquent youth are at high risk for STDs, most are quickly released to the community following arrest, and access to health services is minimal, this population represents a considerable public health risk. This presentation describes the results of an innovative research protocol to connect a county health department with juvenile justice agencies so that delinquent youth are offered STD testing and treatment shortly after arrest. Most of the youths agreed to be tested and two-thirds of those infected were able to be contacted and treated by the county health agency following release from custody. We discuss the organizational and systems barriers to expanding and sustaining this type of cross-systems collaboration.
**Some Effective Approaches to Identify and Address the Needs of Troubled Youth Having Contact with the Justice System**

Richard Dembo, *University of South Florida* (rdembo@usf.edu)

Identifying and intervening with troubled youth having contact with the justice system is an effective way to reduce the issues they and their families are experiencing, and improve their and their community’s quality of life. In the past few decades, I have been involved in a number of such efforts, some of which will be discussed by my colleague panellists. In addition to these joint efforts, I have been involved in the design and implementation of a Family Empowerment Intervention (FEI) project involving newly arrested youth, a truancy intervention project, and a Civil Citation program in Hillsborough County, Florida. The first two clinical trials spin off activities at the Hillsborough County, Juvenile Assessment Center (JAC), a centralized intake facility receiving and processing arrested youth (itself an innovative development), which has been in operation since 1993. I will provide a brief history of the JAC, then review the implementation and outcome assessments of the just-noted services. Collectively, they hold much promise for creatively reframing the way in which the juvenile justice system operates.

**Revisiting United States Guns Jurisprudence through the Human Right to Family Life: Is Legal Education to Do with Artful Deception?**

Esther Stern, *Flinders University* (esther.stern@flinders.edu.au)
Barbara Ann Hocking, *University of Tasmania* (barbara.ann.hocking@gmail.com)

This presentation revisits the Supreme Court of the United States gun control jurisprudence through the lens of the human right to family life, re-articulating the originalist constitutional approach of the Court as a means of critiquing the expansionary interpretation of this particular United States constitutional provision – the Second Amendment – the so-called “right to bear arms.” In this presentation, we suggest that this expansion has led to the proliferation of militia-style weapons in the hands of individuals, and ask how it is that the constitutional requirement of a “well-organised militia” was excised from the constitutional interpretation. We analyse the United States case law in the light of the tragic and some say irreparable consequences of this proliferation of weapons in the United States. We ask how this interpretation came about, looking at the originalist approaches to constitutional interpretation and and challenging its sophistry in this case. We revisit the case law through an approach to legal reasoning that elevates the human right to family life, seeking to narrow not expand the second amendment such that the right to family life trumps the so-called “right to bear arms.” As part of our analysis we look to legal education and the extent to which, if at all, gun control jurisprudence features as part of an introduction to legal reasoning.
Young Offenders, Direct Brain Interventions, and Personal Identity

Nicole A. Vincent, Macquarie University (nicole.vincent@mq.edu.au)

Hank Greely has recently argued that with advances in knowledge of the neurobiological causes of human behaviour, we may eventually develop direct brain intervention (DBIs) based techniques for changing people’s behaviour. Candidate DBIs include (though are not limited to) psychopharmaceuticals like SSRIs which seem to diminish propensity towards reactive aggression and Oxytocin which is linked with pro-sociality. When people’s (mis)behaviours are caused by conditions that are perceived as disorders of the brain – as illnesses or diseases – the use of DBIs will probably tend to be more readily accepted. But “what about direct brain interventions that treat [the] brain-based causes of socially disfavored behaviours that are not generally viewed as [caused by or as manifestations of] diseases” (Greely 2012:163)? For instance, if we discovered the neurobiological causes of paedophilia, should it be permissible to “treat” (maybe even involuntarily) “afflicted” individuals? Elsewhere, I have argued that DBIs pose a special problem for personal identity (Vincent 2012). However, in this presentation I will argue that whatever other reasons there might be to be wary of using DBIs for this purpose, from the perspective of personal identity there would be fewer concerns about using DBIs on younger than older individuals.

Therapeutic Jurisprudence Sessions

166. Changing the Legal Profession and the Law School Experience

Teaching Modern Legal Skills to Law Students in a Comprehensive Law Course

Michael D. Jones, Phoenix School of Law (mjones@phoenixlaw.edu)

Comprehensive Law is an upper-division course designed for second and third year law students at the Phoenix School of Law. The course provides exposure to modern therapeutic jurisprudential legal theory, practice, and skills of law as a helping or healing profession. It uses psychology to assess the consequences of law and legal procedures on people in an effort to make law have a positive effect, and examines and teaches more effective communication and inter-personal skills for the students to use as they begin to practice law. The course focuses on creative problem-solving, restorative justice, transformative mediation, preventive law, therapeutic jurisprudence, and law and socioeconomics. One of the lectures will critically assess and discuss their teaching goals, methods, exercises, and the students’ expectations and reactions. They will offer suggestions for improving the law school curriculum by inclusion of a comprehensive law course component.
Psychoethical Soft Spots and Opportunities in Law School Pro Bono Projects

Christina A. Zawisza, University of Memphis (czawisza@memphis.edu)

My presentation will expand the TJ universe by applying the TJ methodology of psycholegal soft spots and opportunities to “professional responsibility” by constructing psychoethical soft spots and strategies to teach public service values to law students. I will apply this expansion to the Alternative Spring Break (ASB) model at my law school, where, for three years, I have mentored students in public service projects. Rather than vacationing, students have represented low income people in pro se divorces, advanced directives, U-visas and community projects such as human trafficking legislation, predatory lending legislation, and non-profit management counselling. Using professionally produced video of three ASB’s, I will discuss the following benefits of appreciating psychoethical soft spots and opportunities: hands-on client representation; reconnection to the service motivations of law students; real world training with experienced attorneys; modelling effective organization, management, and problem-solving; and creating a lifelong desire to engage in public service as a psychoethical soft spot and strategy.

Non-Adversarial Justice and the Identity Apprenticeship for Law Students

Becky Batagol, Monash University (becky.batagol@monash.edu)

The Carnegie Report in 2007 set out the three key apprenticeships of professional education: the cognitive, the practical, and the identity apprenticeship. The identity apprenticeship, acknowledged in the Carnegie Report as the most crucial area of student learning, is also the most neglected area in the legal curriculum. Under the auspices of the identity apprenticeship, students are trained in the values of their chosen profession, including the purposes and attitudes of practitioners in the field. It involves not only the teaching of professional ethics, but also wider matters of emotion, morality and character. The adversarial law curriculum is particularly poorly suited to providing a healthy identity apprenticeship. Since 2007, Monash University in Australia has offered the elective law unit, Non-Adversarial Justice. The unit takes a radically different approach to the study of law by focusing on forms of conflict management, dispute prevention and dispute resolution outside the adversarial system. It examines ways of lawyering that employ non-adversarial, psychologically beneficial and humanistic methods of solving legal problems, resolving legal disputes and preventing legal difficulties. Non-Adversarial Justice is pedagogically comprehensive because it educates students in each of the three apprenticeship areas. The identity apprenticeship is taught through a focus on the values of adversarialism and non-adversarialism in our legal system, in lawyering and in legal education and through asking
students to reflect on their own emotional responses. This presentation explores the teaching approach in the unit.

**Can Therapeutic Jurisprudence Inspire and Inform a Healthier Culture of Legal Scholarship?**

David Yamada, *Suffolk University* (dyamada@suffolk.edu)

The culture of legal scholarship has become preoccupied with article placement, impact and citations rankings, and download numbers, thus obscuring a deeper appreciation for the potential contributions of scholarly work. This presentation will examine how therapeutic jurisprudence provides us with tools for understanding and changing that culture. More prescriptively, I would like to apply a TJ lens to: identify a set of good practices for legal scholarship; examine the TJ movement as an example of healthy scholarly practice; and, consider how TJ can inspire law professors, practitioners and judges, and law students to engage in scholarship that promotes psychologically healthier outcomes for the law and legal practice. This proposal builds upon a law review article, David C. Yamada, *Therapeutic Jurisprudence and the Practice of Legal Scholarship*, 41 *University of Memphis Law Review* 121 (2010), as well as my participation in a March 2012 workshop on TJ at the University of Puerto Rico School of Law.

**167. Child Friendly Procedures**

**Foster Children and their Right to a Child Friendly Procedure**

Kartica van der Zon, *Leiden University* (k.a.m.van.der.zon@law.leidenuniv.nl)

Foster children who experience child protection proceedings have different interests at stake: their right to family life with (biological) parents, their right to stability and continuity in their daily life, and their right to participate in decisions that concern them. Both parents and foster parents are representing aspects of the child’s best interests. The child’s participation is paramount in the conflict of interests that is inherent to foster care decisions that needs to be balanced. Possibilities and examples of a child friendly procedure in conformity with the Council of Europe Guidelines on a Child Friendly Procedure in judicial foster care decisions will be explored.

**Secure Treatment Orders for Minors: Guarantees and Possibilities for a Child Friendly Procedure**

Maria de Jong, *Leiden University* (m.p.de.jong@law.leidenuniv.nl)
Out of home placement of children in a secure treatment accommodation as a protection order is a widespread phenomenon in the Netherlands. In 2010, almost 3000 children spent some time (an average period of 8.1 months) in these secure accommodations. The Dutch Youth Care Act provides for some minimum guarantees like legal representation, judicial review and an individualized report of the youngster by a behavioural scientist. These are guarantees that are in line with the principle that deprivation of liberty is a measure of last resort for the shortest appropriate period of time. Nevertheless there is a world to win for children in secure treatment proceedings. Child friendly justice during judicial proceedings is one of the fundamental principles of the Council of Europe Guidelines on Child Friendly Justice. In the Netherlands no research results exist about the child friendliness of these procedures. Which elements are crucial to guarantee a child friendly procedure? How do children experience a courtroom session? What is their opinion about the judge’s decision? Are they able to understand the legal reasons for placement in secure accommodation? Is the child able to express his or her feelings freely or is his story a “narrative” told by welfare professionals, and if so, is the child satisfied with this representation? Legal guarantees and possibilities for a child friendly procedure will be explored.

**Following the Example of Child Friendly Procedures: A Plea for Parent-Friendly Court Hearings**

Kristien Hepping, *Utrecht University* (k.e.hepping@uu.nl)

The Guidelines on Child Friendly Justice (2010) encourage the member states of the Council of Europe to ensure a child friendly treatment during judicial proceedings and give practical tools for this purpose. The question can be raised if judicial proceedings should not (also) be parent-friendly, and if so, how can this be realized? A parent-friendly procedure is beneficial to the child. For instance, the presence of parents at the juvenile criminal court hearing can serve as general psychological and emotional assistance to the child. Parents might be of better assistance when they are given the necessary means to understand the purpose and content of the hearing and when they feel comfortable being there. In the case of a child protection hearing, parents are (together with the child) placed in the centre of attention, so a parent-friendly procedure might even be of greater importance, not only for the parent but also indirectly for the child. I will present arguments for a parent-friendly court hearing and propose some of the elements a parent-friendly court hearing could contain, based on relevant international standards, on observations of court hearings in juvenile criminal cases and child protection cases in the Netherlands and on interviews with parents regarding their experience with these court hearings.

**Subject to Conditions Pending Trial: Experiences of Accused Juveniles and their Parents Concerning Suspension of Pre-trial Detention in the Dutch Juvenile Justice System**

Yannick van den Brink, *Leiden University* (y.n.van.den.brink@law.leidenuniv.nl)
In 2009, the United Nations Committee on the Rights of the Child expressed its concern regarding the high reliance on pre-trial detention of juveniles in the Netherlands. In 2010, up to 1,855 minors entered a youth custodial center on a pre-trial detention order and on 1 January 2011, up to 79% of the population in youth custodial centers consisted of pre-trial detainees. Nevertheless, the majority of the pre-trial detention orders regarding juveniles get suspended under conditions before the final court hearing takes place, of which a significant amount directly at the arraignment hearing three days after the arrest. This means that these juveniles are released from custody, but under strict conditions and supervision of a youth probation officer. These conditions could include a restraining order, curfews, or an order to participate in a learning or training program. In practice however, the conditional suspension of pre-trial detention appears to be applied regularly for the mere purpose of imposing an early justice intervention to juveniles. In fact, in one district within the Netherlands, a particular approach has been developed in which pre-trial detention gets applied for the sole purpose of suspending it under special conditions to quickly intervene in the lives of troubled juveniles, even when it concerns first offenders in minor cases. Consequently, the question rises how these pre-trial interventions affect the lives of the juveniles and their parents involved. Based on qualitative interviews, I will explore the experiences and perceptions of juveniles accused of a criminal offence and their parents regarding the conditional suspension of pre-trial detention in the Dutch juvenile justice system.

**Expert Testimony in Pursuit of Just Outcomes and Well-Being**

Barbara J. Sturgis, *University of Nebraska* (bsturgis1@unl.edu)

Therapeutic Jurisprudence pursues a project of research and law reform intended to promote the well-being of those affected without violating other values embodied in law. It examines the impact of laws, legal procedures, and legal actors on those who participate in the legal system, looking at how these can be modified to enhance well-being and minimize negative effects of the system, also increasing the perception of fairness on the part of the participants. Children who have been sexually abused suffer in secret often for lengthy periods of time. When children disclose they often encounter skepticism on the part of family members and the community, as well as protracted involvement with the legal system. Sometimes those who prosecute these crimes are the sole source of support for these children. I will describe general framework testimony that explains children’s patterns of disclosure of sexual abuse, and I will discuss the manner in which that researched-based testimony has been used to support victims’ testimony and to counter potential juror misperceptions about the disclosure process. Although dealing with the legal process is often stressful for children, this testimony promotes the ability of prosecutors and courts to promote just outcomes and to protect the well-being of these children by providing them with an opportunity to tell their stories to officials who are willing to listen, to take them seriously, and to protect them.
168. A Disability Rights Tribunal for Asia and the Pacific (DRTAP):
International Human Rights and Therapeutic Jurisprudence
Implications

The Creation of a Disability Rights Tribunal for Asia and the Pacific:
The Time is Now

Michael L. Perlin, New York Law School (mperlin@nyls.edu)

There is no question that the existence of regional human rights courts and commissions has been an essential element in the enforcement of international human rights in those regions of the world where such tribunals exist. In the specific area of mental disability law, there is now a remarkably robust body of case law from the European Court on Human Rights, some significant and transformative decisions from the Inter-American Commission on Human Rights, and at least one major case from the African Commission on Human Rights. In Asia and the Pacific region, however, there is no such body. Although the ASEAN (Association of Southeast Asian Nations) charter refers to human rights, that body cannot be seen as a significant enforcement tool in this area of law and policy. Many reasons have been offered for the absence of a regional human rights tribunal in Asia; the most serious of these is the perceived conflict between what are often denominated as “Asian values” and universal human rights. What is clear is that the lack of such a court or commission has been a major impediment in the movement to enforce disability rights in Asia. The need for such a body has become further intensified since the ratification of the United Nations’ Convention on the Rights of Persons with Disabilities (CRPD), the effectiveness of which requires that it be enforced through a governing regional body. The creation of a Disability Rights Tribunal for Asia and the Pacific (DRTAP) would be the first necessary step leading to amelioration of this deprivation, which could also serve as inspiration for a full regional human rights tribunal in this area of the world, and a way of insuring the infusion of therapeutic jurisprudential values into the entire legal process. If, however, it were to be created, it is also clear that it would be an empty victory absent available and knowledgeable lawyers to represent individuals who seek to litigate there.

Strategies to Establish a Disability Rights Tribunal in Asia and the Pacific during the New Decade for Persons with Disabilities in Asia and the Pacific

Yoshikazu Ikehara, Attorney-at-Law, Tokyo, Japan (yikehar@attglobal.net)

UN-ESCAP is launching the New Decade for Persons with Disabilities in Asia and Pacific in 2013. The New Decade aims at complete implementation of CRPD among its member states. UN-ESCAP is working out strategies for its purpose. Persons with Disabilities organizations urge including DRTAP into one of goals of the strategies. Some member states seem to be
against establishing a regional judicial system and others look indifferent to it. But there is no
doubt that DRTAP is necessary in Asia and Pacific to protect and promote disability rights like
other regional human rights courts. The point is how to put theory into practice. We have
established a Disability Rights Information Center in Asia and Pacific (DRICAP) and we are
planning a training program for disability rights advocates among the Southeast Asian countries,
Oceania, Japan and the United States. Our advocates who will be trained will monitor and
support an individual clients in Asia and the Pacific. Their reports to DRICAP will demonstrate
the insufficiency of a national human rights mechanism the and necessity of DRTAP for
complete implementation of CRPD in Asia and Pacific. The presenter organized a project to
establish DRTAP in 2008 and held several conferences in various countries to expand its
network from 2009 to 2012. It gave a strong impact on the New Decade. The presenter will show
the situation of the New Decade in terms of DRTAP and basic strategies to establish it during the
decade.

**DRTAP and the Nature of Tribunals**

Penelope Weller, *RMIT University* (penelopejune.weller@rmit.edu.au)

The effort to establish a regional disability rights tribunal makes a practical contribution to the
human rights effort in a region that lacks a regional human rights body, and in which several
nations have undeveloped human right institutions. The initiative provides a foundation for
thinking closely about character of such a tribunal and the scope of its jurisdiction in light of the
broader tribunal tradition. The notion of a “tribunal” – as opposed to a court – is associated with
the alternative dispute resolution movement of the 1970s. Tribunals were established to counter
the perceived limitation of adversarial justice. They are hybrid processes of adjudication that are
at liberty to create innovative responses to the problems that they address. The “reconciliation”
tribunals in South Africa and East Timor, for example, adapted themselves to their task. This
presentation argues that the CRPD provides a sound conceptual basis for a disability rights
tribunal. This approach would have implications for the way in which a tribunal may choose to
structure its powers, articulate its tasks, and approach its deliberations. For example, the social
model of disability in the CRPD requires an integrated analysis of human rights that
encompasses both positive and negative rights that is sensitive to the full social, cultural and
legal context in which the realization of human rights may occur. This is a new field of rights
jurisprudence with little precedent to guide it. This presentation argues for an approach to
DRTAP that is fully engaged with contemporary human rights perspectives.

**Safeguarding the Rights of People Detained for Psychiatric Treatment in New Zealand**

Katey Thom, *University of Auckland* (k.thom@auckland.ac.nz)
New Zealand’s mental health legislation provides several safeguards that are intended to protect and promote the rights of people subject to compulsory psychiatric treatment. Exactly how these safeguards work in practice and whether or not they meet their intended functions has received little empirical attention. This presentation will report the findings of two qualitative studies focused on various safeguards aimed at ensuring people have access to legal advice, advocacy and the right to appeal their status while being detained for psychiatric treatment. The trials and tribulations of carrying out the statutory watchdog role of “district inspector” will first be examined by reporting the findings of a study founded on in-depth interviews, the collection of audio-diaries and shadowing of lawyers who undertake this role. This will be followed by an analysis of the decision-making of the Mental Health Review Tribunal hearings based on ethnographical observation, document analysis and interviews with tribunal members, applicants and their lawyers. The presentation will conclude by assessing how these safeguards measure up against their aims of providing pro-therapeutic, fair, respectful and dignified legal processes for users of mental health services.

169. Expanding the Boundaries of Therapeutic Jurisprudence

Capturing Human Consent through Collaborative Contracts

Thomas D. Barton, California Western School of Law (tbarton@cws.l.edu)

“Contracts” can be valuably analyzed as comprised of three distinct relationships: (1) an economic relationship based on the exchange of value; (2) an interpersonal relationship of the parties, based on trust and cooperation—or their opposites; and (3) a legal relationship based on the substance and form of the agreement satisfying prerequisites for making the agreement enforceable by the state. Contracts are a vital form of human connection. Finding a private agreement – coming to mutual accommodation – is increasingly important as summoning formal state power becomes more and more clumsy and expensive. But the potential of contracts as a means to displace power in human problem solving is constrained by a legalistic mentality toward contracts itself. Lawyers sometimes cannot imagine what contracts could become, because they regard contracting so narrowly. Over the past century, for many lawyers the three relationships of contracting have conflated into essentially one: the legal. The interpersonal relationship of the parties has certainly been marginalized. But even the particulars of the underlying economic exchange tend to be seen as relatively insignificant to the legal status of the agreement. Lawyers thus tend to regard contracts one-dimensionally, as essentially a set of state-backed rights to be marshalled by one person for potential use against another. This adversarial, rights-and-power approach to contracting may be stifling the broader potential of the contracting process. “Collaborative Contracting” is a way to change lawyers’ mentalities toward contracts, enhancing the economic and personal relationships that always have been important to contracts. My presentation first describes the need for more collaborative contracting, and then offers suggestions for concrete steps by which all three relationships of contracting might be strengthened.

Richard Peterson, Pepperdine University (richard.peterson@pepperdine.edu)

This presentation addresses the psychological and emotional impact of the Individuals with Disabilities Education Act (IDEA) upon parents of children with disabilities. In 1975 the United States Congress passed Public Law 94-142, which required on constitutional principles of equal protection and due process that all children with disabilities have an opportunity to receive a free and appropriate public education. The Act, now known as the IDEA, also required that parents be included in the decisional processes associated with a student’s educational placement and programming. Although Congress declared that “… thirty years of research and experience has demonstrated that the education of children with disabilities can be made more effective by … strengthening the role and responsibility of parents and ensuring that families of such children have meaningful opportunities to participate in the education of their children …,” this paradigm has been resisted by educators and fraught with conflict from the beginning. While Congress envisioned a cooperative and collaborative relationship between educators and parents, it was also understood that educators would have a natural advantage over parents in the system, and thus included detailed procedural requirements meant to level the playing field. Yet parents often lack the knowledge and skills necessary for meaningful participation in the processes of the IDEA and frequently experience substantial psychological and emotional consequences as a result. This presentation will explore through the lens of Therapeutic Jurisprudence the various factors associated with the IDEA, and its implementation, that trigger anti-therapeutic consequences for parents of children with disabilities.

Inclusion in School Settings for Parents and Students with Disabilities Using ADA and Section 504 Litigation

Paula Pearlman, Disability Rights Legal Center, Los Angeles, USA (paula.pearlman@lls.edu)

This presentation addresses the psychological and emotional impact of the federal anti-discrimination laws, Section 504 of the Rehabilitation Act (Sec 504) and the Americans with Disabilities Act (ADA), upon parents with disabilities and students with disabilities who request accommodations in school settings. While the IDEA addresses specialized instruction and related services, Section 504 and the ADA address broad anti-discrimination principles based on disability. This discrimination takes the form of exclusion, segregation and denial of access and benefits of the programs that schools provide. These programs include classroom learning, but also include parent-teacher-student conferences, sports activities, graduation events, arts programs, student government and school performances. Accommodations such as an elevator key, a service animal or a sign language interpreter, or physical access to the campus in general,
are frequently the subject of controversy and litigation. Requesting accommodations often is fraught with conflict as school administrators, parents and students navigate the accommodation process from a cost/benefit perspective rather than an anti-discrimination perspective and a perspective that values inclusion and diversity. This presentation will explore through the lens of Therapeutic Jurisprudence the various factors associated with Section 504 and the ADA accommodations in school settings, with a particular focus on litigation and systemic reform that both address the anti-therapeutic consequences for people with disabilities, as well as the positive therapeutic consequences resulting from effective procedural methods resulting in appropriate accommodations and inclusion.

**Youth Sexual Aggression and Victimization**

Christian Diesen, *Stockholm University* (christian.diesen@juridicum.su.se)

During the period of 2010 to 2013, an EU research project – “Youth Sexual Aggression and Victimization” (Y-SAV) – has investigated the problem of sexual aggression towards young people (twelve to twenty-five years old). The first aim of the project has been to create a knowledge base of studies on the prevalence, incidence, and risk factors of sexual aggression as well as legal and public health responses, covering all twenty-seven European Union states. The collection of these data shows that there is a great variety between different regions and cultures: The awareness of the problem, the reporting of rape, the legal, research and policy standards vary. In general, it can be stated that the attention to the problem is proportional to the incidence (i.e. that the countries that have most rape reports per capita also have most research and policies on the issue). On the other hand, the prevalence research shows that the risk for a young woman of being raped seems to be on a relatively high level in all European countries. The second aim of the project is to create a European action plan for dealing with youth sexual aggression, in which the similarities and differences between the states are taken into account. The basis for this action plan is the conclusion that sexual victimization of teenagers is a growing problem that needs more attention. The connections between these research findings and proactive legal strategies will be discussed from a TJ perspective.


Carolyn E. Hansen, *Attorney-at-Law, Stone Ridge, USA* (attyhansen@earthlink.net)

Brennan Healing Science and other modalities of complementary medicine are increasingly understood to produce beneficial results. While use of these therapies is rapidly expanding, health care institutions and regulatory bodies have been slow to include Brennan Healing
Science and other forms of energy healing as a recognized therapy. The presenter will report on studies and surveys of Brennan Healing Science Practitioners, patients and health care administrators as relevant, on the benefits and effectiveness of Brennan Healing Science and other energy healing modalities. Benefits reported may be physical, emotional, mental, psychological and/or spiritual. In the physical area they may include pain reduction, decreased recovery times, decreased or avoided hospitalization or institutionalization, decreased use of medications, increased mobility and others. The analysis of effectiveness will be in two categories: 1) care for those at end of life; and 2) care for those facing a health challenge which is not, or turns out not to be, terminal. Effects of research study design requirements and the movement to accept other methods of qualification will also be summarized. She will then analyze the therapeutic jurisprudence aspect of the creation of the Center for Medicare & Medicaid Innovation under the United States Patient Protection and Affordable Care Act. The presentation will end by discussing how research under this Center may result in patients having greater access to Brennan Healing Science and other complementary medicine modalities.

170. International Human Rights and Mental Health Courts

**Mental Health Courts and the CRPD**

Robert Dinerstein, *American University* (rdiners@wcl.american.edu)

Mental Health Courts, sometimes called problem-solving courts, have evolved as an alternative to criminal prosecution for defendants with psychosocial disorders. Ostensibly designed to provide more thoughtful, humane and intensive treatment to these individuals than they could receive in jail or prison, or through traditional probation services, Mental Health Courts can exact a heavy price for this supposed benefit. For example, the requirement that individuals admit their guilt and the high degree of state involvement in the individual’s life (possibly much higher than would occur if the individual served his or her time in jail) raise important questions regarding whether Mental Health Courts are in fact overly coercive and deny individuals’ legal capacity. This presentation will examine Mental Health Courts in light of key articles of the UN Convention on the Rights of Persons with Disabilities (CRPD), in particular Article 12, Equal recognition before the law; Article 14, Liberty and security of person; and Article 19, Living independently and being included in the community.

**Do Structural Rather than Therapeutic Factors Determine the Placement of Offenders in Mental Health Courts?**

Eric J. Miller, *Saint Louis University* (emille33@slu.edu)

Tracy D. Gunter, *Indiana University* (tdgunter@iupui.edu)

Jails and prisons in the United States have, in effect, become dumping grounds for individuals
afflicted with mental health problems. The community care-oriented goal of effectively integrating individuals with mental disorders into the larger community is not matched by either practice or funding. Many mentally ill individuals are simply released from hospital into the community with minimal provision made for their care. These people often cycle from homeless shelter to prison to hospital, without any effective means of therapeutic support. Mental health courts have emerged as a central innovation seeking to break the cycle of recidivism and incarceration of the mentally ill. Although these courts are judicially supervised, they operate outside of the traditional criminal justice system and employ a “problem-solving” approach to promote compliance with community treatment in the hopes that this compliance will relieve the primary cause of the criminal offending. The courts are designed to address “systemic failures in public mental health and the criminal justice system:” on the one hand, by channeling mentally ill offenders away from incarceration and into community treatment; on the other hand, by motivating participants to accept the recommended treatment. Some scholars have criticized this approach as in fact enhancing the involvement of people with mental illness in the criminal justice system. They claim the courts use undue coercion and invade the private realm of healthcare information, further stressing inadequate community resources, and diverting local funds from community mental health treatment modalities. Our empirical research investigates five mental health courts as they exist in Missouri, to determine whether mental health (as opposed to other criminogenic factors) is the primary risk factor driving the creation of and referral to mental health courts. As is the case throughout the United States, these courts vary greatly and this study will provide the opportunity to compare and contrast the effects of different operational strategies.

**International Human Rights and Mental Health Courts**

Andrea Risoli, New York Law School (andrea@risolilaw.com)

This presentation will address the implementation of mental health courts and whether they might be productive in an international setting. The presence of defendants with mental illnesses in the criminal justice system imposes substantial costs on that system and substantial harm on offenders. It is difficult, if not impossible, to provide humane and just treatment to persons with mental illnesses in prisons. Where domestic legal proceedings fail to address human rights abuses, mechanisms and procedures for individual complaints or communications are available at the regional and international levels to help ensure that international human rights standards are indeed respected, implemented, and enforced at the local level. There is an inherent potential for abuse of these obligations in the term criminalization of the mentally ill at the local levels of government and justice systems throughout the world. By default, correctional systems have become the greatest providers of treatment for the mentally ill. But correctional systems are poorly designed to be treatment providers. There are also usually too few mental health care professionals available to treat prisoners. In addition, turnover among correctional staff and mental health care staff can be destabilizing for the mentally ill and can also lead to problems with continuity of care and recidivism. An alternative to this problem is the implementation of wide-ranging mental health courts in order to provide a least restrictive alternative and ultimate treatment regimen in lieu of the prison setting for mentally ill individuals. Mental health courts
link offenders who would ordinarily be prison-bound to long-term community-based treatment. They rely on mental health assessments, individualized treatment plans, and ongoing judicial monitoring to address both the mental health needs of offenders and public safety concerns of communities. Like other problem-solving courts such as drug courts, domestic violence courts, and community courts, mental health courts seek to address the underlying problems that contribute to criminal behaviour. An international mental health court would reduce the number of mentally ill persons in the criminal justice systems by improving mental health treatment at an earlier age and reduce homelessness. Nevertheless at the extreme end a mental health court can encroach upon the civil involuntary commitment standards already in place. But at best, mental health courts focus on treatment rather than prison, which is a quandary to be reckoned with in any jurisdiction. Increased reliance on the criminal justice system to provide treatment to persons with mental illnesses is almost certainly always counter-productive. Indeed, only a well-designed mental health court would ensure success. A well-designed mental health court could reduce recidivism among participants, improve mental health outcomes, and reduce the rate of incarceration for persons suffering from mental illness. To be sure, mental health courts are a relatively new concept that is still developing and evolving, but it is a viable alternative to an ongoing problem and potential for inhumane abuses to persons with mental illness.

171. International Human Rights and Therapeutic Jurisprudence

Applied Therapeutic Jurisprudence: Myth or Reality?

Carla Rodgers, University of Pennsylvania (carlarodgers@comcast.net)

The concepts of therapeutic jurisprudence are well known. As elegantly stated by Professor David Wexler, “Therapeutic jurisprudence is the study of law as a therapeutic agent.” He also stated that “Basically therapeutic jurisprudence is a perspective that regards the law as a social force that produces behaviours and consequences” (1999- Thomas Cooley Law Review Disabilities Law Symposium). The questions addressed by this presentation are: Does TJ work in practice? If so, where and how, and if not, can the application be improved? This author has direct experience with drug court diversion in the United States and familiarity with drug courts in Australia and the United Kingdom. She will discuss the moderate success of such attempts. She will also discuss where attempts, such as diversion to anger management and other behavioural therapies have failed. Finally, she will review the inherent tension between law and medicine and psychology that have led to less than successful interventions. That tension being that law requires a specific outcome in a set point of time, whereas medicine and psychology focus on the process and incremental improvements, which often take years and where time limits cannot necessarily be applied.

Pragmatic Realism as Therapeutic Jurisprudence in the International Disability Rights Context
Disability rights activists emphasize the social contingency of disability. Both the definition of “disability” and the experience of “disability” depend greatly upon the particular social context in which people live and function. A similar argument can be made about “rights.” As many critics have argued, rights in the abstract have no meaning and, as a result, it only makes sense to speak of rights in terms of how they operate in particular social settings. How then can we develop meaningful principles for adjudicating disability rights claims in an international context? This presentation will argue for a jurisprudential approach that draws upon the pragmatic realism of Oliver Wendell Holmes, Jr. to defend a more grounded approach to international disability rights jurisprudence that focuses on paying closer attention to individual plaintiffs’ experiences and the surrounding material conditions. It will also argue that a jurisprudence based on pragmatic realism is a therapeutic jurisprudence because it allows space for litigants to articulate and consider the changing ways in which they understand and experience disability in their own lives.

Sexuality, International Human Rights, and Therapeutic Jurisprudence

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One of the most controversial social policy issues is the sexual autonomy of persons with psychosocial and intellectual disabilities. This population – always marginalized and stigmatized – has traditionally faced a double set of conflicting prejudices: on one hand, this population is infantilized (as not being capable of having the same range of sexual desires, needs and expectations as persons without disabilities), and on the other, it is demonized (as being hypersexual, unable to control base or primitive urges). These attitudes have been in place for centuries; perhaps the most famous characterization remains in Supreme Court of the United States’ Justice Oliver Wendell Holmes’s line in Buck v. Bell, a case involving sterilization of a woman allegedly intellectually disabled: “Three generations of imbeciles are enough.” The ratification of the Convention on the Rights of Persons with Disabilities (CRPD) demands we reconsider this issue, in light of Convention Articles mandating, inter alia, “respect for inherent dignity” (Article 3), the elimination of discrimination in all matters related to interpersonal relationships (Article 23), services in the area of sexual and reproductive health (Article 26). Yet, the literature has been remarkably silent on this issue in general (for exceptions, see Schaaf, 2011; Stein & Lord; Sabatello, 2010), and completely silent about the issue I will discuss in my presentation: the CRPD’s impact on the rights of persons institutionalized because of psychosocial or intellectual disability to sexual autonomy. My presentation will: (1) review the history of how the significant legal and social issues have been ignored and trivialized by legislators, policy makers and the general public; (2) consider the meager case law on this subject; (3) highlight those sections of the CRPD that force us to reconsider the scope of this issue; (4) offer some suggestions as to how ratifying and signatory states must change domestic
policy so as to comport with CRPD mandates; and (5) consider the implications of therapeutic jurisprudence insights for the resolution of these issues.


John A. Baird, *Royal College of Psychiatrists, Glasgow, Scotland* (john.a.baird@ntlworld.com)

Before the introduction of the European Convention on Human Rights, the final decision on the release of a life sentence prisoner was taken by a senior elected politician. The Convention took away that right from politicians and gave it to a tribunal of members of the Parole Board who together have the final decision on the matter of release. Psychiatrists and Psychologists as members of the Parole Board are members of these tribunals. Along with a change in the locus of decision-making came much greater clarification of the tests which were to be applied, together with a requirement for the proceedings to include all parties for case papers to be shared and for the tribunal to issue their decision in writing and for their decision-making and deliberations to be transparent. Psychiatrists and psychologists, when they are sitting on tribunals, have to balance their clinical role with their primary judicial function. It can take both time and reflection to develop these new skills. Issues of risk aversion, “re-sentencing” and the challenge of true independence all arise during the course of this work and will be discussed. Discretionary release of long term prisoners serving both determinate and indeterminate sentences is a feature of many jurisdictions and this system is likely to be of interest to those who are involved with similar issues in other countries.

**172. Justicia terapéutica I**

*Aplicación y análisis del SCL-90-R en una muestra de sujetos internos en un hospital psiquiátrico penitenciario*

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La OMS refiere que las alteraciones psiquiátricas en las sociedades occidentales presentan una incidencia entre el 15 y el 65%. La incidencia de enfermos psíquicos entre la población penitenciaria es siete veces mayor que en la población general. Así la enfermedad mental ha sido un factor asociado tradicionalmente a la delincuencia pues existen determinados comportamientos criminales que pueden relacionarse o atribuirse a anomalías mentales. Uno de los objetivos más importantes de la peritación psiquiátrica en el ámbito del Derecho Penal es establecer las relaciones de causalidad psíquica entre el individuo y sus acciones. En este contexto, es preciso determinar mediante una evaluación la enfermedad mental y cómo afecta a las capacidades cognitivas o volitivas. Por otra parte, para alcanzar una reinserción y resocialización efectiva de los internos es necesario identificar previamente los efectos que el internamiento en prisión tiene sobre la personalidad y conducta de éstos, así como los factores intra-institucionales externos e individuales que inciden en la producción de dichos efectos. El Inventario de Síntomas de Derogatis, Revisado (Derogatis Symptom Checklist, Revised (SCL-90-R) es un instrumento de autoinforme muy utilizado en estudios clínicos y constituye una de las técnicas más utilizada para la detección y medición de síntomas psicopatológicos así como para la evaluación de supuestos casos psiquiátricos. Consta de 90 items (existe una versión reducida de 52) en los que el sujeto informa de sus síntomas psicológicos, psiquiátricos y somáticos. La escala de respuestas es de cinco puntos: “nada” (0), “un poco” (1), “moderadamente” (2), “bastante” (3) y “muchísimo” (4). Una vez puntuadas las respuestas es posible caracterizar la sintomatología del evaluado en un perfil compuesto por nueve dimensiones primarias de síntomas (Somatización, Obsesiones, Sensitividad Interpersonal, Depresión, Ansiedad, Hostilidad, Ansiedad Fóbica, Ideación Paranoide y Psicoticismo) y tres índices globales de psicopatología: el índice de Gravedad Global (Global Severity index, GSI), el índice de Malestar Positivo (Positive Symptom Distress, PSDI) y el Total de Síntomas Positivos (Positive Symptom Total, PST). El objetivo de este estudio es analizar las propiedades psicométricas de la SCL-90-R en una muestra de individuos internos en un centro psiquiátrico penitenciario, compuesta por 102 sujetos (93 varones y 9 mujeres), con edades comprendidas entre los 18 y 65 años (edad media 37,8; DS 10,6 ). En nuestros resultados observamos que la escala de “ansiedad fóbica” es la que presentó menor frecuencia sintomatológica (media 0,39; DS 0,31), siendo la escala “depresión” la que mayor puntuación media obtuvo (media 1,76; DS 7,56). Destaca también la elevada puntuación en la escala “ideación paranoide” (media 1,19; DS 0,85). En relación a los índices globales de malestar, el Índice de Severidad Global presenta una media de 0,77 (DS 0,55), el Total de Síntomas Positivos de 31,56 (DS 17,3) y el Índice de malestar de Síntomas Positivos de 2,11 (DS0,44).

**La discusión de los efectos adversos psiquiátricos por Veraliprida (Agreal) en los tribunales españoles**

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Veraliprida (Agreal) fue un neuroléptico comercializado en España entre 1983 y 2005. El prospecto indicaba su uso en “sofocos y manifestaciones psicofuncionales de la menopausia.” Un único efecto secundario, la galactorrea, ninguna reacción adversa, contraindicación e interacción, y ningún límite temporal del consumo. Reevaluado el beneficio-riesgo, se retira en
España en mayo de 2005. El 23 de julio de 2007 la Agencia Europea de Medicamentos, recabada y estudiada toda la información disponible, la retira del mercado en los cinco países de la Unión Europea en los que aún se comercializaba. La Organización Mundial de la Salud da una Alerta (Nº 116) mundial. En países iberoamericanos se retirará en los meses siguientes, a excepción de México que aún la comercializa en 2012. Cuando estos hechos trascendieron a la opinión pública, mujeres españolas que la habían consumido y que simultáneamente, o meses después, manifestaron síndromes crónicos (extrapiramidales, neurológicos, psiquiátricos), acudieron a tribunales. La autora participa como perito farmacéutico-forense en varios procedimientos civiles en los que se demanda al laboratorio. Su presentación pondrá énfasis en la discusión entre peritos de ambas partes, en los discutidos efectos adversos psiquiátricos, y en las dificultades reales de enfrentarse a estrategias de defensa de la Industria.

Lo siento, es mi propio error. Efecto de la dependencia y los sentimientos de culpa en relaciones abusivas

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La investigación sobre Justicia Terapéutica o Restaurativa resalta la importancia de la reconciliación entre víctima y ofensor como principio esencial para restablecer el daño sufrido por la víctima y minimizar las probabilidades de reincidencia por parte del ofensor. En el ámbito de las relaciones de pareja, algunos comportamientos pueden llegar a ser extremos e incluso constitutivos de delito, sin embargo, muchas parejas describen como normal una relación que puede ser realmente abusiva. Las mujeres víctimas de abuso en la pareja, tienden a minimizar los sucesos violentos, debido, en parte, a que experimentan emociones como vergüenza, culpa y sentimientos de lealtad hacia su pareja. De esta manera, aprenden a responder ante situaciones conflictivas poniendo en marcha estrategias de afrontamiento que pueden resultar desadaptativas. Si las situaciones conflictivas persisten o se intensifican, las mujeres acaban interiorizando una culpa que es disfuncional, focalizando la causa del problema en sí misma, sus propios errores y sus defectos, lo que va incrementando el sentido de incompetencia ante la relación. Estas atribuciones desadaptativas, unidas a los sentimientos de inferioridad y pérdida de control que acumulan en cada episodio, imposibilita una resolución activa del conflicto, por una parte, y la lleva a exculpar o perdonar al agresor, manteniéndola en una relación abusiva por más tiempo. En este estudio, han participado 79 mujeres adultas, a las que se presentaban diferentes conflictos que podrían ocurrir en una relación de pareja. Se analizó el efecto de la dependencia y los sentimientos de culpa de las participantes en la probabilidad de perdonar a la pareja abusiva. Los resultados mostraron que la alta dependencia hacia la pareja y altos niveles de culpa experimentados, predecían una mayor exculpación del transgresor.
Protocolo psicológico-forense para la evaluación de la credibilidad del testimonio y de la huella psíquica en víctimas de acoso escolar

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Los estudios realizados en la actualidad reflejan un aumento en las denuncias de casos de acoso escolar. Si bien se han elaborado algunos protocolos desde la administración educativa para detectar y gestionar las denuncias de las víctimas en los centros educativos, no contamos con herramientas válidas para el contexto forense, que evalúen el daño psíquico y la credibilidad, en casos de acoso escolar. En este trabajo se presenta la propuesta de un protocolo de evaluación psicológico-forense para las víctimas de acoso escolar, que permita establecer la realidad del mismo, esto es, descartando la simulación en las respuestas. Es decir, establecer si los hechos que se narran son reales, si causaron daño psicológico, y si éste es real o está sujeto a simulación. Este protocolo sirve como una herramienta de apoyo a las víctimas reales, ya que contribuye a la carga de la prueba, que corresponde a la acusación. Por otro lado, puede contribuir de manera significativa a la tarea judicial, ya que la estimación de la credibilidad del testimonio y la huella psíquica como prueba, en conjunción con otras, pueden redundar en mayores garantías dentro del ámbito de la justicia para la condena de este tipo de casuísticas del ámbito escolar, que acontecen en un ámbito privado.

173. Justicia terapéutica II
Justicia procedimental, alcances terapéuticos

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La investigación de la delincuencia juvenil se ha encaminado a entender cuáles son los factores que influyen en la conducta de los adolescentes, otras se dirigen la percepción que la sociedad tiene de los adolescentes que delinquen, sin embargo, pero hace falta investigar sobre la percepción que los menores en conflicto con la Ley tienen acerca del tratamiento y el proceso judicial en el que se ven envueltos. A esta percepción se le denomina justicia procedural. El término de justicia procedural proviene del ámbito legal, y refiere al “control ejercido por los abogados en el juzgado para resolver los casos jurídicos” (Tyler, 2006, p. 115). Existen varios modelos sobre Justicia Procedimental, uno de ellos es el desarrollado por Thibaut y Walker (citado en Tyler, 2006) quienes relaciona las experiencias sobre la justicia del procedimiento a las cuestiones de control de decisiones. Las investigaciones en el área indican que las percepciones de justicia sobre el procedimiento van a influir en la reinserción social del adolescente o en la recuperación de las víctimas. En este caso, se va dirigir a la percepción de los
adolescentes que infringen la ley penal. Partiendo de la premisa que si perciben de manera positiva el proceso y el tratamiento, entonces se obtendrán mejorías en la conducta de los jóvenes y a su vez se verá reflejado en un beneficio para la sociedad. Por lo tanto, el objetivo de esta investigación es analizar la relación entre justicia procedimental, adherencia al tratamiento y la reinserción social de los adolescentes en conflicto con la Ley. Lo que se consideraría que la percepción positiva de justicia procedimental tendría efectos terapéuticos en sus conducta y por lo tanto una mejor reinserción social. La muestra se constituyó con 50 menores de edad en conflicto con la Ley que se encuentran en internamiento y 50 adolescentes que se encuentran en medios abiertos y que han infringido la ley penal. El instrumento fue elaborado exprofeso para esta investigación y contiene preguntas acerca de la percepción de los adolescentes de su proceso judicial y su tratamiento dentro de las instituciones. Además, de las preguntas demográficas. Los resultados nos indican que los adolescentes que percibieron el proceso como justo tuvieron una mejor reinserción social. Los resultados se discuten en función de los efectos terapéuticos de pudieran tener los procesos judiciales para los delincuentes juveniles.

**Tribunales de drogas en Brasil: en busca de una metodología uniforme**

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En Brasil, a pesar de la falta de investigación para demostrar de forma segura las cifras exactas sobre delitos relacionados con drogas, se sabe que hay numerosos crímenes que configuran la droga como un factor de gran relevancia para su práctica. A partir de esta circunstancia, se inició un movimiento por parte de profesionales del derecho con el fin de dar una respuesta más adecuada a este tipo de delito, que podría ofrecer un servicio más eficiente y más humano. También se sabe que se están poniendo en práctica algunos programas judiciales basados en los Tribunales de Drogas de los EE. UU. que están siendo destacados en sus localidades, como en Porto Alegre, São Paulo, Recife y Río de Janeiro, entre otros. Sin embargo, al mismo tiempo, tales prácticas no se basan en una herramienta común de regulación, que podría servir para la implementación de nuevas prácticas relacionadas al programa de Tribunales de Drogas de manera equitativa en Brasil, especialmente con la observación de las prácticas de la justicia terapéutica. Debido a esta disparidad de técnicas y procedimientos surge la necesidad de uniformidad en la aplicación de este programa, que permita una mayor eficacia y unidad entre los diferentes discursos existentes sobre la metodología utilizada en estas prácticas, con el fin, entre otros, de la creación, por una norma regladora de un Tribunal de Drogas en Brasil. Esta investigación se está desarrollando en la Universidad Regional Integrada - URI en la ciudad de Frederico Westphalen - ciudad con un importante número de consumidores de drogas debido a su posición geográfica, ya que es una ruta de entrega de la droga hacia el sur Brasil - y ofrecer a la comunidad local de un proyecto piloto para poner en práctica un Tribunal de Drogas, que
podrá extenderse a otras partes del país. Objetivos: El objetivo es investigar la posibilidad de implantación de un Tribunal de Drogas en Frederico Westphalen. Serán creados los elementos clave para el desarrollo de un Tribunal de Drogas en Brasil, a partir de aquellos que prevalecen en otros países, especialmente en EE.UU., Canadá y Chile. Por último, se tratará de establecer los criterios de elegibilidad para el individuo ingresar al programa. Metodología: se llevará a cabo búsqueda en la literatura, observaciones en las audiencias judiciales y establecimientos de salud en la región de Frederico Westphalen que puedan recibir a los clientes. Se considera la región de Frederico Westphalen las ciudades que se encuentran hasta cuarenta kilómetros de distancia. Resultados esperados: Del presente trabajo se espera crear un proyecto piloto estructurado y que permita poner en marcha inicialmente en la ciudad de Frederico Westphalen, con un manual de creación de un Tribunal de Drogas en Brasil.

**Análisis del riesgo y adherencia al tratamiento pre-intervención en penados por violencia contra la pareja que cumplen en la comunidad**

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El tratamiento en la comunidad de condenados por violencia contra su pareja ha pasado en poco tiempo a ser uno de los retos de los técnicos encargados de administrar el tratamiento penitenciario. Al tratarse de penados con una alta probabilidad de recaída y que cumplen la condena en libertad, la evaluación y gestión del riesgo así como de la adherencia la tratamiento son críticos para los administradores del tratamiento. Para que el tratamiento sea efectivo y, por tanto, que se comience a gestionar al riesgo de reincidencia de una manera efectiva a través de un control interno (el propio penado) frente a las medidas de barrera o control externo (orden de alejamiento, vigilancia policial, pulseras electrónicas, etc.). Para que los penados se adhieran al tratamiento es necesario que activen los procesos de cambio, entendidos como las acciones que pone en marcha para modificar la conducta y cogniciones que facilitan la violencia contra la pareja. Para ello se aplicó una adaptación a maltratadores del Inventario de Procesos de Cambio (DiClemente, Prochaska, Fairhurst, Velicer, Velasquez y Rossi, 1991), que se mostró fiable ($\alpha = .919$) a 567) condenados por maltrato a cumplir la pena en la comunidad. Los resultados mostraron que los maltratadores no estaban conscienciados para el cambio; adolecen de una evaluación afectiva y cognitiva del impacto de la conducta de maltrato; no reconocen las consecuencias positivas respecto a dichas relaciones interpersonales, familiares y de amistad, que se producirían si cesara su conducta adictiva; no informan de la sustitución de la respuesta violenta (física, psicológica,…) por conductas alternativas; no evitan la exposición a situaciones de alto riesgo de violencia contra la pareja; los comportamientos relacionados con el cambio de la conducta violenta no se refuerzan; no acuden a la red social en busca de apoyo para el cambio de la conducta violenta. Por el contrario, manifiestan la experimentación y expresión de reacciones emocionales elicidadas por las consecuencias penitenciarias, de conducta violenta (efecto disuasorio de la pena) y la toma de conciencia tanto de la representación social de la
violencia contra la pareja como de la voluntad social de combatirla (efecto de la Ley 1/2004). En
resumen, los penados en la fase de acogida están en un estadio de precontemplación por lo que el
riesgo de recaída es elevado, por lo que se han de implementar medidas de gestión el mismo, al
tiempo que no se puede esperar de ellos una adherencia directa al tratamiento, por lo que hay que
ejecutar un plan de adherencia previo al inicio del tratamiento a la vez que controlar el progreso
en el tratamiento.

La justicia terapéutica como respuesta ante el acoso sexual

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El acoso sexual es una de las formas más comunes de violencia de género que existen, siendo
además el reflejo de las relaciones sociales de poder entre mujeres y hombres. En este sentido, la
“teoría de extensión del rol sexual” postula que los hombres trasladan al contexto laboral sus
expectativas acerca de los roles de género que hombres y mujeres han de asumir, lo que les lleva
en ocasiones a acosar sexualmente a las mujeres con las que trabajan. Las estrategias usadas por
la mayoría de las mujeres para combatir el acoso, suelen ir desde la evitación o ignorar al
acosador, hasta la confrontación o denuncia del hecho, sin embargo ninguna de estas estrategias
han mostrado ser eficaces para luchar contra las situaciones de acoso en el ámbito laboral, ni
para aumentar la confianza que las trabajadoras, potenciales víctimas, esperan de sus empresas.
Una alternativa menos extrema puede ser la justicia terapéutica, basada en el papel que puede
jugar la víctima así como en los beneficios que ésta puede obtener mediante la reparación del
daño ocasionado por parte del autor del hecho delictivo. El objetivo de este estudio es indagar las
actitudes que la población en general, tiene acerca de la justicia terapéutica como respuesta ante
el acoso sexual, frente a otras medidas de confrontación. Así mismo se estudia la relación entre
tales estrategias y variables ideológicas presentes en el perceptor social, como el sexismo
ambivalente y la aceptación de los mitos sobre el acoso sexual.

174. Justicia terapéutica III
¿Qué motiva a la justicia?

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El ideal último a alcanzar por la justicia terapéutica no es el castigo sino la reparación de los diversos daños personales, relacionales y sociales que se hayan ocasionado en el contexto de una infracción penal, procurando conseguir la máxima responsabilización del infractor. Numerosos estudios tanto de naturaleza experimental (Ristovski y Wertheim, 2005), cuasiexperimental (Strang, Sherman y Angel, 2006), y de campo (Sherman et al., 2005), así como mediante encuestas (Roberts y Stalans, 2004) han resaltado la importancia que para la población en general tiene este concepto de justicia. El objetivo de este estudio es analizar en una muestra de hombres y mujeres adultos/as, las actitudes hacia las diferentes metas de la justicia (retributiva vs terapéutica) y el papel desempeñado por las motivaciones en la predicción del apoyo a las medidas judiciales de diferente naturaleza que se derivan de estos modelos de justicia, en el caso de la violencia de género. Para justificar las relaciones establecidas usamos diferentes marcos teóricos que cuentan con una gran aceptación en la literatura psicosocial para el estudio de las motivaciones como son la teoría de la focalización reguladora de Higgins (1997), las motivaciones altruistas de Batson (1998) y la teoría de los valores de Schwartz (1992). Entre los resultados obtenidos destacamos que las motivaciones focalizadas en la promoción, que activan las metas relacionadas con los ideales, predijeron el apoyo a un modelo de justicia terapéutica; en cambio, las motivaciones focalizadas en la prevención, relacionadas con las obligaciones y deberes, predijeron el apoyo a las medidas judiciales basadas en un modelo retributivo.

Deontología profesional en la intervención del psicólogo forense. Estudio descriptivo de las denuncias atendidas por la Comisión Deontológica del Colegio Oficial de Psicólogos de Cataluña entre 1996 y 2011

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La comisión deontológica del Colegio Oficial de Psicólogos de Cataluña, en el marco del desarrollo de sus funciones, tiene encomendadas tareas referidas a la difusión y promoción de buenas prácticas profesionales. Sin embargo, los estudios referidos a las denuncias de los usuarios y de la deontología profesional son escasos a nivel internacional y aun en menor medida en nuestro país, viéndose dificultado el desarrollo de una tarea pedagógica ajustada a las necesidades reales de los profesionales. Por este motivo, se propuso la realización del presente estudio que nos aporta información real y sólida sobre las denuncias que se realizan a los psicólogos forenses en Cataluña. Se procedió al vaciado de los datos según protocolo diseñado
“ad-hoc” para el estudio. Posteriormente se llevó a cabo un estudio descriptivo del tipo de denuncia recibida centrando especial atención en las relacionadas con las intervenciones periciales de los psicólogos del ámbito jurídico, detallando los artículos concretos del Código Deontológico que han sido vulnerados, los años de ejercicio de cada colegiado denunciado y la progresión del número de denuncias a lo largo de los años, estableciendo de esta forma un análisis de contenido con la finalidad de buscar relaciones entre las categorías acotadas y darlas a conocer para evitar su repetición. Con los datos obtenidos se plantean cuestiones como la vulneración de algunos principios éticos que tienen especial relevancia en las actuaciones del psicólogo en el ámbito judicial y las propuestas desde el Colegio Oficial de Psicólogos de Cataluña para garantizar la competencia profesional del psicólogo forense.

Análisis de variables criminológicas y psicopatológicas en una muestra de sujetos internos en un hospital psiquiátrico penitenciario

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La conducta delictiva se ha convertido en un problema de elevado impacto social y motivo de gran atención por parte de los organismos públicos. El estudio de la génesis del delito y su prevención no es algo nuevo, sino que siempre ha sido motivo de preocupación y requiere de un abordaje inter y multidisciplinario. Una de las medidas de seguridad privativas de libertad comprendidas en el ordenamiento jurídico español es el internamiento en un centro psiquiátrico, que cumple, además de funciones terapéuticas, una finalidad asegurativa y defensiva. La promoción de la salud de la población reclusa es un enorme desafío. La política de salud mental pública oscila entre dos modelos: el modelo médico-psiquiátrico, basado en la necesidad de tratamiento del enfermo mental, y el de la defensa social, basado en el criterio de peligrosidad de estos pacientes. La Ley debe conseguir el equilibrio entre la libertad del individuo enfermo mental con la necesidad de su seguridad y tratamiento, pero también con la seguridad de la sociedad. El objetivo de nuestro trabajo es analizar los perfiles criminológicos y médico-psiquiátricos de los pacientes ingresados en un hospital psiquiátrico penitenciario. Se ha estudiado una muestra compuesta por 82 sujetos (74 varones y 8 mujeres), con edades comprendidas entre los 22 y 77 años (edad media 38,8 años; DS 10,09). La recogida de los datos se ha realizado mediante entrevista y análisis de la historia clínica, sentencias judiciales y expediente penitenciario y del centro. En relación al tipo de delito cometido predomina el asesinato (21,9%), el homicidio (15,8%) y el robo con violencia (15,8%). La edad media de comisión del delito es de 31,72 años y el diagnóstico psiquiátrico predominante es la esquizofrenia y otros trastornos psicóticos (51,2%), el trastorno de personalidad (24,3%) y el
trastorno relacionado con el consumo (19,5%). Los resultados obtenidos nos podrán servir para elaborar tanto programas de prevención como programas específicos de intervención.

La justicia terapéutica en procesos de separación y divorcio: el punto de vista de los jueces y magistrados

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La separación y el divorcio se consideran uno de los eventos más traumáticos que una familia puede experimentar, pudiendo afectar a todos sus miembros, principalmente a progenitores, hijos y abuelos. Los expertos defienden que la forma de llevar a cabo la disolución de la pareja determina el tipo de relación que la familia va a desarrollar en el futuro, así como sus consecuencias a nivel, social, emocional, de salud física y psicológica, e incluso económica. Es por ello que debería convertirse en una prioridad del Estado el promocionar procedimientos judiciales y extrajudiciales centrados en facilitar el bienestar de toda la familia y la colaboración parental tras la ruptura conyugal. La Justicia Terapéutica, tal y como afirman los padres e impulsores de la misma, David Wexler y Bruce Winick, estudia “el papel que desempeña la Ley y la aplicación de la misma en el proceso legal como agente terapéutico” centrándose en como incide el sistema legal en la persona, a nivel psicoemocional. De esta manera, la Justicia Terapéutica se presenta como la corriente jurídica idónea para abordar los procesos de familia en general, y los relacionados con la separación y el divorcio, en particular; en línea con lo expuesto por Sturgis (2003). Es importante que los operadores jurídicos, de manera principal los jueces, internalicen y promocionen los principios y procedimientos de la Justicia Terapéutica, pero para ello es necesario que los conozcan. En este trabajo se analiza el conocimiento y la opinión que tienen los jueces de Familia, del estado español, sobre la Justicia terapéutica y sus procedimientos. Para ello, se les remitió un cuestionario, creado ad hoc, a los 100 jueces de Juzgados de Familia de España.

175. Justicia terapéutica IV

La justicia terapéutica aplicada a una buena formación del niño y/o joven

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La mayor injerencia del padre en la crianza del niño y la importancia de la familia ampliada para proteger las raíces del niño o joven con las excepciones derivadas de un ejercicio violento a nivel físico y/o psíquico hasta el abandono.- La intervención del Estado con un trabajo intenso a nivel
interdisciplinario y los lugares de contención que brinda para los cuidados y tratamientos de los mismos.- La realidad de los números en cuanto a población y espacio institucional.- Número de casos atendidos en el último año en Buenos Aires.- La necesidad de activar el incremento de guardas provisorias como modo más cercano a una vida en familia para el niño o joven.- La aplicación de una justicia terapéutica cuyo objetivo principal sea desdibujar las diferencias que se ocasionan entre la formación de un niño desprotegido del que crece dentro de su ámbito familiar.

**Justicia retributiva versus terapéutica en casos de violencia de género**

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La ley Integral contra la violencia de género 1/2004 supuso un importante avance en la lucha contra la violencia de género y la protección de la mujer en España. Desde que se aprobara dicha Ley, el número de denuncias se ha visto incrementado año tras año, sin embargo, no se ha observado un descenso proporcional en el número de víctimas. La respuesta penal como principal fórmula disuasoria no parece ser suficiente en un delito con una idiosincrasia como es el caso de la agresión de un hombre a su pareja o ex pareja, como indican las cifras de segundas oportunidades que las mujeres víctimas de violencia de género dan a sus parejas. El interés de este estudio va dirigido a indagar sobre las actitudes que la población en general, tiene acerca del carácter punitivo de la Ley 1/2004, así como, su opinión acerca de alternativas menos extremas, como la justicia terapéutica, en aquellos casos de violencia denominados, de baja intensidad. En una muestra de hombres y mujeres adultos/as, se ha medido la respuesta a la justicia retributiva versus justicia terapéutica en delitos de violencia de género de baja intensidad, así como la relación de tales opciones y variables ideológicas como el sexismo ambivalente y creencias en el mundo justo de los participantes.

**Conocimiento y uso de la mediación familiar como recurso de apoyo a las familias**

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La mediación familiar es un recurso de apoyo formal a las familias que se ven inmersas en conflictos familiares, derivados de la ruptura de pareja. Entre los beneficios de la mediación para las partes en conflicto, se ha señalado la mayor satisfacción y grado de cumplimiento de las soluciones adoptadas. Sin embargo, este recurso de ayuda continúa estando escasamente posicionado en los servicios de atención a la familia. En este trabajo estamos interesados en evaluar el conocimiento y el uso del servicio de la mediación familiar. Concretamente, contamos con un total de 274 participantes en el “Programa Ruptura de Pareja, no de Familia,” todos ellos inmersos en procesos de separación y divorcio, a los que se aplica un cuestionario elaborado ad hoc. En relación a la mediación, y antes de asistir al programa, únicamente el 10,6% afirman conocer en qué consiste, frente el 89,5% que desconocen este servicio, sin que medien diferencias de género. Respecto al uso de la mediación, el 8,8% precisa haberla utilizado en alguna ocasión, mientras el 91,2% refiere que nunca la ha empleado. Estos resultados ponen de manifiesto la necesidad de hacer más accesible este recurso a las familias. En definitiva, favorecer que las familias, si así lo desean, puedan beneficiarse de una forma alternativa y terapéutica de resolución de conflictos familiares.

**Jurisprudencia terapéutica el nuevo escudo para los derechos del niño**

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Nuestro artículo analiza las recientes tendencias internacionales relacionadas a la figura de filiación y a los derechos del niño. Durante las últimas décadas, los adelantos en la comunidad científica han permitido el aseguramiento de un 99% de certeza en las pruebas de ADN que determinan paternidad. Posteriormente, varios países iniciaron reformas legales reconociendo la confiabilidad de esta evidencia genética y confiriendo más flexibilidad a quienes quisieran revisar la presunción paternal. Sin embargo, consideramos que estas reformas legales fueron tomadas abruptamente y sin considerar diligentemente principios de suma importancia como los derechos del menor y los mejores intereses de éste. Luego de nuestro análisis, concluimos que las nuevas reformas jurídicas deben incluir normas “no-adversarias,” como las propuestas en la teoría de Jurisprudencia Terapéutica. Bajo la teoría de TJ buscamos una protección legítima del bienestar del menor, específicamente, la protección de su identidad y de posibles preferencias atañidas a mantener relaciones familiares con los parientes del padre impugnante como por ejemplo abuelos, tíos, entre otros.

176. **Learning about Human Behaviour and Dispute Resolution**

**Stress and the Legal System: Dispute Systems Design Principles to Enhance the Psychological Well-Being of People Involved with the Legal System**

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We are gaining a greater understanding of the impact of stress on our well-being and our cognitive abilities. Dealing with legal disputes can be highly stressful. It is therefore unsurprising that many participants in the legal system catch a “mental health cold” during the course of their legal proceedings. This presentation discusses recent literature on the common behavioural effects resulting from stress and conflict. It then suggests some dispute systems design principles that can be applied to adapt legal procedures to better suit our cognitive and emotional abilities. Part I of this presentation will review neuroscience and other literature that explains the typical consequences of stress, including typical cognitive limitations caused by stress. Part 2 will then outline dispute systems design principles can be used to improve fairness and effectiveness by adopting procedures that help participants to better manage their stress and emotions. There will be particular emphasis on the opportunities available to governments as they develop more online dispute resolution options.

Could Problem Solving Become a Problem? The Boundaries of the Solution Focus of Courts and Fundamental Principles of Administration of Justice

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As mainstream courts are adopting more and more elements of conflict resolution in their practices, the question arises whether it could become necessary to keep these developments within the boundaries of the fundamental principles of administration of justice. This presentation outlines the preliminary results of an explorative study consisting of a literature study and expert meetings held among the judiciary.

Can Shame be Therapeutic?

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This presentation focuses on alternative judicial punishments such as reciprocal and humiliation punishments. It explores the past and present use of such punishments. It covers the theories behind the use of these punishments. It also takes a look at the praise and criticism for the use of these punishments. Additionally, the presentation discusses the use and effects of these punishments, including recidivism rates.

Collaborative Law: Future or Fancy?

Maricela A. Moffitt, Phoenix School of Law (mamoffitt@student.phoenixlaw.edu)
Collaborative law was formed in response to the wreckage produced by traditional judicial resolution processes and has been viewed by many as the long awaited alternative to the high cost of litigation. The collaborative law model is a radical response finding ways around costly litigation and continues to be a rising star of Alternative Dispute Resolution (ADR) and has found its niche within family law. Collaborative law has been expanding throughout the family law sector because of the positive results it is having on both families and family law attorneys. Even though collaborative law is slowly changing the face of family law in a positive way throughout the English speaking world, it has been slow to catch on in mainstream family law, which begs the questions, why has collaborative law not become more mainstream within United States family law? Part I of this presentation will examine what is collaborative law, by exploring the history of the collaborative law movement. Part II will examine how collaborative law is being practiced today. Part III will examine the elements in collaborative law that make it an unusual powerhouse of positive change within family law. Part IV will examine collaborative law results on both clients and attorneys. Part V will examine why collaborative law has not taken off as a roaring fire within United States family law sector. In closing, this presentation will make some projections about the practice of collaborative law for the future.

**Can I Say I’m Sorry? Examining the Potential of an Apology Privilege in Criminal Law**

Michael C. Richi-Jones, Phoenix School of Law (mcrichi-jones@student.phoenixlaw.edu)

This discussion will focus on the themes and proposals set forth in a paper titled “Can I Say I’m Sorry? Examining the Potential of an Apology Privilege in Criminal Law,” authored in December 2012. The paper was written for the purpose of addressing the power and possibility of early apologies in the criminal justice system. As constructed, the American criminal justice system rewards defendants that learn early in their cases to remain silent, and punishes those that talk. Defendants that may want to offer an apology or allocution for the harm they’ve caused are often required to wait until a sentencing hearing, which may come months, or even years after the event in question. This presentation proposes that the Arizona Rules of Criminal Procedure be modified to provide an exception for apology to criminal defendants. Apologies can play an invaluable role in the healing process for victims, defendants, family members and others tied together by the unfortunate events of a criminal prosecution. This presentation seeks to further the comprehensive law movement approach that promotes a healing process for those involved in the criminal justice system.

**177. Lessons in Judicial Innovations**

*Can a Sixty Year Old French Re-Entry Court Remain Therapeutic in an Era of Managerialism and Prison Overcrowding?*
To our best knowledge, there has never been an attempt to determine whether problem-solving courts (PSC) may have had equivalents in the past and/or in other cultures. At first glance, however, French sentence’s implementation courts (juge de l’application des peines: JAP) seem to be sixty year old ancestors of today’s PSC. With PSC, they share a human touch, a desire to do good, rehabilitative, therapeutic and problem-solving goals and methods; they listen to offenders and, in order to do so, take all the time that is needed; lastly, they abide by due process principles. Contrary to PSC, they are not fully immersed in the community and for various reasons cannot work in a truly collaborative way with other agencies. Also, recent reforms have tried to marginalise judicial intervention in sentence’s implementation and have attempted to instrumentalise it in order to free prison space in search for solutions to overcrowding. Because PSC require good judges, and in view of the aforementioned reforms, it seemed important to determine whether JAP were still such good people and whether they still behaved in a truly therapeutic manner. This is what the research on “JAP’s professional culture” endeavoured to determine. Forty JAP were interviewed; more than 200 JAP hearings were observed; 1,300 court cases were coded and other practitioners (solicitors, prosecutors, and probation officers) were also interviewed. The research has found that JAP are indeed, and for the most part, problem-solvers and therapeutic humane judges. It has also confirmed that recent reforms, damaged relationships with prison and probation services, along with a terrible caseload and dreadful working conditions, have made it increasingly difficult for them to keep their therapeutic compass in mind.

Sustainable Justice: Connecting Principle in the Worldwide Wave of Court Innovation of the Last Decennia and Inspiring Focus-Concept for Court Innovation Policy

Alexander F. de Savornin Lohman, Center for Sustainable Justice, Utrecht, The Netherlands (alexlohman@me.com)

Since the end of the last century, a wave of court innovation has spread across the world. Mediation (privately or judge-led), judge-led settlement negotiations, drug courts, problem solving courts, neighborhood justice, restorative justice, intercultural justice and many other innovative forms of justice developed. In all of these initiatives the justice system shifted focus from what went wrong in the past to what will be the best future, for those involved with the justice system, and for society as a whole. This presentation will observe the different forthcoming of court innovation from the perspective of the sustainability movement and societal ecology, and the significance of the sustainability-focus for court innovation policy.

Learning from Drug Courts around the World
Liz Moore, *University of Tasmania* (emoore@utas.edu.au)

This presentation will focus on research undertaken as part of a Masters in Criminology and Corrections through the University of Tasmania, completed in November 2012, including the following:

Research conducted in 2011 and 2012 into the Court Mandated Program (CMD) in Tasmania, Australia (the drug court). Data from court sessions and interviews with 22 practitioners and 16 current program participants was analysed to make recommendations for the future development of the program.

Material obtained during 2012 from visits to nine drug courts and various associated programs internationally. Interviews were conducted with a wide range of stakeholders in Chilé, the USA (Santa Barbara County, LA, Chicago, Washington DC, New York & Baltimore), London, Wales (Cardiff & Bridgend), the Netherlands (Amersfoort & Utrecht), Belgium, Paris and Vienna.

The emphasis of my research is on capturing the impact of drug courts and how success can be measured, evaluated and demonstrated, with a view to securing the ongoing financial sustainability of these programs.

My experiences in sixteen drug court programs in Australia and worldwide have taught me much which could be applied to enhance the drug court program in my own jurisdiction. I have made numerous practical recommendations to this effect, which are now being considered and implemented within the Tasmanian context.

**Victims of Violent Crimes, Punishment of Offenders, and Early-Release Proceedings**

Annette van der Merwe, *University of Pretoria* (annette.vandermerwe@up.ac.za)

South African victims of violent crimes, such as rape and murder, can currently expect life imprisonment as the most severe sentence possible to be imposed on their wrongdoers. Once the sentence is determined, the actual term of incarceration to be served is of import not only to the offender but also to the victim. The Argentinean film *The Secret in Their Eyes* provides a poignant illustration of the betrayal experienced by a man when the state fails to fulfill its obligation to properly punish the killer of his wife, and in the pursuit of justice he himself becomes trapped in victimhood. The film raises awareness with regard to the rights of victims and offenders during the post-sentence phase. Current rights pertaining to this phase are examined, including victims’ legitimate expectations from the state, their empowerment through rights (such as the rights to receive and provide information concerning parole proceedings), and available support structures to address the effect of violent crime. In addition, the rights of offenders serving life sentences, such as the right to dignity and human interaction as well as the rules pertaining to sentence duration and parole, are evaluated. The film re-affirms the rationale underpinning a rights culture for both victims and offenders. It further illustrates the inherent tension between rights of victims and offenders and the acute need to strike a balance between them. However, the question is posed whether exercising the right to present impact evidence at
parole proceedings does not perpetuate victimhood, thereby negatively influencing victims’ long-term well-being.

### 178. Lessons of Therapeutic Jurisprudence for Courts Beyond Problem-Solving Courts

**Solution Focus in the Netherlands: Recent Developments in Dutch Criminal, Civil, and Administrative Courts**

Andrea Zwart-Hink, *VU University Amsterdam* (a.m.hink@vu.nl)

In the Netherlands one can clearly discern the same kind of activities and developments that elsewhere are labeled “problem solving” or “solution focused,” such as court annexed mediation, restorative justice initiatives in the field of criminal law, mediation and collaborative divorce in family law, or the use of mediation techniques by administrative bodies in handling complaints and appeals of citizens. Distinct developments in the role of judges in mainstream civil and administrative procedures also implicate more involvement with the problems behind the case than just passing judgment. The Ministry of Justice and the Judiciary are constantly looking for more court innovation initiatives. This presentation provides an overview of the said developments throughout the classic areas of criminal, civil, and administrative law and evaluates them in the context of procedural justice and therapeutic jurisprudence literature. It also discusses the meaning of such overview and evaluation for the development of further court innovation initiatives.

### The Community Justice Model: Is It the Way to Resolve the Conflict between the Longitudinal Goals of Therapeutic Jurisprudence and the Cross Sectional Nature of the Justice System?

Kerry Walker, *Neighbourhood Justice Centre, Melbourne, Australia*  
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Therapeutic Jurisprudence (TJ) has gained increasing traction within the law since its initial articulation in the early 1970s. Operation of TJ principles has required that the justice system become increasingly involved in an interdisciplinary approach to addressing the precipitants of criminal and other harmful behaviours, with intervention being aimed at decreasing the likelihood of re-offending amongst court participants. However, these aims are not quickly achieved and require the establishment and maintenance of a therapeutic alliance involving the client, the court, and treatment providers, with this relationship often being longitudinally mediated in the broader context of community. The court system, however, remains cross-sectional in nature, intersecting with the lives of clients at prescribed times and under prescribed
circumstances. The dilemma inherent within this is that under this model the decisions of the court need to be equally applicable over lengthy periods of time dedicated toward therapeutic objectives, often under circumstances that are prone to dramatic change within very short periods of time. The current presentation proposes a possible solution to this dilemma lying within the Community Justice Model which engages community based services and resources with the operation of the justice system to support community members who find themselves engaged in the justice system, and those who are at risk of penetrating into the justice domain. This presentation will use the example of the Neighbourhood Justice Centre, Collingwood, to explore how community based resources and services have been engaged under this model to effect longitudinal change for clients, community and the justice system.

Mainstreaming Therapeutic Jurisprudence into the Traditional Courts: Suggestions for Judges and Practitioners

Michael D. Jones, Phoenix School of Law (mjones@phoenixlaw.edu)

Therapeutic jurisprudence (TJ) has moved into the traditional courtroom, into the non-problem-solving courts. The next challenge for TJ is to mainstream those TJ practice techniques developed in problem-solving courts throughout the court system. Judges who have learned innovative and effective problem-solving court techniques have matured, and through judicial rotations, many have moved on to serve on calendars that do not traditionally require problem solving court techniques. They have carried their “TJ tool kits” with them, and they cannot forget those techniques and procedures that made their problem-solving court experiences such a success. This presentation, based on the article published in the Phoenix School of Law Law Review (June 2012), contains practical tips, suggestions, and practice pointers for TJ and non-TJ judges and practitioners from the perspective of a TJ judge assigned to a traditional court calendar. The rapid expansion of problem-solving courts throughout the United States and Canada is an endorsement and recognition of the effectiveness of TJ inspired techniques. Former problem-solving court judges can contribute to the study of TJ and its practical applications through an understanding and sharing of effective TJ techniques. Such techniques may be just as effective in non-specific traditional courts as in the problem-solving courts. Perhaps the most important technique is that of improved communication skills. For instance, it is important to abandon a paternalistic listening and speaking style in the court room and to adopt a manner that communicates respect to the litigants and attorneys; this encourages people to feel comfortable speaking in court, giving voice to defendants, victims, and their families. In all criminal sentencing hearings, the judge can engage in active listening to aid the court in setting fines, restitution, and terms of probation. The unique concepts of the team-approach and review-type hearings can be modified and utilized successfully in traditional court proceedings.

Kelo through the Lens of Therapeutic Jurisprudence

Carol Zeiner, St. Thomas University (czeiner@stu.edu)
Boiled down to its essence, therapeutic jurisprudence adds to legal analysis in a formal way, the dignity and value of the individual human being, considerations sorely missing from the law of eminent domain. Therapeutic jurisprudence therefore provides an especially insightful basis for examining the urban redevelopment project that produced most reviled eminent domain case in the history of the Supreme Court of the United States, *Kelo v. The City of New London*. This presentation thoughtfully examines the impact of the New London economic development project on all relevant parties – the condemnees and their neighbors, government, the private beneficiary, the general public purportedly to be benefitted by the taking, and the taxpayers – using the principles of therapeutic jurisprudence. This nuanced analysis provides further understanding of why the public is so outraged with the Court’s decision. It also directs attention to other competing principles and norms that may not have been considered by the Court in deciding the case. While these important principles may be disregarded by the Court once it determines that a constitutional consideration would carry the day, these norms and principles may be used to re-examine or overturn *Kelo*, either legislatively or judicially. These insights make this presentation an especially timely resource for courts, lawmakers, and advocates as they re-examine the use of takings for economic development. It also enables practitioners to utilize therapeutic jurisprudence to make better arguments and reach better outcomes and settlements in all types of eminent domain cases.

**179. Manifestaciones de justicia terapéutica en el proceso penal**

**Español**

*Mediación penal de adultos*

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La mediación se define como el sistema de gestión de conflictos en que una parte neutral, con carácter técnico y en posesión de conocimientos adecuados, independiente de las partes del proceso penal e imparcial, ayuda a dos o más personas implicadas en un delito o falta, en calidad de víctima e infractor, a comprender el origen del conflicto, sus causas y consecuencias, a confrontar sus puntos de vista y a elaborar acuerdos sobre el modo de reparación. Una serie de factores han convertido en muchos casos en inoperante el proceso penal contradictorio que culmina en sentencia como medio de solución del conflicto generado por la comisión de un delito o falta. En efecto, en el proceso penal tanto la víctima como el imputado o acusado, ve cómo el Estado “le expropia” su derecho a ver solventado el conflicto de manera pacífica y sin la victimización secundaria que en muchos casos supone la confrontación de partes. No se puede olvidar que el proceso penal, aunque es el instrumento del *ius puniendi* del Estado en su misión de tutela de intereses públicos, también debe ser en todo caso un mecanismo de satisfacción de los derechos e intereses de las partes. En este sentido, es esencial la búsqueda de métodos alternativos de resolución de conflictos, incorporados al ejercicio de la jurisdicción: mecanismos fiscalizados y controlados en cuanto a las garantías de su desarrollo y en cuanto a los efectos penales por los órganos jurisdiccionales, y por tanto de naturaleza intraprocesal. En este
contexto, la mediación penal responde a estas exigencias, porque el sistema de mediación penal no es contrario a la exclusividad de la jurisdicción en el orden penal, ni al monopolio del “ius puniendi” estatal, porque serán los Juzgados y Tribunales los que controlarán el buen desarrollo del procedimiento mediador, y no sólo para garantizar los derechos y garantías procesales constitucionalmente reconocidos, sino para que los riesgos que pudieran aparecer, derivados de determinados comportamientos tanto de la víctima hacia el acusado como en sentido inverso, puedan ser corregidos con la intervención del juez, del ministerio fiscal, del abogado defensor y del mediador. No se trata de una forma de autotutela, ajena al monopolio estatal, judicial y procesal, sino ante una forma autocompositiva intraprocesal que desembocará en una resolución judicial motivada como es el auto de sobreseimiento por razones de oportunidad reglada o, en su caso, la sentencia (dependiendo del momento procesal en que se desarrolle la mediación). Por tanto, no se resienten en ningún caso las bases constitucionales del sistema procesal penal. En resumen, este modelo restaurativo no es una disposición individual del derecho penal y de la pena, ni un ataque al monopolio jurisdiccional, sino la introducción en el proceso penal de un incidente autocompositivo voluntario para las partes, con todas las garantías procesales y con sus consecuencias predeterminadas en la ley. No se trata de preferir la eficacia a las garantías, sino de hacer confluir ambas finalidades.

La conformidad del adolescente acusado

Dolores Fernández Fustes, *Universidad de Vigo* (dfustes@uvigo.es)

Podemos definir la conformidad como el modo de poner fin al proceso penal que supone la aceptación por el acusado de los hechos, de la calificación jurídica y de la responsabilidad penal y civil exigida. La finalidad de la conformidad en el proceso de menores no es sólo la economía procesal, sino también la conveniencia de evitar el menor los efectos estigmatizantes que le podría causar el desarrollo de la audiencia. La LORPM prevé dos tipos de conformidad dependiendo del momento en que se manifieste: A. La conformidad en la fase intermedia o de alegaciones: es el primer momento en el que se puede manifestar la conformidad. Para que esta conformidad surta efecto deberán concurrir los siguientes requisitos: El primer requisito se centra en la medida sancionadora que solicita la acusación: debe tratarse de una medida que no conlleve una restricción del derecho fundamental a la libertad. El segundo requisito consiste en que la conformidad se manifieste con el escrito de alegaciones que contenga la acusación más grave. El tercer requisito exige que haya conformidad del menor y de su letrado. En cuarto lugar, será necesario que haya conformidad también de los responsables civiles. El último requisito se refiere a los aspectos formales. Si se cumplen estos requisitos, la conformidad será vinculante para el Juez, que deberá dictar sentencia imponiendo la medida más grave solicitada por las acusaciones y aceptada por la defensa. B. Conformidad durante la audiencia. El segundo momento en el que se puede manifestar la conformidad es al inicio de la audiencia, en donde el legislador ha previsto un trámite obligatorio que responde al principio de consenso y tiene como finalidad determinar si el menor y su Letrado se muestran conformes con los hechos y con la medida o medidas interesadas por las acusaciones en sus respectivos escritos de alegaciones. En consecuencia, *ex art. 36*, el secretario judicial deberá explicar al menor, en el lenguaje más llano posible y haciendo todos los esfuerzos necesarios para hacerse comprender, cuáles son los
hechos que se le imputan, la medida que se solicita, detallando su contenido, forma de cumplimiento y duración, y la responsabilidad civil que se pide para él. A continuación, el Juez preguntará al menor si se declara autor de los hechos y si está de acuerdo con las medidas solicitadas y con la responsabilidad civil. Llegados a este punto se pueden dar las siguientes situaciones. En primer lugar, que el menor muestre su conformidad tanto con los hechos como con la medida solicitada. En segundo lugar, puede ocurrir que el menor se declare autor de los hechos pero no esté conforme con la medida solicitada por las acusaciones. En este caso, se sustanciará el trámite de audiencia sólo en lo relativo a la medida. Por último, podría ocurrir que el menor o el responsable civil no estuvieran conformes con la responsabilidad civil solicitada. En este caso, se sustanciará el trámite de la audiencia sólo en lo relativo a la responsabilidad civil.

La denominada “prisión provisional atenuada”

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La prisión preventiva o provisional es una medida cautelar de carácter personal prevista en el sistema procesal penal español con el fin de asegurar la responsabilidad penal del imputado, evitando que éste se sustraiga a la acción de la justicia. Habitualmente, supone el ingreso del imputado en un centro penitenciario a la espera de juicio y está sujeta a unos límites máximos de duración, en función, entre otras circunstancias, de la gravedad de la pena prevista para el delito que se imputa al sujeto en cuestión. De acuerdo con la LEcRim, la prisión preventiva puede adoptar distintas modalidades de cumplimiento, lo que nos permite hablar de clases o modalidades de prisión preventiva. Aunque tradicionalmente se han citado tres modalidades: comunicada, incomunicada y atenuada, realmente sólo las dos primeras son verdaderos tipos de prisión, pues la última es una “medida alternativa a la prisión,” pues su peculiaridad radica en que se cumple fuera de un establecimiento penitenciario. Tras la reforma legal de 2003 (LO 13/2003 y Ley 15/2003), se ha modernizado la regulación de la prisión provisional, afectando también a esta modalidad “atenuada.” Tras dicha reforma, esta modalidad se regula en el art. 508 LECrim que, en sus dos apartados, contempla dos supuestos: a.- El denominado “arresto domiciliario,” que se cumple en el domicilio del imputado, y requiere como presupuesto que éste padezca una enfermedad grave, de modo que su ingreso en prisión pueda entrañar un grave peligro para su salud. Como se ha indicado, el lugar de cumplimiento es el propio domicilio, lugar en que reside habitualmente el reo, el cual deberá comunicar inmediatamente al órgano jurisdiccional cualquier modificación del mismo. Además, se regula restrictivamente cualquier posible salida del domicilio pues únicamente se justifica para el tratamiento de la enfermedad; y tanto la estancia en el domicilio como las salidas del mismo se someten a la necesaria custodia y vigilancia policial y a su fiscalización judicial; b.- La que se cumple en un centro oficial de desintoxicación de drogodependientes, cuando el imputado se halle sometido a un tratamiento de desintoxicación o deshabituación a sustancias estupefacientes y el ingreso en prisión pueda frustrar el resultado de dicho tratamiento. El lugar de cumplimiento de la medida es un centro oficial o una organización legalmente reconocida, de carácter público o privado, que desarrolle estos tratamientos de desintoxicación, en muchas ocasiones en virtud de planes concertados con los poderes públicos. También se establecen unos requisitos para su concesión: a) debe estarse ya
recibiendo el tratamiento de desintoxicación a una adicción y debe existir un riesgo de que se frustré por el ingreso en prisión; y, b) se requiere que los hechos imputados sean anteriores a la iniciación del tratamiento de la adicción.

**Mediación con adolescentes infractores**

Angela Coello Pulido, *Universidad de Vigo* (acoello@uvigo.es)

Desde finales del siglo XIX se inició en nuestro entorno jurídico un movimiento tendente a extraer a las personas menores de edad del ámbito de aplicación del Derecho Penal y del Derecho Procesal de adultos. En consecuencia, en el año 2000 fue promulgada en España la *Ley Orgánica 5/2000, de 12 de enero, reguladora de la Responsabilidad Penal de los Menores* que configuró un proceso penal que resultará de aplicación para la exigencia de responsabilidad de las personas mayores de catorce años y menores de dieciocho por la comisión de un ilícito penal y cuya principal característica es su enfoque educativo orientado a la reeducación y resocialización del menor infractor. Esta finalidad reeducativa implica la conveniencia, en determinados supuestos, de emplear métodos ajenos al proceso para la solución del conflicto. Así, la citada norma presenta las siguientes formas de solución del extrajudicial conflicto: el desistimiento de la incoación del expediente de reforma, el sobreseimiento a propuesta del equipo técnico y la mediación. La mediación en este ámbito constituye un sistema para la solución de conflictos por la que las partes enfrentadas en un proceso penal de menores, en calidad de víctima e infractor, con la ayuda de un tercero imparcial y neutral, alcanzan por sí mismas una solución que implique la reparación del daño causado. De este modo, a través de la mediación es posible alcanzar una solución que evita la estigmatización que para el menor supone el sometimiento a un proceso judicial al mismo tiempo que constituye una herramienta de gran utilidad para la reeducación y resocialización de ese menor infractor puesto que a medida que se desarrolla el procedimiento va tomando conciencia de las consecuencias de sus actos, responsabilizándose de los mismos y manifestando su voluntad de reparar los daños causados. Del mismo modo, la víctima adquiere un especial protagonismo en la tutela de sus derechos. La *Ley Orgánica* de 12 de enero de 2000 permite la mediación, como manifestación del principio de oportunidad reglada, en diversas fases. Durante la fase de alegaciones o durante la fase intermedia será realizada por el Equipo Técnico que informará al Ministerio Fiscal acerca de los compromisos que se hubiesen adquirido así como de su grado de cumplimiento de tal manera que, si la mediación prospera, el Ministerio Fiscal podrá proceder a solicitar al Juez de Menores el sobreseimiento de la causa. Por otra parte, la mediación podrá tener lugar una vez que la sentencia ha sido dictada, es decir, durante la fase de ejecución de las medidas impuestas aunque, en este caso, no contribuirá a evitar los efectos estigmatizadores que el proceso conlleva para el menor de edad.

180. **Reconsidering “Injury:” Applying Therapeutic Jurisprudence Principles to Litigants in Non-Criminal Courts**
Under Construction: Dutch Self-Regulation, Pilots, and other Initiatives of Personal Injury Practitioners to Improve the Compensation Process

August Van, VU University Amsterdam (van@beeradvocaten.nl)

In the Netherlands, in spite of the existence of a general no-fault compensation scheme covering loss of income of injured employees to some extent, tort law is an indispensable source of compensation for the victims of road and workplace accidents and medical errors. There is a general awareness however, that obtaining compensation in personal injury cases is a long and arduous struggle, sometimes even causing the victim more harm than good. Over the last few years, this awareness has led to several initiatives, many bipartisan, that attempt to make the personal injury settlement process less strenuous in one way or another. This presentation offers an account of those initiatives for a foreign audience.

Privileging Tangible over Intangible Injuries: The Potential for Non-Therapeutic Outcomes for Violations of Bodily Integrity

Elizabeth Adjin-Tettey, University of Victoria (eadjinte@uvic.ca)

This presentation highlights some of the ways in which law and societal perceptions about intangible injuries can produce non-therapeutic outcomes for those who suffer such harms compared with physical injuries. Bodily autonomy and security are protected mostly through the trespass torts, which are actionable per se. This reflects a right-based approach focusing on plaintiffs and society’s interest in respecting and protecting bodily inviolability and the need for compensation without proof of harm. Harms resulting from wrongful interference may be tangible and/or intangible. The law’s willingness to protect bodily integrity masks the dualistic conceptualization of the effects of wrongful interference with one’s body and the privileging of tangible over intangible harms. This is evident in the higher standard of proof and modest compensation for intangible injuries that do not result in financial losses. Some scholars and legislators question the propriety of compensation for intangible losses and advocate for its abolition or at best modest amounts. Devaluation of intangible harms is particularly problematic for plaintiffs whose injuries are mostly “invisible” and who are less likely to initiate suit if they are unlikely to receive significant compensation. Findings and admissions of liability per se may have psychological benefits, including promoting healing. However, that may not be sufficient motivation for pursuing a tortfeasor absent the potential for significant compensation. Difficulties of proof and depressed awards for intangible harms devalue the non-corporal aspects of human beings; they engender an instrumentalist and commodified view of personhood in ways that can exacerbate feelings of victimization and produce non-therapeutic outcomes for plaintiffs and a less than optimal tort system.
**Compensating without Aggravating: On the Anti-Therapeutic Impact of Injury Compensation Processes and the Responsibility of Lawyers**

Arno Akkermans, *VU University Amsterdam* (a.j.akkermans@vu.nl)

Although there is some debate on the evidential power of the empirical studies involved, the weight of the evidence points clearly in the same direction: compensation processes have a negative effect on recovery from injury. This presentation discusses current insights and explanatory theories, and then focuses on the role of law and lawyers. What improvements could be feasible, both on the level of system design and within a given system? It is argued that there is a lot that the law and the legal profession could and should do to diminish the infliction of unintentional harm in compensation processes.

**What Do We Know about Compensation Being “Bad For Health”? Taking Stock of the Available Empirical Evidence**

Niek Elbers, *VU University Amsterdam* (n.elbers@vu.nl)

Numerous empirical studies have investigated the effect of being involved in compensation processes on well-being and recovery of claimants. Some studies concluded that compensation processes did not have an effect on health. The majority of studies, however, found that injured people who are involved in a compensation claim process recover less well and have reduced physical and mental well-being compared to people with similar injuries who are not involved in compensation. Studies often give two explanations for the compensation effect: the first is that claimants may unconsciously perpetuate illness behaviour for as long as the compensation process lasts (secondary gain). This theory may imply that claimants would recover as soon as they receive their compensation. Some studies indeed found that settlement of the claim improved health compared to pending claims. Other studies, however, did not show a relation between claim settlement and mental health or recovery. The second explanation for the fact that claimants recover less well is that they may experience renewed victimization because of the stressful elements of the compensation process (secondary victimization). This presentation discusses the available evidence for the anti-therapeutic effect of compensation processes, attempts to identify its strengths and weaknesses, and makes suggestions for future research.

**Prisoners Who Chronically Self-Injure: A Prison Ombudsman’s Perspective**

Ivan Zinger, *Office of the Correctional Investigator, Ottawa, Canada* (ivan.zinger@oci-bec.gc.ca)
This presentation will highlight recent trends and research on self-injurious behaviour in Canadian federal corrections. In the last five years, the number of self-injury incidents in federal correctional facilities has almost tripled. In 2011 and 2012, among the approximately 15,000 federally incarcerated inmates, there were 912 incidents of self-injury recorded, involving 303 offenders. The capacity and response of the Correctional Service of Canada (CSC) to manage prison self-injury and the need for alternative measures for the most serious and complex cases will also be examined. This presentation will review investigative findings that show that incidents of self-injury often result in the use of security or control interventions (e.g. physical restraints and use of inflammatory spray) that are generally disproportionate to the risk presented and often inappropriate from a mental health needs perspective. These measures simply contain or reduce the immediate risk of self-injury, but are not intended to deal with the underlying symptoms of mental illness that can manifest itself in self-injurious behaviour. Prisoners who self-injure are also often moved to segregation cells. The isolation and deprivation that prevail in segregation units can exacerbate symptoms of mental illness. An escalation in the security response can be met by more frequent, sometimes more desperate, and occasionally even lethal self-injurious behaviour. There are a handful of mentally disordered offenders whose symptoms, behaviours, or severity of illness is beyond the capacity of correctional authorities to safely manage. A federal penitentiary is not the place for treating complex cases of chronic self-injury. It will be argued that the failure to provide specialized mental health care services and a responsive therapeutic environment to prisoners who chronically self-injure is not simply a public health issue; it is a human rights issue.

181. Therapeutic Jurisprudence and Criminal Court Proceedings

Eyewitness Misidentification: Determining and Confirming Correlates through an Experimental Design

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Chris Rose, University of Wisconsin at Oshkosh (rosech@uwosh.edu)
Lynda Crane, College of Mount St. Joseph (lynda_crane@mail.msj.edu)

According to the Innocence Project (2011), a reliance on eyewitness testimony is the leading cause of wrongful convictions in the United States. Wise and Safer (2003) found judicial knowledge of factors influencing the accuracy of eyewitness accounts to be correlated with judicial beliefs and behaviours that may be necessary to reduce wrongful convictions. Nonetheless, research has also found that most judges tend to have limited understanding of the factors influencing eyewitness testimony (Wise & Safer, 2003; Wise, Gong, Safer & Lee, 2009) and judicial knowledge tends to contradict expert knowledge (Wise, et al., 2009). Perhaps equally disconcerting are research findings indicating that, when compared to legal professionals, potential jurors tend to be even less knowledgeable about such factors (Benton, Ross, Bradshaw, Thomas & Bradshaw, 2006; Magnussen, Melinder, Stridbeck & Raja, 2009). Thus, identifying the correlates of eyewitness misidentification and disseminating that
information may result in reducing wrongful convictions. This research incorporates an experimental design to examine factors that influence the reliability of eyewitness testimony. Subjects will be assigned to a variety of experimental conditions wherein they will witness a fictional crime, be asked to recall elements of that crime, and identify the perpetrator. The independent variables of race of perpetrator, race of witness, change blindness, distance from the fictional crime, and recall time are among some of the variables that will be manipulated. After the experiment, subject interviews will also be held to ascertain the subject’s level of confidence in her/his eyewitness testimony. Results will be reported.

**Solutions-Focused Sentencing: A Mainstream Therapeutic Jurisprudence Approach**

Greg Connellan, *Magistrates’ Court of Victoria, Melbourne, Australia*  
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Recent years have seen the emergence of a range of specialist problem solving courts in many jurisdictions. Specialist courts include drug courts, community courts, family violence courts and indigenous courts. Specialist problem solving courts are characterised by legislative reform, specialist staff and judiciary, multi-disciplinary teams, tailor made processes and additional resources. The majority of cases however continue to be dealt with in mainstream court settings. Mainstream courts are characterised by large caseloads, limited time, backlogs, scarce resources and generalist staff and judiciary. Despite this there are significant opportunities for sentencing processes in particular to apply TJ principles. Many examples exist but they tend to arise in an ad hoc manner. This presentation will on the practical experiences of the author in the development and implementation of the “Solutions Focused Sentencing Process” at the Dandenong Magistrates’ Court, Victoria, Australia. This example will be used to explore the difficulties of applying solution focused judging in the mainstream and identify strategies to enable greater application of therapeutic jurisprudence principles in mainstream court settings. The presentation will explore the challenges faced by those wishing to develop and sustain such approaches at a local level. It will discuss the types of networks, institutional support and systemic changes needed to nurture and support local solutions-focused initiatives and build a solutions-focused culture across a court.

**Institutionalizing Therapeutic Jurisprudence Approaches in Mainstream Courts**

Pauline Spencer, *Magistrates’ Court of Victoria, Melbourne, Australia*  
(pts@magistratescourt.vic.gov.au)

Recent years have seen the emergence of a range of specialist problem solving courts in many jurisdictions. Specialist courts include drug courts, community courts, family violence courts and
indigenous courts. Specialist problem solving courts are characterised by legislative reform, specialist staff and judiciary, multi-disciplinary teams, tailor made processes and additional resources. The majority of cases however continue to be dealt with in mainstream court settings. Mainstream courts are characterised by large caseloads, limited time, backlogs, scarce resources and generalist staff and judiciary. Despite this there are significant opportunities for sentencing processes in particular to apply TJ principles. Many examples exist but they tend to arise in an ad hoc manner. This presentation will explore how TJ approaches can be institutionalised in the sentencing processes of a mainstream court. It will focus on the systemic changes needed in the areas of policy, legislation, administration, and in the judiciary – for this to occur.

**Therapeutic Jurisprudence: Bridging the Gap between Criminal Law Theory and Practice**

Louise Kennefick, *National University of Ireland at Maynooth* (louise.kennefick@nuim.ie)

This presentation examines the intersection of criminal responsibility theory and therapeutic jurisprudence. It challenges the traditional, Kantian approach to blame, particularly in the context of the offender with a mental illness, and draws upon a wave of recent scholarship which proposes an alternative, more holistic approach to criminal responsibility, through the advancement of such concepts as liberal communitarianism (Duff), socio-historical analysis (Lacey) and a dialectic blaming relation (Norrie). Though such a movement may be praised for its particularisation of moral context in theory, it can be criticised for its limitations when it comes to the manifestation of a more relational approach in practice. This presentation considers whether therapeutic jurisprudence can provide a means of bridging the gap between this deficit in criminal law theory and the law in practice, as it relates of the offender with a mental illness who comes in contact with the criminal justice system. The key question is: can therapeutic jurisprudence provide an effective framework to facilitate a fairer, more particularised approach to criminal responsibility ascription “on the ground”? In the spirit of a holistic approach, then, this presentation considers briefly the practices and techniques employed within the criminal justice arena, which have emerged as a consequence of therapeutic jurisprudence.

**182. Therapeutic Jurisprudence and Higher Education**

**Therapeutic Jurisprudence and Intellectual Activism**

David Yamada, *Suffolk University* (dyamada@suffolk.edu)

Intellectual activism is the term I use to describe an ongoing process of applying scholarly findings and insights to social change. Applying insights from adult education, public intellectualism, social network media, and legal and political advocacy, I will examine ways in
which TJ scholars can take their work beyond the academy and engage legal stakeholders and general public. Specific topics will include the role of traditional law review articles and scholarly books, the use of blogs and social media, affiliation with advocacy groups to advance law reform initiatives, outreach to and collaborations with non-legal and non-academic stakeholders, and accessing the media. In addition, drawing upon work I have been doing for the past decade on developing law and policy responses to workplace bullying, I will consider strategies, opportunities, and tradeoffs in conducting one’s work in this mode. After analyzing potential legal protections under American law for targets of bullying and psychological abuse at work, I drafted a model statute – now dubbed the Healthy Workplace Bill – that is being introduced in state legislatures across the country. This work has brought me into an interdisciplinary group of scholars, practitioners, and advocates addressing workplace bullying, and it has taught me many lessons about how to engage with a broader public on issues of social concern.

**Teaching Cross-Cultural Competence in Law Schools: Understanding the “Self” as “Other”**

Christina A. Zawisza, *University of Memphis* (czawisza@memphis.edu)
Tienne Anderson, *University of Memphis* (tiennes@gmail.com)

This presentation focuses on methods to teach cross-cultural competence to enhance the psychological well-being of lawyers and clients in order to more creatively solve problems. Three law professors, two who teach clinically, and one who teaches doctrinally, will expand upon the classic attributes of culture defined by Susan Bryant and Jean Koh Peters by incorporating research gleaned from an exercise recently administered to younger generations of law teachers. The results of this exercise demonstrate that, as we find ourselves in a global community, “culture” encompasses the intersection of the different attributes or categories that define a person. Thus “self” is always “other.” We then see the attorney-client relationship as “self” coming together with “other.” We will discuss the “whys” and “hows” of teaching cultural competency from this healing perspective. Professor Zawisza will share exercises applied to individual client cases; Professor D’lorah Hughes from the University of Arkansas School of Law will address exercises in systemic cases; and Professor Tienne Anderson from the University of Memphis School of Law will discuss teaching doctrinally. A curriculum module that envelops their three perspectives will result.

**Diversity and Higher Education: Exploring Therapeutic Jurisprudence as an Organizational Development Strategy**

Jacqueline S. Dejean, *Massachusetts School of Professional Psychology* (jacqueline_dejean@mspp.edu)
Recent US Supreme Court decisions have altered the definition of legally actionable diversity and with it complicated the ability of higher education institutions (HEI) to respond with psychologically beneficial strategies. With diversity as the change stimulus and higher education as the organizational system, this presentation evaluates current diversity law and race-based diversity research with the intent of building a case for using therapeutic jurisprudence as an organizational development (OD) tool for assessment of organizational psychological wellness. In the past decade, precedent setting lawsuits brought against HEIs, coupled with a changing sociopolitical landscape, have resulted in universities striving to defend their diversity practices. Empirical research by social psychologists increased our understanding of this changing landscape. Their research identified compelling reasons to not only support diversity initiatives, but also expand diversity efforts to encourage interaction of people from many and varying backgrounds. While the traditional structural definition of diversity, i.e. diversity by sheer numbers, remains a meaningful basis of diversity practice (building critical mass and averting tokenism), diversity as an issue of compelling constitutional interest now mandates substantive cross cultural interactions with measurable benefits for both majority and minority populations. I will review the highest court’s mandate, address higher education diversity within the current social climate, and lastly, consider an OD approach to creating solutions for these organizations. Specifically, I will summarize four recent Supreme Court decisions relevant to the interpretation of diversity related regulations and explore therapeutic jurisprudence, and its potential for serving as a tool for organizational development consultants.

The Role of Therapeutic Jurisprudence in Experiential Learning Programs in the United States and Beyond

Jennifer H. Zawid, University of Miami (jzawid@law.miami.edu)

Opportunities for experiential learning have increased dramatically in recent years, a trend which has the potential to transform legal education. “Externships” in particular are playing an increasingly prominent role in the law school curriculum as evidenced by the fact that almost every US law school now has an externship program. While these programs differ in scope and focus, in general, students receive academic credit and gain practical legal experience by working under the supervision of lawyers in diverse settings including local, national, and international corporations, government agencies, public interest organizations and the judiciary. This work is supplemented and enhanced by a corresponding academic course which ideally provides the students with opportunities to reflect on such things as their work and the legal profession as a whole. This presentation explores the role of therapeutic jurisprudence in both the design and implementation of these programs. In addition, the session will provide concrete and specific ideas for integrating TJ pedagogy into the externship curriculum. Finally, the session will discuss the benefits and challenges of specialized therapeutic court externship programs.

183. Therapeutic Jurisprudence and the Judicial Process in Cases Involving Children
More Therapeutic, Less Collaborative? Asserting the Psychotherapist-Patient Privilege on Behalf of Mature Minors

Bernard P. Perlmutter, *University of Miami* (bperlmut@law.miami.edu)

This presentation examines several cases upholding an adolescent’s right to assert the psychotherapist-patient privilege, over objections by parents or guardians, in juvenile and family court litigation. Promoting the child right to assert this privilege allows the child to maintain a confidential relationship with the therapist unimpeded by parental assertion or waiver of the privilege. The presentation examines these issues in light of state and federal law, public health policy and medical ethics, developmental psychology, and through the dual lenses of procedural justice and therapeutic jurisprudence. It argues that appointing counsel to advocate for the child’s private therapeutic interests is pivotal to the promoting the child’s interests as a privileged stakeholder in the proceeding. This argument dovetails with a central purpose of therapeutic jurisprudence: to promote positive therapeutic outcomes for participants in legal proceedings, which necessarily includes zealous legal advocacy for a patient’s articulated interest in unimpeded access to psychotherapy. But at what cost? Is there a danger that upholding the child’s right to assert the privilege will provoke collateral “anti-therapeutic” damage that deepens the parent-child conflicts rather than alleviates them? How do we define “therapeutic”? Will the child and the parent be estranged and their relationship irreparably damaged? Is this “anti-therapeutic”? Will the ruptures in these important relationships, brought about by the stresses and disagreements in the course of a full-tilt adversarial litigation over access to the child’s treatment records, harm the child or inhibit the child’s healing process?

The Challenges of Setting up the First Family Drug Treatment Court in Australia: Creating a Collaborative Environment in Cases of Parental Substance Abuse

Gregory Levine, *Children’s Court of Victoria, Melbourne, Australia* (gjzlevine@gmail.com)
Barbara Kamler, *Deakin University* (barbara.kamler@gmail.com)

Parental substance abuse is a serious problem requiring urgent attention worldwide. Increasing numbers of children in Victoria, Australia are being removed from their parent’s care, often permanently. The goal of family reunification – which is recognised to be in the best interests of the child – is rarely achieved through traditional adversarial court processes. In March-April 2012, I was awarded a Churchill Fellowship to do an in-depth study of problem-solving Family Drug Treatment Courts (FDTC) in the US and UK, the most effective intervention a court can provide to enhance rehabilitation and family reunification. This presentation will report on that analysis, conducted in collaboration with Emeritus Professor Barbara Kamler, and our early efforts to establish the first FDTC in Australia as a three-year pilot in the Children’s Court of Victoria, Melbourne. While TJ principles find easy application in problem-solving courts, the
process of setting up these courts has not been closely examined. The FDTC presents significant challenges to current practice in Australia, including the need to (a) develop more collaborative ways of working between the judiciary, social work, drug addiction and legal professionals; (b) introduce a docket system to ensure judicial continuity, frequent court hearings and a new role for the judicial officer in motivating parental recovery (c) build a court-based Multidisciplinary Team for delivering more intensive, closely coordinated treatment and rehabilitation to both parents and children. These challenges will be discussed in light of our efforts to set up a Steering Group and to advocate for the social, therapeutic and economic benefits of the FDTC in a restricted funding environment.

Child Participation in Family Disputes and the Well-Being of Children

Tamar Morag, Striks Law School (tamar.morag@gmail.com)

The right of children to participate in adversarial legal proceedings has gained increasing recognition in recent years. This trend, rooted in court verdicts and state legislation, has led to a rise in the scope of child participation in family courts proceedings in many countries. Yet practice in this area varies between various courts due to lack of clear judicial guidelines or legislation. While child participation in adversarial proceedings has increased significantly, the participation of children in non-adversarial procedures for managing and settling family disputes is still negligible, and suggestions to advance their participation in such proceedings have met with significant opposition. The presentation will discuss empirical data relating to the impact of child participation in adversarial and non-adversarial proceedings relating to family disputes on the emotional life and psychological well-being of children. Special emphasis will be put on the empirical findings of an evaluation study relating to an Israeli interdisciplinary pilot project on child participation in family courts. Discussion of the research data will relate to issues such as the effect of participation in reducing stress and allowing children to regain a sense of control over their lives as well as the way children perceive the experience of participation. Primary implications of the of the empirical data regarding the need to promote programs aimed at facilitating child participation in both adversarial and non-adversarial proceedings relating to family disputes will be discussed.

The Use of Therapeutic Jurisprudence to Promote Child Participation in Processes Involving Family Disputes

Karni Perlman, Bar-Ilan University (karnip1@netvision.net.il)

The management of family disputes in Western countries is currently undertaken in a variety of ways, ranging from adversarial proceedings in the court to cooperative proceedings outside it, such as mediation and collaborative divorce. Accumulated experience indicates that children’s
participation in court proceedings improves their mental condition and contributes to strengthening family ties. Nevertheless, children’s participation in legal procedures takes place only to a limited extent and, for the most part, under a discourse of rights. This presentation will propose making use of the principles and insights of Therapeutic Jurisprudence in order to advance the participation of children in family disputes. It will argue that Therapeutic Jurisprudence can provide a conceptual framework as well as practical tools for implementing qualitative and efficient programs of child participation in court proceedings. Using Therapeutic Jurisprudence principles and methods can emphasize the advantages and therapeutic benefits of the concept of child’s participation, thereby strengthening its application in both adversarial and non-adversarial proceedings, including mediation. It can address concerns and dilemmas that inhibit further development of appropriate programs for this purpose. For example, in regard to Family Courts, there is genuine concern about the ability of judges to conduct a proper child-hearing process. Adopting the Therapeutic Judge model and therapeutic judging methods that are used in Problem-Solving Courts can reduce this concern.

184. Therapeutic Jurisprudence and Mental Health Law

Overhauling a State’s Mental Health Code: The Texas Experience

Brian D. Shannon, Texas Tech University (brian.shannon@ttu.edu)

In November 2010, the Hogg Foundation for Mental Health awarded a two-year grant to Texas Appleseed and Disability Rights Texas to develop a report to outline issues and suggest revisions to the Texas Mental Health Code to better reflect the state’s current behavioural health system. The grant was an outgrowth of a recommendation by a state continuity of care task force that the state’s code was in need of a full-scale revision. In fact, the Texas Mental Health Code has not been substantially revised since 1985 – more than a quarter century ago. In contrast, behavioural health care standards, practices, and services have seen dramatic changes during this period. The grantees retained Dr. Susan Stone (an attorney/board certified psychiatrist) as a consultant. She formed a Steering Committee, composed of judges, attorneys, law professors (including this presenter), and clinicians. In addition, she facilitated forty-plus public meetings across the state with over 5,000 participants. Because of complexities, out-of-date provisions and terminology, the retention of legal standards inconsistent with modern treatments, a significant increase of law enforcement and criminal justice overlap with behavioural health issues, and an array of other concerns, the Steering Committee recommended a wholesale repeal of the 1985 code, and recommended enactment of a new structure. The report will be submitted in final form to the Texas Legislature in advance of the next legislative session which commences in January 2013. By the time of the conference, it is hoped that a new mental health code will have been enacted.

Predictors of Criminal Justice Outcomes among Mental Health Court Participants: The Role of Perceived Coercion and Subjective Mental Health Recovery
Research on mental health courts (MHCs) to date has been disproportionately focused on the study of recidivism and re-incarceration. Despite the strong conceptual links between the MHC approach and recovery-orientation, the capacity for MHCs to facilitate recovery has not been explored. This user-informed (MH/CJ) community based participatory (CBPR) study assesses the extent to which MHC practices align with recovery-oriented principles. We report on the experiences and perceptions of 51 MHC participants across four metropolitan Mental Health Courts, specifically: 1) how defendants’ perceptions of court practices, particularly with regard to procedural justice and coercion, relate to perceptions of mental health recovery and psychiatric symptoms, and, 2) how perceptions of procedural justice and mental health recovery relate to subsequent criminal justice outcomes. The authors hypothesized that perceived coercion and mental health recovery would be inversely related, that perceived coercion would be associated with worse criminal justice outcomes, and perceptions of mental health recovery would be associated with better criminal justice outcomes. Results suggest that perceived coercion in the MHC experience was negatively associated with perceptions of recovery among MHC participants. Perceptions of “negative pressures,” a component of coercion, were important predictors of criminal justice involvement in the 12 month period following MHC admission, even when controlling for other factors that were related to criminal justice outcomes, and that an increase in procedural justice was associated with a decrease in symptoms but curiously not to an increase in attitudes toward the recovery. Implications and future directions are discussed. Co-Investigators: Joshua Koerner, Center to Study Recovery in Social Contexts, Nathan Kline Institute for Psychiatric Research, Philip T. Yanos, Ph.D. and Sarah Kopelovich, ABD, City University of New York, John Jay College of Criminal Justice. This project was supported by the NIMH sponsored Center to Study Recovery in Social Contexts (MJ Alexander, PI, P20MH078188).

**How Can Lawyers, Using a Therapeutic Jurisprudence Perspective, Apply Knowledge and Skills from Other Specialized Areas of Law Practice to Better Represent Clients in Involuntary Commitment Proceedings?**

Robert L. Ward, Public Defender’s Office, Charlotte, USA
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Using the theory and practice framework of Therapeutic Jurisprudence to identify ways to improve representation, practice methods and outcomes for clients facing involuntary commitment proceedings, what can lawyers learn from other areas of legal specialization such as Special Education Law, Drug Treatment Courts, Lawyers Assistance Programs, Preventative Law or Sentencing Advocacy? Involuntary Commitment legal proceedings are by nature both
parallel to, and intertwined with, a medical and community support process. These proceedings are an intersection and linkage of law, medicine, family and community and as such present more subtle and complex issues that can confound and discourage lawyers who seek to do well by their clients and profession. Compounding the problem, the general public and legal culture can be less perceptive or unable to benefit from the profound improvements in understanding and treating the human brain and human behaviour. Yet, there are lawyers, judges and other professionals who out of interest or necessity have been able to branch out to expand their repertoire of counseling and advocacy skills and messages. By effectively adapting appropriate skills and messages, civil commitment lawyers have an opportunity for greater success for their clients, the justice system and possibly their own lives.

**Balancing Rights and Risk: The Experiences of a Mental Health Court**

Sue-Ann MacDonald, *Université de Montréal* (sueann.macdonald@umontreal.ca)

There has been a proliferation of mental health courts in recent years yet little is known about their functioning or impact (Schneider, 2010; Slinger & Roesch, 2010; Jaimes et al., 2009). They are based on a philosophy of therapeutic jurisprudence and restorative justice that offers a more “collaborative and individualized approach that differs from the traditional criminal justice system” (Slinger & Roesch, 2010: 258). The growth of mental health courts is, in some ways, recognition that criminal acts are often symptomatic of much larger underlying health and social problems and inadequate resources (Schneider, 2010; Winick, 2003). However, while mental health courts are on the rise little evidence has been mounted to demonstrate efficacy (Wiener et al., 2010). Despite the emerging prominence of a judiciarization of people with mental health problems (Otero, 2010) these tribunals have not been examined critically and certainly not from the user’s or key actor’s (judge, prosecutor, probation officer, case worker) point of view. Relatively little is known about: the points of entry, the nature and scope of mental health and judiciary interventions and histories, process outcomes, quality of life, intersectorial collaboration, and impact on system blockages (Comité Vigilance, 2011; Provencher, 2010; Jaimes et al., 2009; Kaiser 2009a, 2009b). There is a critical gap in knowledge about how these forms of intervention are experienced by the people for whom the tribunal has been established (either to help or to control), the assumed “voluntariness” stance (Redlich et al., 2010), and the impact they have on their lives (Frappier et al., 2009). This presentation will unveil preliminary results of an institutional ethnography taking shape in a mental health court situated in Montréal, Canada. Presenting data from a mixed method design (qualitative interviews with actors and participants, quantitative analysis of court files and documents, deployment of participant observation methods), this research will unveil the processes and effects of such a court. It will examine participants and key actors understandings of their involvement. It will develop participant profiles related to the interlocking trajectories through the justice, health, and social service systems.

**185. Therapeutic Jurisprudence and Multisensory Law**

Caroline Walser Kessel, University of St. Gallen (caroline.walser@vtxmail.ch)

Visual law, a branch of multisensory law, and therapeutic jurisprudence exist to demystify, calm, and comfort. As a guide to a Swiss Protection of Adults and Children Law (PACL) demonstrates, pictorial explanations, coupled with talking techniques from psychology and other therapeutic arts, can make complex legal directives more comprehensible, less stressful and frustrating, and more effective overall. In illustration, PACL concerns largely unprotected individuals: the abandoned or mistreated young and old, weak, infirm, disabled, mentally ill, or addicted. Its aim is to institute rights and interventions among persons often unable to grasp even simple text. By use of pictures, photos, cartoons, comic strips, diagrams, and careful color choices, a PACL guide introduces self-recognition, accessibility, assurance, encouragement, and trust within its intended audience; assistance and relief among workers, including guardians, social workers, police officers, and the judiciary, who serve such clientele. It also introduces legal educators to an innovative methodology how legal contents could be conveyed to lay people.

Impulses from Multisensory Law and Therapeutic Jurisprudence for Better Coping with Client Stress during Separation and Divorce Proceedings

Erna Haueter, Attorney-at-Law, Zürich, Switzerland (info@haueteradvokatur.ch)

As is well known, separation and divorce can cause a lot of emotional, cognitive, and physical stress for the parties involved. Although therapeutic jurisprudence has already developed helpful solutions for lawyers in general and for family lawyers in particular to cope with their client’s stress, there is still a great need to search for further helping tools and methods to alleviate this stress. Therefore, the question needs to be raised what impulses an integrated multisensory law and therapeutic jurisprudence approach would give to better coping with a client’s stress, especially in the family law practice. Within this setting, this presentation will focus particularly on the relationship between unfulfilled needs and stress, on stress that cannot or could not be reduced so far until the break-up of the client’s marriage, and on possible solutions to reduce or even eliminate her or his stress. Together, multisensory law and therapeutic jurisprudence provide such solutions. The suggested tools and methods range from imagination techniques, pulsation exercises, miracle-question coaching, scaling questions, and so forth. Drawing on case studies, the purpose of this presentation is to demonstrate that these kind of tools and methods contribute to the family law client’s feeling better or even well-being, despite her or his predicament of having to go through separation or divorce. As a result, the non-verbo-centric impulses from multisensory law and therapeutic jurisprudence expand the family lawyer’s
possibilities to deal with her or his client’s stress and therefore with her or his own. These impulses call for practical application and critical examination.

Promoting the Well-Being of Persons with Aphasia: Integrated Communicative Approaches from Therapeutic Jurisprudence and Multisensory Law

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According to WHO’s International Classification of Functions (ICF), the ability to organize life according to one’s individual needs and wishes is an essential aspect of social participation. Ensuring this ability is thus a key issue in rehabilitation. Moreover, the legal capacity of adults is linked with their ability to make free choices and to freely declare their intent. However, neuro-psychological illnesses can impede or fully constrain this freedom. Speech and language disorders, such as aphasia, are of particular importance in this respect. Persons suffering from expressive aphasia might nevertheless be able to state their contractual intent, provided that they receive appropriate communicative tools. Therapeutic jurisprudence and multisensory law might provide such tools. Thus, persons with expressive aphasia might complement residual language functions with signs and media that go beyond verbal language. These media and signs would be visual, audiovisual, tactile-kinesthetic, and multisensory. Persons suffering from receptive aphasia have difficulties in understanding written or spoken language. Therefore, the question arises whether and, if so, to which extent aphasic persons are able to understand legal or legally relevant contents, such as legal transactions? Receptive aphasia affects decision-making, which is relevant in the legal context since descriptions of legal and legally relevant contents are as a rule highly abstract and complex. Persons with receptive aphasia may not understand the questions involved in the course of legal and administrative procedures. Nor might they understand the legal or legally relevant facts needed to make legal decisions. This shortfall may be due to aphasic persons lacking the legal requirements to freely declare their intent. As a result, courts or agencies could deprive them of their legal capacity. This presentation will demonstrate that specific cases of aphasia might benefit from the communicative tools offered by therapeutic jurisprudence and multisensory law.

Introducing Multisensory Law and Therapeutic Jurisprudence into European Legal Education: Problems, Questions, and Tentative Answers

Colette R. Brunschwig, University of Zürich (colette.brunschwig@rwi.uzh.ch)
This presentation attempts to contribute to introducing multisensory law (MSL) and therapeutic jurisprudence (TJ) into European legal education. In doing so, it draws particularly on present and future Swiss legal education as a case in point. Given the ongoing Europeanization and internationalization of law and business, there is an intense debate on the indispensable subject matters of law in Switzerland and other European countries. To date, MSL and TJ are not taught at Swiss law schools, not even in postgraduate legal education. Despite their great relevance for legal practice and scholarship, MSL and TJ are hardly known at Swiss law schools and in local legal practice. Since law students should learn how to work efficiently and effectively both as legal scholars and legal practitioners, this immense gap in legal education contradicts these thoroughly legitimate requirements. On that account, the following questions need to be raised: 1. How are MSL and TJ already taught at other law schools, especially in the English-speaking world? 2. How could MSL and TJ be taught at European, in particular at Swiss law schools? As regards the second question, further questions need to be addressed, such as: Could European and Swiss law schools adopt the existing MSL and TJ curricula or at least some pertinent courses of other law schools? If so, how could or indeed should the teaching of MSL and TJ be adapted to the specific characteristics and needs of European, and more specifically, of Swiss legal (further) education? Should MSL and TJ be taught together or separately? What would be the pros and cons? Could MSL and TJ also be integrated into the teaching of other disciplines, such as legal psychology, legal pedagogy, and legal theory? If so how? What would be the pros and cons? In tackling these questions, the purpose of this presentation is to foster the introduction of MSL and TJ as legal disciplines to be taught not only in European universities but also in further legal education, law firms, state agencies, courts, and so forth.

186. Therapeutic or Anti-Therapeutic? Health Care Policy Choices in the United States

Physician-Patient Communication … Now against the Law?

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In January 2010, Florida House Bill 155 was filed to prohibit licensed practitioners from asking and or documenting whether a person owns a gun. The bill also prohibits licensed practitioners from dismissing a patient who refuses to answer questions about gun ownership. Breaking this law would be a 3rd degree felony, with punishment up to five years jail time and a five million dollar fine, no exceptions. This presentation will provide a brief history of House Bill 155, the subsequent amendments, and current standing. It will then engage participants in a lively discussion of the legal and medical issues regarding interference in the practitioner-patient relationship related, but not limited, to the following questions: How is this law possible, and how did its passage happen? What are the stakes? What about concerns for safety? Are we interfering in a relationship that has always been seen as exempt from such interference? Do we need to limit physician autonomy? Is patient privacy being protected with this law? Are we protecting patients from discrimination?
The Therapeutic Value of Mandated Reporting of Poor Diabetes Control: the Case of the New York City Department of Health’s A1C Registry

Alina M. Perez, Nova Southeastern University (amp@nova.edu)

As diabetes continues to affect the population of the United States in epidemic proportions, public health officials from the various states have launched initiatives designed to curtail the staggering toll in resulting diabetes complications, disability and mortality. In 2005 the New York City Board of Health approved the implementation of a diabetes registry, mandating laboratories to report all A1C levels of diabetic patients to the city’s Department of Health and Mental Hygiene. The department would then contact those patients whose A1C values exceeded the 8% marker (indicative of poor diabetes control) and their physicians to suggest modifications to their course of treatment. Under established registry procedures, information is collected without the patient’s explicit consent, using opt-out procedures. Although this initiative was designed to cover the entire population in the city of New York, it was piloted first in a largely African-American and Hispanic-American community with high rates of diabetes. While disease registries are well recognized and accepted surveillance tools used in public health, the mandatory nature of this diabetes surveillance system raises issues of privacy, social justice and governmental authority to intervene in the clinical management of non-infectious diseases. This presentation will address the possible psychological impact of this chronic disease management measure on those affected by it: patients of ethnic and racial diversity, physicians and the health care system in general, seeking to guide public health policy makers in the further use of such registries in other states.

A Therapeutic Jurisprudence Analysis of the POLST Paradigm: Do Physician Orders for Life-Sustaining Treatment “Work”? 

Marshall B. Kapp, Florida State University (marshall.kapp@med.fsu.edu)

In the United States, the Physician Orders for Life-Sustaining Treatment (POLST) model represents the next frontier, beyond traditional patient-executed advance directives such as living wills, in the quest to assure that patients with advanced critical illness who are presently unable to speak for themselves receive exactly the kind of medical care they want (and only such care) consistent with their own values and preferences. There are approximately fourteen states with established statewide POLST programs, encompassing several different combinations of statutory and regulatory frameworks; many other states are in various stages of development in terms of acceptance and implementation of the POLST concept. Both public policy and clinical practice regarding the care of individuals with advanced critical illness should be informed by evidence about what legal models “work” best in terms of furthering the important social, ethical, and medical goals implicated in this context. This presentation will critically review the
available literature and other evidence describing the identified actual benefits and shortcomings of the POLST paradigm thus far. It will then outline a preliminary research agenda that ought to be pursued as we seek to collect and analyze additional knowledge about the measurable therapeutic impact of the POLST paradigm on its intended beneficiaries.

**Therapeutic Value: Expanding Access to Hospice Care as a High-Relative-Value End-of-Life Option**

Kathy L. Cerminara, *Nova Southeastern University* (cerminarak@nsu.law.nova.edu)

Hospice care, a subset of palliative care, provides physical and psychological benefits to patients nearing the end of life, their families, and their caregivers. In the United States, however, access to hospice care near the end of life is neither universal nor usual. Most citizens’ access to any type of health care depends on being able to pay for it, and being able to pay for it usually requires health insurance coverage of the care in question. Most people under the age of 65 who have health insurance receive it through group plans established by their employers, while other major sources of health insurance are the federal Medicare system, the federal-state Medicaid system, private individual health insurance policies, and health insurance policies obtained through exchanges. Only some of these options cover hospice services, and those that do have established coverage rules that often place barriers in the way of access to it. Because hospice care produces great therapeutic effects at relatively low cost, coverage of that care should become routine. This presentation will explain why policymakers in the United States establishing coverage rules for Medicare, Medicaid, and individual insurance policies (whether obtained through exchanges or not) should assure access to hospice care for patients near the end of life.

**Respecting People with Disabilities in Health Care Policy: A Therapeutic Approach**

Elizabeth Pendo, *St. Louis University* (ependo@slu.edu)

Disparities in the health and health care experiences of people with disabilities raise serious ethical, social and legal issues. The persistence of barriers and inequities, and the continuing failure to ameliorate even seemingly simple problems – the lack of accessible exam tables, scales, and x-ray equipment, for example – suggests deeper issues. In the United States, the Patient Protection and Affordable Care Act (ACA) offers a new approach to addressing these disparities. The provisions of the ACA focus generally on expanding coverage, controlling costs, and improving the quality of the health care delivery system. The ACA also includes several provisions aimed at improving the health and health care of people with disabilities. Although the ACA holds great promise for persons with disabilities, its success depends upon the development of implementing regulations to “flesh out” details and gaps in the legislation, and
the response of states to the new mandates. This presentation will introduce a theoretical and practical framework for including the experiences and perspective of people with disabilities in the development of the Affordable Care Act, and health care policymaking, generally. In so doing, I will draw upon principles of therapeutic jurisprudence as well as insights from Disability Studies to acknowledge the experiences and expertise of people with disabilities, including as experts in developing regulations and programs.

187. Therapeutic Jurisprudence, Parenting, and the Best Interests of the Child in Family Law

Assessing the Therapeutic Benefits of Supportive Supervised Access

Shelley Kierstead, York University (skierstead@osgoode.yorku.ca)

Within the context of domestic family law questions of post-separation care for children, supervised access is available as a short term mechanism to facilitate contact between non-custodial parents and their children in situations where there is a perceived risk to the child in having unsupervised contact with this parent. While access on a supervised basis is intended to be short-term, pending a transition to unsupervised access, supervised access programs frequently do not offer supportive services to assist non-custodial parents to acquire the skills required to transition to an unsupervised access status. As such, the purposes of supervised access are, arguably, not as well facilitated as they might be with the inclusion of supportive parenting programs. Incorporating available feedback from one “supportive supervised access” pilot program that will be offered over the next twelve months by a Toronto-based supervised access program, I propose to discuss the therapeutic benefits of supportive supervised access to children and parents, and to explore the countervailing rationales for not having such services incorporated as an ongoing element of supervised access services.

Legitimacy Challenges in Child Protection: Comparative Observations between Sweden and Australia

Pernilla Leviner, Stockholm University (pernilla.leviner@juridicum.su.se)

Most developed countries have a system for child protection which also is a responsibility according to the UN Convention on the Rights of the Child. Encompassed in that of protecting children from abuse and neglect is a balancing act between children’s rights to protection and parent’s right to private- and family life. The assessment of what situations are to be considered harmful and therefore a risk for a child’s health and development is complex and requires knowledge from other fields of science such as medicine, behavioural science and social work. In that sense child protection entails a meeting between the law and other sciences. In this presentation legal aspects of child protection are discussed by taking the Swedish system as an
example, but also by contrasting this system with the one in place in Victoria, Australia. Both systems have been heavily and recurrently criticised, more or less constantly reviewed and partly reformed during the last decades. This indicates that the legitimacy of the systems is being questioned. When comparing the systems, with different legal cultures and traditions but with more or less the same kind of challenges, some overall aspects that have a fundamental impact on the legitimacy of any child protection system can be observed. In this presentation questions about access to justice, the role of the courts as well as prerequisites for correct and just decisions will be discussed with TJ as a theoretical starting point.

**Developing Swedish Legal Scholarship: Therapeutic Jurisprudence’s Theoretical Potential**

Moa Kindström Dahlin, *Stockholm University* (moa.kindstrom-dahlin@juridicum.su.se)

In our work as Swedish legal scholars in the areas of child protection and mental health law, we have come to realize that we, from a meta-perspective, are faced with the same kind of difficulties: When the law aims to secure individual’s right to protection or care, the core question is how to balance these values against conflicting interests of integrity and autonomy. This balancing is to be solved by a proportionality-test which often demands more than legal knowledge, regarding e.g. risk and capacity. Balancing is a complex activity and there is a risk that every decision is bad in some way. There are especially two categories of anti-therapeutic effects that have to be considered. Either, the result might be that the authorities do not succeed in offering the protection that an individual is entitled to (i.e., needs), or, the authorities might trespass individual rights in a way that are not proportionate. We will explore how TJ could serve as a theory to (1) evaluate the application of the law, (2) evaluate the efficacy and adequacy of the regulation and, (3) produce new alternative legal solutions. We will argue that TJ has a valuable potential as a theoretical starting point in Swedish legal scholarship, especially in social law. We will show that this potential is partly different in Sweden compared to other countries since the Swedish legal tradition and the role of the lawyers are different from common law systems with adversarial procedures.

**An Analysis of Israeli Family Law through a Therapeutic Perspective**

Dahlia Schilli-Jerichower, *Hebrew University of Jerusalem* (dahlia24@gmail.com)

Many issues in family law are suitable for the application of therapeutic principles, since divorce proceedings may naturally cause emotional damage to the family unit. In fact, the therapeutic principles can be seen in various issues in family law where we often desire to give everybody involved in the legal process the tools necessary to increase his or her emotional well-being and to avoid harmful and anti-therapeutic consequences. However, since there are hardly any therapeutic jurisprudence (TJ) “liquids” (legal practices and procedures) in Israel, I will focus on analyzing the “bottles” (the laws) which regulate the various topics of Israeli family law. During
my presentation I will map and analyze the Israeli family law from a therapeutic point of view. I will try to examine whether TJ is applied in the conventional legal frame of Israeli family law as well as whether that framework is suitable for receiving TJ contents despite the current status of the existing “bottles.” Through this analysis I will point out the various TJ friendly (Israeli family courts, Israeli juvenile courts, various legislations that help and empower the family members etc.) and TJ unfriendly (the division of authority between the civil family courts and the religious courts and the prominence of the religious law in Israeli family law etc.) components. At the same time, I will discuss existing therapeutic practices in Israel (“liquids”) such as mediation, the child participation program in family courts, etc.

Parental Substance Misuse, Care Proceedings, Problem-solving Courts, and Evaluation

Judith Harwin, Brunel University (judith.harwin@brunel.ac.uk)

The Family Drug and Alcohol Court (FDAC) in London is the first specialist problem-solving court in England and a new way of addressing the major problem of parental substance misuse in care proceedings when courts decide whether children can remain with their birth parents or require alternative permanency. FDAC has been adapted to English law and practice from a model of family drug treatment courts used widely in the USA that are showing promising results. The presentation will be in two main parts. First it will report on the findings of an independent evaluation carried out by Brunel University comparing child and parent outcomes, court process, service delivery and the costs of cases heard in FDAC and in ordinary care proceedings. The second part of the presentation will consider the fit between FDAC and forthcoming legislation that will have a marked impact on the scope and conduct of care proceedings. The changes are the product of the Family Justice Modernisation Programme, described as a “once in a lifetime opportunity” to reform family justice. What are the opportunities and barriers to wider roll-out of the FDAC approach in care proceedings? Both practical and conceptual issues will be considered. The Family Justice reforms and forthcoming changes in law make this presentation particularly timely. The sharp rise in care proceedings involving child neglect linked to parental substance misuse, mental health difficulties and domestic violence makes the search for effective ways to break the cycle of intergenerational harm especially important.

188. Therapeutic Jurisprudence, Restorative Justice, and Rights: Exploring Linkages

Restorative Justice in Alaska: A Design Approach

Brian Jarrett, University of Alaska at Fairbanks (bnjarrett@alaska.edu)
This presentation discusses the need for a design approach to restorative justice. Dispute Systems Design, as a discipline, empowers local organizations or communities to develop their own tailored approach to dispute management. The need for a ground-up design approach is as true in the criminal justice area as it is in others. The presentation reviews the current restorative justice programs in Alaska and demonstrates the need to refine these programs through a ground-up design approach. It also shows how a ground-up design approach is not incompatible with the interests of the court and the rule of law.

**Restorative Justice in Northern Ireland: Ten Years On**

John E. Stannard, *Queen’s University at Belfast* (j.stannard@qub.ac.uk)

The first day of December 2013 marks the tenth anniversary of the coming into force of the provisions relating to youth conferences in Northern Ireland. The effect of these provisions, which were set out in Part 4 of the Justice (NI) Act 2002, was to put the principles of restorative justice at the very heart of the system for dealing with young offenders in that jurisdiction. Since then these provisions have been operating alongside other community based restorative justice schemes, so making the province of Northern Ireland a key focus for those interested in the operation of restorative justice in the practical context. The purpose of this is to compare and contrast, in the light of the relevant academic literature, the operation of these two frameworks from a restorative justice perspective, the aim being to identify the strengths and weaknesses of each approach, and to consider what lessons might be learned for the future.


Esther Friedman, *Linnaeus University* (esther.friedman@lnu.se)

This presentation deals with the concept of “responsibility taking” from the perspective of offenders who participated in Restorative Justice Proceedings in Israel. The Adult Probation Service (APS) referred them to participate in victim-offender mediation processes coordinated in this service. I will present results of a mixed methods’ research, which includes a qualitative-constructivist analysis and a structural-linguistic scrutiny performed on the participants’ accounts collected in-depth interviews. The presentation will reflect on the various meanings and content areas of the term “responsibility,” as explained by an individual who acknowledges or denies responsibilities over his deeds. I shall present a comparison, between the world views of offenders who could meet their victims and those who did not. The analysis of themes and linguistic structures produced in the participants texts found some validation in relation to Naturalization theory and The Sociomoral Reflection Measure — Short Form (SMR-SF). I will present eight identified means, which emerged from participants’ narratives, indicating
responsibility taking. These eight means are applicable as evidence-based guidelines for Restorative interventions, in relation to the user’s perspective. It is useful for different phases of such procedures, as to prevent revictimization. Prospective reintegration possibilities are indicated, as the views presented by the participants illuminate their forthcoming intended behaviour. From a critical perspective, this discussion helps to identify more collective constructions related with the concept of “responsibility” in the Israeli context. These constructions are at variance with insights that provoke personal change, and can reproduce exclusion.

The Right Not to Suffer in Italy: Insights from the Point of View of Therapeutic Jurisprudence

Federico G. Pizzetti, University of Milan (federicogustavopizzetti@gmail.com)

This proposal will use the theoretical framework of therapeutic jurisprudence to offer some insights into the “right not to suffer” in Italy. Moving from a broad legal definition of “health,” as accepted by WHO, and also a comprehensive of psychological and socio-relational welfare, the constitutional roots of the “right not to suffer” may be found in Article 32 of Italian Constitution, where the right of health is defined as a fundamental right of the citizen and of general interest, and in Articles 2 and 3 of the same Constitution, where the state must recognize and promote the global development of the “person” in its morally, physically and mentally dimensions, under a regime of equality and social dignity. Particular attention must be given to the application of a “right not to suffer” in the case of end-of-life decision-making because of the high level of physical, moral and psychological suffering of those decisions: because of its constitutional weight, the “right not to suffer” may be used in order to scrutinize the behaviour of legislature and administration. While the state may cause some pain to its citizens (let us remember criminal punishment), should the state, in the exercise of this duty, act in order not to cause excessive suffering or undue pain? And should it fulfill this duty without frustrating citizen’s aspiration with over-burdensome bureaucratic procedures and without announcing a legislative initiative that may cause extreme fear or angst in the citizens who are asking their rights to be recognized and enforced? This presentation will reflect on two famous Italian cases of withdrawal of artificial life support, to demonstrate that both the administrative powers and the legislative ones were exercised in an anti-therapeutic way and therefore in an unconstitutional manner.

189. Understanding and Testing the Theoretical Underpinnings of Therapeutic Jurisprudence

An Analysis of Client Realism, Virtue Ethics, and Therapeutic Jurisprudence
Dale Dewhurst, *Athabasca University* (daled@athabascau.ca)

In this presentation I assert that at the foundations of Therapeutic Jurisprudence and the Comprehensive Justice Movement (Comprehensive Law Movement / Non-Adversarial Justice) lies the interplay between *client realism* and the natural law virtue theory of justice. This presentation seeks to examine that relationship in more detail by expanding our understanding of what is involved in *client realism* and examining how it harmonizes with Aristotelian virtue ethics and more contemporary conceptions of virtue ethics. This analysis follows upon my previous argument that Therapeutic Jurisprudence (TJ) can be seen as a normative system on two of three important levels. At Level 1 – Legal Practice, TJ asserts normative standards of practice. At Level 2 - Legal Theory, TJ delineates systemic developments that are required to achieve higher order goals of the justice system. However, at Level 3 – Legal Order, TJ does not mandate higher order normative standards, dictate overall purposes of law or define the overarching norms of justice. This is due to TJ’s respect for *client realism*: i.e. the idea that justice must be determined from clients’ needs and values, based upon clients’ choices regarding which rights to pursue or waive and which vectors are best employed to achieve the desired ends. Through a better understanding of client realism and contemporary analyses of natural law virtue theories of justice, it is hoped that the normative status of TJ at Level 3 will be clarified and TJ’s relationship amongst the various vectors of the Comprehensive Justice Movement will be more fully understood.

**Why Be Healthy When You Can Be Normal? How Normative Adversarialism Keeps Us Sick**

Nigel Stobbs, *Queensland University of Technology* (n2.stobbs@qut.edu.au)

The adversarial paradigm is grounded in a long-established political and economic liberal worldview. This worldview, heralded by Fukuyama as “the end of history,” manifests itself in the legal system as a normative adversarialism—with an assumption that contests are normal and necessary models of social organization. The liberal political order, with its almost exclusive focus on the rights and liberties of the individual as the benchmark for human flourishing, is seen as the most natural for human societies. Within this worldview, some scholars argue that legal adversarialism and a culture of conflict have become seen as not only endemic but as paradigmatic, to the extent that to question them is to attack the very core of modern liberal society. In that context, some see therapeutic jurisprudence as “profoundly dangerous” and that it portends the rejection of “fundamental constitutional principles that have protected us for 200 years.” They are, of course, correct. Therapeutic jurisprudence represents, not just a tinkering with the edges of legal practice and procedure, but a mortal threat to adversarialism and the liberal worldview. An adversarialism that has kept civil society sick and adrift on a sea of juristic paradigms for centuries. It represents an alternative worldview which threatens the existing political and social order. This presentation explains why this creates great fear for both the advocates of, and opponents of, therapeutic jurisprudence.
Standards in the Problem-Solving Courts

Sean Bettinger-Lopez, University of Miami (slopez@law.miami.edu)

My presentation will take the form of a “report back” from a Colloquium on Standards in the Problem Solving Courts that will be held on October 5, 2012, at the University of Miami, in honor of the late Professor Bruce J. Winick. It is expected that the Colloquium will be attended by approximately 60 academics, judges, practitioners, court professionals, and policy makers, many of whom are leaders in the field, who are engaged with problem-solving courts and the issues surrounding such courts. The Colloquium will focus on both legal and therapeutic standards and issues that arise when these very different kinds of standards collide, or conflict, with each other. The role of empirical social science research in the development of both legal and therapeutic standards will be explored, as will questions relating to professional ethics. The Colloquium is designed to bridge theory and practice, and to generate a productive dialogue that moves beyond the often polarizing perspectives that have characterized much of the debate surrounding these courts. Emphasis will be placed on the judicial perspective. At the Colloquium, a panel of active judges will weigh in on how current standards, or questions and concerns over absent or inadequate standards, affect or inform the legal, therapeutic, and practical functioning of their courtrooms. My IALMH presentation will cover the key issues generated by the Colloquium participants, and will highlight any points of progress or impasse observed.

Therapeutic Jurisprudence: An Appropriate Framework for Law Reform in Matters Involving Indigenous Women and Sexual Violence?

Erin Mackay, University of New South Wales (e.mackay@unsw.edu.au)

In this presentation, I propose to discuss the findings of my doctoral research into therapeutic jurisprudence and Indigenous women who have experienced sexual violence. In Australia, Indigenous women are overrepresented as victim/survivors of sexual violence, and the criminal law currently falls short of providing an adequate response to this type of violence. In my PhD thesis, I argue that the law, broadly construed, requires further development and better implementation before it can deliver justice to these victim/survivors. I outline current legal shortcomings including attrition and matters leading to low legal engagement and retention—such as the re-victimisation that frequently occurs through the legal process—before discussing whether therapeutic jurisprudence has the capacity to provide an adequate framework for reform in this area. In this presentation, I propose to engage with therapeutic jurisprudence on a theoretical level and ground this analysis with a discussion of the case study investigated in my PhD thesis. I plan to probe some of the underlying assumptions of therapeutic jurisprudence from the perspective of this “difficult” case study. I will consider how therapeutic jurisprudence
can inform a legal response to victim/survivors structured in accordance with gender and race, where harm usually is committed within trusted relationships, and in an intra-cultural context.

### 190. Using Therapeutic Jurisprudence to Improve the Criminal Justice System I


David B. Wexler, *University of Puerto Rico* (davidbwexler@yahoo.com)

Therapeutic jurisprudence has developed using some simple conceptual frameworks, such as looking at the “law” as a potential therapeutic (or anti-therapeutic agent), and conceiving of the “law” as “legal rules,” “legal procedures,” and “legal roles” (the behaviour and practices of lawyers and judges). There have been important TJ insights about each of the above categories, and sometimes the concepts of rules and procedures have been combined and called the “legal landscape” or the “bottles” of TJ, and the concept of legal roles has been thought of as the “lawyering” or the “liquid” of TJ. Recent interest in the “new lawyering” has paid special attention to the liquid. This presentation will take us back to the basics – the legal rules and the legal procedures. It will demonstrate how the legal landscape itself can promote or inhibit therapeutic results. And it will then show how the more TJ-friendly legal structures – the better “bottles” on the landscape – can be filled with the TJ “liquid,” with judicial and lawyer practices, so as to create maximum therapeutic results. By canvassing the legal landscape for TJ-friendly features, we can in essence create and propose a preliminary model TJ “code” of criminal processes, and by specifying the judicial and lawyer practices called for to take advantage of those processes, we can basically create an accompanying commentary to guide the operation in practice of the code. This presentation will give only a handful of examples of legal provisions and suggested practices, opening up the task of creating a comprehensive code and commentary -a project that would obviously take much time and effort from a large number of participants.

**Civil Commitment, Post- Insanity Acquittal Commitment, and the Expressive Function of Punishment**

Robert F. Schopp, *University of Nebraska* (rschopp1@unl.edu)

Therapeutic Jurisprudence pursues a project of research and law reform intended to promote the well-being of those affected without violating other values embodied in law. Civil commitment, criminal prosecution with the possibility of an insanity acquittal and post-acquittal commitment, and mental health courts provide three alternative forms of police power intervention applied to psychologically impaired individuals who harm or endanger others. A variety of practical considerations, such as the individual’s competence to proceed in the criminal process and the
individual and public interest in providing treatment in a timely manner might support a decision to apply one of these institutions, rather than the alternatives, to a specific individual in specific circumstances. In this presentation, I direct attention to the expressive function of criminal punishment as an additional source of relevant reasons for selecting the appropriate institution of police power intervention. As presented by Joel Feinberg, criminal punishment differs from civil penalties or interventions in that it expresses condemnation as reprobation and resentment. Thus, the justification for applying, or withholding, condemnation to a particular individual fulfils an important role in selecting the most justified form of coercive intervention when that person harms or endangers others. I do not contend that this consideration necessarily controls each specific case or provides a formula that can be mechanically applied. In any specific case, a complex set of considerations can apply. I contend, however, that reflection on the expressive significance of the decision to apply one institution, rather than the alternatives, should be an important component in selecting the most justified institution of police power intervention in each case.

**Humanity and Dominance in Police Interviews: Interview Outcome and Psychological Well-Being**

Ulf Holmberg, Kristianstad University (ulf.holmberg@hkr.se)

Kent Madsen, Kristianstad University (kent.madsen@hkr.se)

The amount and the quality of provided information in a police interview can be seen as the lifeblood of a crime investigation where a Therapeutic Jurisprudential approach may act as a facilitating factor. The aim of the present experimental study was to investigate the causal relationship between the humanitarian respectively the dominant interviewing approach and interview outcome. Interview outcome means the memory performance and psychological well-being. The experiment comprised three phases where 127 subjects between 17 and 70 years old participated. The first phase was an exposure where the subjects acted against each other in pairs in a computer simulation with a scenario symbolizing a crime event. A week after the exposure phase, the subjects were interviewed in a humanitarian or a dominant style symbolizing a police interview after a crime event. Six months later, the subjects were interviewed again in the same manner, symbolizing the interview in the court proceeding. Before and after every phase, the participants completed Antonovsky’s sense of coherence questionnaire and Spielberger’s STAI – the state form. The results from the two interview phases will be discussed in terms of interviewing styles, memory performance (i.e. the amount and quality of provided information) and psychological well-being.

“I Hear Einstein and Freud Corresponding in the Ether”

J. Tyler Carpenter, Consulting Psychologist, Hyde Park, USA (jtcarpenter30@hotmail.com)
The UN Declaration of Human Rights rose phoenix-like out of the ashes and war crimes trials of the shared global tragedy that was World War II. Like all true creativity and progress, the declaration was created by the tensions of individual authors’ mutual cultural differences, sustained through 60+ years of intermittently incendiary and destructive nationalist conflict and breakdowns. Now it struggles to manifest itself in the evolution of a common framework for insuring these individual rights through the collective construction of processes which define the nature, treatment, and therapeutics of criminally and mentally deviant behaviour. This presentation will introduce the basic elements of this challenging and evanescent process, how it is both abstracted and concretized, and encourage a group discussion of basic principles.

191. Using Therapeutic Jurisprudence to Improve the Criminal Justice System II

Therapeutic Jurisprudence and the Treatment of Combat Veterans Enmeshed in the Criminal Justice System as a Result of Untreated Mental Health Conditions

Evan R. Seamone, United States Army, Fort Benning, USA (evan.seamone@us.army.mil)

NOTE: All perspectives are those of the author in a personal capacity and not the official position of any government or military organization. While commentators may debate whether the war in Afghanistan or Vietnam qualifies as “America’s longest war,” the longest wars in any nation are those continually waged by veterans with untreated service-connected mental illness, most notably Post Traumatic Stress Disorder (PTSD). A 2010 study in the Journal of the Royal Society of Medicine revealed that the stigmas preventing combat veterans from seeking help for their symptoms are common in the militaries of five countries, highlighting an immediate concern of global dimension. For many of these “wounded warriors” who fail to seek help, PTSD often materializes in the loss of impulse control, self-medication, and interpersonal violence. Because such behaviour is, at once, symptomatic and “criminal,” for many, interface with the criminal justice system (either in military or civilian settings) is necessarily part of the process of re-integrating from a combat “survival” mode. The United States Department of Veterans Affairs has coined the phrase “justice-involved veteran” to describe this offender with very special needs. This presentation: (1) explores the reality of the “justice-involved veteran,” with special emphasis on the emerging rehabilitative ethic that has enabled formalized treatment alternatives in the United States and the United Kingdom; (2) suggests that all nations should consider the nature of their combat veterans’ involvement in the criminal justice system; and (3) emphasizes the active duty armed forces’ ability to incorporate TJ in its disciplinary structure closer to the origin of these mental conditions – for the benefit of all members of society.

Practical Application of Therapeutic Jurisprudence in Saskatchewan
In Canada, the USA, Australia and a few other developed countries, the concept of specialized courts, problem solving courts and mental health courts, have grown in practice over the past decade or so. This stems from the realization that the existing system of sentencing and imprisonment has not been effective in promoting community safety. Several provinces in Canada have established specialized courts. In Saskatoon, Canada, a 2011 conference of the provincial Judges focused on Mental Health Courts stimulated discussion on the idea of having one in Saskatoon. An interprofessional Advisory committee has also existed for about three years with the main aim of discussing the practicality of having a specialized court. Following a systematic review of the current literature on specialized courts, a student was assigned to the court room to review the relevant cases and interview respective Judges about their experiences and desires for meeting the needs of those accused coming before them with mental illness. This “needs assessment” was instrumental in gathering the right stakeholders for planning purposes. The experiences of an existing Drug Treatment Court in the adjoining city of Regina in the same province, the Forensic Center in the University of Saskatchewan as well as the established Forensic Psychiatry program all gave impetus to the movement towards creating and operating a mental health court. We conducted a systematic review of the existing evidence on therapeutic jurisprudence methods with a view to applying the evidence based practices in Saskatchewan, Canada. The steps to applying the evidence, obstacles and challenges will be discussed in the sessions. This involves youth, adult and system factors of success, involvement of stakeholders and involvement of policy makers. The key elements in service development cut across most components of the Criminal justice system and add benefits to the socioeconomic aspect of justice administration.

Systematic Literature Review of Topics on Therapeutic Jurisprudence

Glen Luther, University of Saskatchewan (glen.luther@usask.ca)

The existing system of sentencing and imprisonment has not been effective in promoting community safety. As such, model initiatives, from the 1990s, introduced different approaches for dealing with offenders within the Criminal Justice system. The sum total of using the Law as a treatment approach for the whole person is embodied in the principles of therapeutic jurisprudence. The current level of evidence is equivocal as to the effectiveness of the methods in outcomes. This may be as a result of the varying goals and outcomes with varying degrees of study participants. Such variations defy direct comparison. Having secured funding from the Forensic Center of the University of Saskatchewan, we conducted a systematic review of the existing evidence on therapeutic jurisprudence methods and outcomes. The process of literature search included the legal and medical topics contained in major search engines and government as well as non peer reviewed publications. The findings of the different types of specialized courts, the changing roles of the protagonists of the Courts and the recidivism outcome from the various aspects of the criminal justice system will be presented in the session. The implications of the loss of the “impartial” Judge and the “zealous” defence lawyer will be discussed and
approaches will be suggested to address the criticisms levied against the problem solving courts. The presentation will describe the results and implications of the systematic search and service development and delivery.

Clinical Management of Justice Referred Drug Users: Influence of Prohibitionist Practices on Health

Manuela Leal, Bahiana School of Medicine and Public Health (manuela.telles@hotmail.com)
Esdras Moreira, Bahiana School of Medicine and Public Health (esdrascabus@terra.com.br)

Since the law 11.343/06, Brazil has reduced the penalty of drug users, who are now submitted to alternative penalties, such as psychoeducative interventions. This study, co-authored with Esdras Moreira, analyses the impact of a local new group intervention, called “Grupo de Justiça” (Justice Group), on adhesion to treatment among substance users referred by justice to an addiction center in Salvador, Brazil. The Justice Group works with 10 to 15 individuals to discuss issues related to drug use in four weekly sessions. In observing this group, the authors tried to identify sociodemographic profile, social behaviour, exposition to police violence, motivational speeches to chance and stigma perception. The coordinator of the intervention was interviewed. Clinical files data was collected and added to the qualitative material. Contrary to the idea of the justice referral as a window of opportunity to treatment, it was observed to be an enhancement in resistance to change by the subjects attending the Justice Group because of the violence of the police, the coercive nature of the approach, and related stigma. Considering the length of the intervention, it was impossible to deal with such resistance. On the other hand, the discrepancy between the justice view of an ideal treatment (abstinence) and the nihilism of the health professional about the positive results of a coercive intervention, made both lose the opportunity to treat such population. Besides, in an unequal society, such intervention tends to catch the most vulnerable ones and to increase social exclusion and suffering.

The Modus Operandi of the Liberty Tribunal in Italy

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This presentation focuses on the so called “Tribunale della Libertà” (Liberty Tribunal) which has introduced in Italy a particular system of “reconsideration” for those judicial measures limiting the personal liberty of the indictee. The Liberty Tribunal, primarily thought as a centralized control body, has reached a remarkable level of development and, moreover, it has constituted one the most efficient court able to pass a judgment on the legal title of the committal, in respect of the art. 5 of the European Convention of Human Rights. The incidental proceedings of this Tribunal is a complementary and collateral diversion from the traditional court, which remains competent for the principal proceedings. The composition, the working and, in general, the
modus operandi of the Liberty Tribunal permit us to consider it one of the most outstanding examples of TJ principles.

**192. The Well-Being of Lawyers**

*Lawyer-Client Relationships and Well-Being*

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Over the last decade there has been increasing attention paid to the relationship between lawyer-client relationships and well-being. A growing body of literature demonstrates that lawyers as a group score lower on well-being questionnaires than other professionals. Other studies on health and well-being in the workplace demonstrate a positive correlation between the level of unhappiness of lawyers and their client’s satisfaction and vice-versa. This study investigates the relationship between lawyer’s happiness levels and client’s satisfaction levels. To draw lessons for the legal profession, this presentation compares empirical findings on well-being in the lawyer-client relationship with findings on client-lawyer experiences.

*The Effects of Collaborative Lawyering on Lawyers’ Well-Being*

Peter Kamminga, *VU University Amsterdam* (y.p.kamminga@vu.nl)

In identifying what may increase lawyer and client levels of happiness, one approach is identifying the kinds of legal practices that are most likely to contribute to levels of satisfaction. The field of Alternative Dispute Resolution and especially the practice of Collaborative Law is an example of a practice that seems to lead to higher clients’ as well as lawyers’ satisfaction. Both actors seem to be content with the process and the outcomes. This presentation studies the drawbacks and benefits of collaborative law and its contribution to well-being of lawyers.

*Exploring Lawyer-Client Interaction in Personal Injury Cases: A Qualitative Study of Positive Lawyer Characteristics*

Kiliaan van Wees, *VU University Amsterdam* (k.a.p.c.van.wees@vu.nl)

Personal injury (PI) victims who are involved in a claims settlement process have a worse recovery than those involved in a compensation process. One predictor for worse recovery is lawyer engagement. The lawyer-client relationship has been discussed from a law- and psychology perspective in procedural justice (PJ) and therapeutic jurisprudence (TJ) literature. However, the victim’s perspective has not yet been fully explored. This presentation outlines the
results of a modest but nonetheless informative qualitative study: twenty-one traffic accident victims were interviewed about their lawyer. From these interviews, five desirable lawyer characteristics are derived: communication, empathy, decisiveness, independence, and expertise. Communication and empathy correspond with aspects discussed in TJ and PJ, whereas decisiveness, independence, and expertise have not been addressed in literature yet.

**Happiness – or Else: Revising Our Expectations for Law Students and Lawyers**

Corie Rosen, *Arizona State University* (corie.rosen@asu.edu)

In *The Myth of Sisyphus*, Camus famously wrote, “There is but one truly serious philosophical problem, and that is suicide. Judging whether life is or is not worth living amounts to the fundamental question of philosophy.” Lawyers and law students, a notoriously depressive population with unusually high rates of suicide and related ills, have provided fertile soil for some of the most recent depression research. Dr. Martin Seligman, one of the people credited with the invention of positive psychology, studied depressive thinking in law students at the University of Virginia. The resulting article, “Why Lawyers are Unhappy,” established, albeit inadvertently, the foundations of an increasingly widely-held view that, for some, depression is perhaps a necessary ill and may even be crucial to the success of those who work in judgment-driven fields like law. This presentation will explore the findings of the University of Virginia study and its impact on the current popular conception of lawyer and law student psychology. This presentation will explore sources of depression in lawyers and law students and, using empirical and anecdotal data, will argue that students manifesting defensive pessimism may not necessarily be at risk for depression, though they may not manifest “happiness” or “optimism” as psychology currently defines those concepts.

**French Language Sessions**

**193. Atteintes à l’intégrité physique et psychique: insécurité et vulnérabilité**

*Le dommage psychique: un point de rencontre entre le droit et la psychologie*

Evelyne Langenaken, *Université de Liège* (evelyne.langenaken@ulg.ac.be)

Le principe de la réparation intégrale est un principe fondamental en droit de la responsabilité, garant du droit à l’intégrité physique et psychique de la personne. L’indemnisation du dommage
moral, préjudice immatériel, est toutefois délicate. Son évaluation, subjective, peut sembler arbitraire, donnant lieu à une indemnisation forfaitaire. Le dommage moral se définit habituellement comme un sentiment de pénibilité, engendré par la conscience d’une diminution physique et d’une inquiétude pour l’avenir. Cependant, les souffrances psychiques et les troubles qui y sont associés sont inclus dans le poste de préjudice temporaire des souffrances endurées ou dans le poste de préjudice du déficit fonctionnel permanent, et ne fait alors pas l’objet d’une indemnisation séparée. Le psychologue Demol propose, dans ses travaux, d’isoler un dommage neuf, le « dommage psychique ». Distinct du préjudice moral, il renvoie à une maladie mentale, une complication médicale qui se manifeste par des symptômes précis et un diagnostic médical. Ce concept, pouvant faire l’objet d’une évaluation médicale ou psychologique, permet une appréciation plus fine du dommage et favorise la réparation intégrale. S’ouvrent ainsi de nouvelles pistes de réflexions aux praticiens du droit, les invitant à la réflexion interdisciplinaire.

**Définitions et limites de la maltraitance par négligence: une étude qualitative**

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Définitions et limites de la maltraitance par négligence : une étude qualitative. Niveau G., Chauvet E., Richtering S. La notion de maltraitance infantile recouvre un champ vaste de comportements délictueux et criminels. Si la plupart des actes violents et sexuels à l’égard des enfants sont universellement reconnus comme répréhensibles, les opinions sont plus partagées à propos de comportements situés à la limite du domaine éducatif ou des relations affectives. Sur la base d’une étude qualitative menée auprès de médecins pédiatres de la ville de Genève, les auteurs ont exploré la perception que ces praticiens ont de la notion de maltraitance par négligence. L’étude montre une grande hétérogénéité dans la perception des comportements des parents à l’égard des enfants. La notion de maltraitance par négligence est habituellement reconnue mais la définition en est variable. La confrontation de ces résultats avec les standards internationaux confirme la difficulté à saisir certaine formes de maltraitance dans le domaine médico-légal.

**Violence au travail: le cas des magistrats brésiliens**

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Il est reconnu que les juges sont, en général, dans une situation vulnérable aux menaces et aux actes agressifs qui engendrent l’insécurité quotidienne. La recherche a été menée par l’Internet; 579 magistrats (total=3.400 magistrats) ont participé à l’étude au niveau national en 2011. On a
vérifié la combinaison de la perception avec les variables explicatives de chaque bloc au niveau de p < 0,20, en ne considérant que les variables appartenant à un même bloc. Plus d’un tiers des juges (37,7%) a rapporté des menaces contre sa sécurité personnelle au travail, 58,8% ont rapporté ne pas avoir perçu la reconnaissance des efforts qu’ils déploient, et sur ce total 28% sont stressés ou très stressés par le manque de reconnaissance. Ces résultats sont inquiétants parce que, d’une part, l’agression entre pairs ou bien perpétrée par la hiérarchie est associée à la réduction de l’engagement avec l’organisation. D’autre part, l’agression pratiquée par des agents externes fait augmenter le turnover et l’absentéisme. La dynamique de la justice du travail est en soi-même conflictuelle. Dans ce cadre, il est possible que les événements évoluent de manière à générer des actes interpersonnels agressifs ou violents, qui tendent à générer de l’insécurité pour les acteurs du système. Au-delà du lieu du litige, des facteurs structurels ont probablement influencé l’escalade des conflits. Les résultats obtenus sont conséquents et utiles dans la mesure où ils fournissent des indices sur les facteurs liés à l’insécurité dans le travail, lesquels peuvent être remis en question en temps de réforme du système judiciaire.

**Conséquences psychosomatiques des violences sexuelles chez l’enfant: prise en charge**

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Tout enfant vient au monde pour s’épanouir, se développer, aimer et être aimé ainsi qu’exprimer ses besoins et ses sentiments. Et pour cela, l’enfant a besoin du respect et de la protection des adultes. Lorsque cette enfant est victime de violences physiques, sexuelles et psychologiques, son intégrité subit une blessure inguérissable et donc c’est à ce moment que les « Les racines de la future violence sont mise en place ». Et donc ces blessures et leurs effets dévastateurs se répercutent inconsciemment sur la vie entière de l’individu et sur la société d’où la nécessité d’une prise en charge précoce sur tous les plans (thérapeutique, juridique et surtout psychologiques) et cela Pour éviter les conduites à risque.

**194. La gestion de la perception du risque de violence en psychiatrie: des alternatives à l’atteinte aux droits des personnes**

Un centre d’étude: dans quel but ?

Nathalie Baba, *Université de Montréal* (nathalie_baba@hotmail.com)

Au Québec, dans le domaine de l’étude des mesures de contrôle, aucun centre de recherche formalisé autour de ce domaine d’étude ne s’est développé jusqu’ici. Le Centre d’étude sur les mesures de contrôle du CRFS existe depuis 2011 et veut regrouper dans un même pôle les décideurs, chercheurs, gestionnaires, cliniciens et utilisateurs de services préoccupés par une utilisation minimale des mesures qui restreignent la liberté et l’autonomie des personnes. Les
axes du centre d’étude ont été définis suite à une journée d’étude regroupant les partenaires et suite à l’analyse des centres comparables aux États-Unis, en Angleterre, aux Pays-Bas et en Europe. Les buts et les objectifs du centre visent entre autres, à promouvoir des mesures alternatives aux mesures de contrôle, à promouvoir la qualité des interventions et la sécurité des patients et intervenants dans le domaine des mesures de contrôle, et ce, en s’appuyant sur des données probantes. Le centre possède trois volets (axes) : recherche, ressources et assistance et partage de savoir. Pour le volet recherche : les recherches actuelles menées dans les unités hospitalières de psychiatrie générale, de psychiatrie légale et auprès des familles seront présentées et l’orientation du centre d’étude sera discutée.

Pertinence d’une base de données commune pour mieux interpréter les taux d’isolement et de contention des instituts de santé mentale du Québec

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La standardisation de certaines ou de la totalité des données concernant l’isolement avec ou sans contention (IC) est souhaitée par les Instituts de santé mentale du Québec. En effet, énormément de pression est exercée par les groupes de défense des personnes atteintes de troubles mentaux, par le Protecteur du citoyen, et par les conseils d’administration des établissements, pour une meilleure compréhension des fréquences d’IC et des interventions visant à restreindre leur utilisation. Cette standardisation de la documentation se heurte à des limites contextuelles : 1) définition variée des mesures de contrôle ; 2) choix de facteurs contribuant à l’IC différent selon les formulaires ; 3) difficulté de comparaison. À partir des écrits de l’ICIS, de l’équipe de Janssen & al (2011) et de l’équipe de Bowers & al. (2011), nous visons à établir une définition commune de l’IC et à répertorier les facteurs importants permettant de documenter ces épisodes. Les résultats préliminaires indiquent que des facteurs importants ne sont pas considérés, limitant la capacité des Instituts de santé mentale et du politique à protéger les droits et libertés et à améliorer les soins de santé des populations vulnérables, dont celles qui présentent des troubles mentaux associés à des comportements violents.

Implantation et évaluation du retour post-isolement en santé mentale: un levier pour modifier les pratiques cliniques

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En milieu psychiatrique, la gestion de comportement agressif des patients se termine parfois en isolement avec ou sans contention (IC). Afin d’en diminuer l’utilisation, un retour avec l’équipe et le patient sur son isolement a souvent été proposé, sans toutefois avoir été évalué. Cette intervention prend assise dans la pratique réflexive et se centre sur les étapes de la prise de

L’objectif du projet de recherche doctoral sera d’adapter, implanter et évaluer une intervention de REPI afin d’améliorer l’expérience du patient et des infirmières d’une unité de soins psychiatriques aigus en trouvant des moyens alternatifs à la mise en isolement.

Méthode: Le protocole du devis mixte séquentiel exploratoire (Creswell & Plano Clark, 2011) sera présenté. Le volet qualitatif permettra l’adaptation de l’intervention et l’évaluation de sa perception par les infirmières et les patients, tandis que le volet quantitatif servira à évaluer la compréhension du comportement agressif des patients par les infirmières ainsi que la prévalence de l’IC.

Retombées: Ce projet permettra d’enrichir la pratique infirmière et la santé des personnes souffrant de maladie mentale présentant des épisodes d’agressivité.

**Ordonnance de traitement au Québec**

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Le phénomène de la porte tournante dans les pays occidentaux existe depuis l’instauration de la désinstitutionnalisation des personnes atteintes de troubles mentaux. Ce phénomène est dû à une détérioration de la santé de ces patients en lien avec une non-adhésion au traitement, une rupture de soins ou de la toxicomanie dans la communauté. Des conséquences importantes émergent de cette situation telles une réadmission dans les institutions psychiatriques ou une incarcération suite à des gestes violents ou antisociaux. Afin de trouver une solution à ce problème et de maintenir le traitement dans la communauté, les ordonnances de traitement en communauté (OT) sont de plus en plus utilisées. Cependant, il existe peu de connaissances scientifiques sur l’OT (Québec=1 étude). L’utilisation des OT varie fortement d’un pays ou province à l’autre.

Objectif: Documenter le phénomène de l’OT au Québec.

Méthode: 105 premières requêtes de patients Québécois, de 2003 à 2011, volet qualitatif et quantitatif.

Résultats: Différences significatives sur le nombre, la durée d’hospitalisation et la fréquentation des services d’urgences.

Retombées: Ce projet pourra mener à des recommandations appliquées au contexte québécois sur l’utilisation et les besoins de formation pour les personnes impliquées dans le processus des OT.

**La réparation du préjudice moral en droit algérien**

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Les auteurs mettent ici à nu l’absence de toute disposition juridique à l’individualité du préjudice moral (reconnaissance juridique) et son indemnisation, qu’il découle d’un dommage relevant du droit commun, du Droit du Travail ou Social. En effet la Loi ne répare le préjudice moral, quelque soit sa forme et sa gravité, découlant de tout dommage, qu’en cas et seulement de décès. Les souffrances endurées du fait d’un grand handicap, ou celle résultant d’une amputation d’un membre, de cicatrices visibles ou d’une boiterie ne sont réparées par aucun système d’indemnisation en vigueur en Algérie. Inciter le législateur à l’inclure dans la procédure d’indemnisation, par là même, impliquer les pouvoirs publics à tendre vers un dispositif d’accompagnement au gage d’une véritable garantie des droits de toute victime qui souffre dans sa chair et dans sa « tête » de l’événement traumatique qui a fait brusquement irruption dans sa vie et qui a laissé une trace indélébile, telles sont les orientations et recommandations des auteurs.

195. Les problèmes de santé mentale en milieu carcéral

Troubles mentaux en milieu carcéral 1988-2010

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Un comité du Sénat canadien identifie clairement les détenus atteints de troubles mentaux parmi les populations vulnérables au chapitre des soins de santé mentale (Kirby & Keaon, 2006). Ayant entre autres pour objectifs de suggérer des changements à apporter au système de santé mentale canadien et de présenter un plan d’action pour répondre aux besoins des canadiens à ce chapitre (Kirby & LeBreton, 2002), le comité en arrive à la conclusion que les détenus, notamment les détenus fédéraux canadiens, ne reçoivent pas les services auxquels ils ont droit. Parmi les causes, ils notent le fait que ces besoins ne sont pas identifiés au moment de l’évaluation initiale, soit en début d’incarcération. Le comité recommande entre autres qu’il y ait une évaluation systématique des problèmes de santé mentale dès l’entrée en détention. Au delà de la sécurité publique, la question doit être regardée sous un angle humanitaire, eu égard aux souffrances, à la détérioration de l’état de santé mentale et à la victimisation vécues par les individus atteints de troubles mentaux ou de déficience intellectuelle (DI) lors d’une période d’incarcération. Les résultats présentés dans ce symposium permettent d’établir la prévalence des troubles mentaux, des troubles de la personnalité et de la déficience intellectuelle chez les détenus fédéraux nouvellement condamnés à une sentence de deux ans ou plus de détention dans la région du Québec du Service Correctionnel du Canada et ce, plus de 20 ans après la dernière étude véritablement épidémiologique en milieu carcéral au Canada. Le projet intègre un ensemble de

**Trouble déficitaire de l’attention/hyperactivité, trouble de personnalité antisociale et adaptation sociale chez des détenus adultes**

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Des modèles théoriques placent l’hyperactivité et l’impulsivité au centre du développement des conduites antisociales (Farrington, 2003; Moffitt, 2003). Des études empiriques suggèrent une association significative entre le trouble déficitaire de l’attention/hyperactivité (TDAH) et le trouble de personnalité antisociale (TPA) à l’âge adulte (Johansson et al., 2005; Semiz et al., 2008; Young et al., 2003). Le TDAH ou certaines de ses composantes seraient des facteurs de risque d’un TPA à l’âge adulte. Ces études présentent néanmoins certaines limites à la validité externe: détenus ayant commis des crimes violents (Johansson et al., 2005), délinquants ayant fait leur service militaire (Semiz et al., 2008), hommes détenus en milieu hospitalier (Young et al., 2003). La présente étude vise à examiner les associations entre les composantes du TDAH, le TPA et l’adaptation sociale chez un échantillon représentatif des détenus. L’échantillon est constitué de 565 hommes recrutés en milieu carcéral. Les résultats suggèrent que les détenus ayant un TPA présentent un score T plus élevé que ceux sans TPA sur 3 des 4 échelles du *CAARS* (inattention/problèmes de mémoire, hyperactivité/agitation, impulsivité/labilité émotive). De plus, les détenus manifestant un TPA présentent des indices de moins bonne adaptation sociale (scolarité, nombre d’emplois et d’unions conjugales à vie).

**Fréquence et lieux d’apparition des comportements suicidaires chez les délinquants**

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Il existe un débat sur les facteurs qui seraient associés aux comportements suicidaires des détenus.

*Objectif:* Mieux cerner ce qui relève de l’institution carcérale ou de la vie délinquante.

*Méthode:* Enquête épidémiologique réalisée auprès de 565 hommes nouvellement incarcérés dans un pénitencier canadien.

*Résultats:* 28,4% des nouveaux détenus déclarent avoir déjà fait une tentative de suicide ou posé un autre geste d’auto-agression. Ces nouveaux détenus rapportent 2,8 incidents en moyenne. Ces fréquences sont très élevées par rapport à ce qui est rapporté pour la population générale masculine au Canada et, plus particulièrement, au Québec d’où proviennent ces détenus. Certes, ces taux peuvent être semblables à des taux rapportés dans d’autres populations carcérales mais, ce qui est intéressant, c’est que 63% des incidents suicidaires ou auto-agressifs rapportés se sont produits hors des murs des institutions liées aux systèmes d’incarcération adultes (prisons, pénitenciers, cellules de postes de police) ou juvéniles (centres jeunesse).

*Conclusion:* Le poids de la vie délinquante influence probablement, à lui seul, le passage à l’acte suicidaire même si la vie en prison est aussi un nouveau fardeau.

**Les hormones stéroïdiennes et le comportement violent**

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*Objectif:* Présenter les liens entre les hormones stéroïdiennes et les CV en ciblant spécifiquement les ratios entre la testostérone et le cortisol de même que la DHEA et le cortisol.

*Méthode:* Les données proviennent d’une étude sur l’épidémiologie des troubles mentaux, des troubles de la personnalité et de la déficience intellectuelle en milieu carcéral. 303 participants ont accepté le prélèvement sanguin. Les analyses porteront sur les liens entre les variables cliniques, la violence et les niveaux d’hormones stéroïdiennes (y compris les ratios).

*Conclusion:* La discussion portera sur les liens observés entre les variables neurobiologiques et le comportement violent, eu égard notamment à l’apport au diagnostic et au traitement.

**Psycho trauma: cette grande inconnue du droit pénal**
Les auteurs se proposent ici, à travers quelques cas particulièrement graves de violence sexuelle chez l’enfant, de mettre l’accent sur l’aspect archaïque des procédures judiciaires de prise en charge tant sur le plan médico-judiciaire que sur le plan socio psychologique de l’enfant et de ses parents. La prise en charge psychologique de toute victime mineure (et de ses parents) avant, pendant et après le procès pénal n’existe pas dans les procédures pénales (auditions, témoignage, interrogatoires à l’infini, confrontation avec le violeur etc.), à cela s’ajoute l’absence de toute disposition pénale de réparation, et donc d’indemnisation du Psycho Trauma et des autres atteintes psychologiques et mentales des enfants abusés sexuellement. Les auteurs mettront ainsi à nu les carences judiciaires et pénales tout en interpellant le législateur sur l’aspect urgent à amender ce Droit qui ne sert finalement que l’auteur du fait.

196. Violence familiale

*Enjeux psychiques des hommes ayant commis un homicide dans la famille*

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La violence dans la famille a des impacts majeurs autant sur le plan individuel que social. Au Québec, nous avons répertorié 139 cas d’hommes ayant tué leur conjointe sur une période de 10 ans (1997-2007) et 10 hommes ayant tué leur conjointe et un ou plusieurs de leurs enfants. Nous avons effectué des entrevues avec plusieurs de ces hommes dans les centres de détention (fédéraux) du Québec. Nous présenterons des résultats portant sur leur fonctionnement psychologique. Trois sous groupes se dégagent : les hommes aux prises avec une forte angoisse d’abandon, les hommes qui vivent la perte comme un affront (forte blessure narcissique) et les hommes présentant des symptômes de dépression majeure. Enfin, nous ferons des liens avec la littérature sur le sujet ainsi que sur la prévention de ce type d’homicide.

*L’homicide conjugal féminin: motivations et enjeux psychologiques sous jacents*

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**Place de la psychothérapie dans le traitement de patients parricides**

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Cette présentation porte sur le traitement psychothérapeutique de patients atteints de troubles mentaux graves ayant commis un parricide. La prise en charge de ces patients admis sur une unité de traitement d’un hôpital psychiatrique sécuritaire comporte plusieurs étapes et s’adresse à différentes facettes de leur personnalité. Parmi les modalités thérapeutiques offertes aux patients, la psychothérapie peut contribuer au travail de reconnaissance de la maladie et d’acceptation du geste fatal posé. Dans cette présentation, nous traiterons de la place du psychologue au sein de l’équipe multidisciplinaire et aborderons les objectifs et étapes de la psychothérapie avec ces patients. Nous exposerons la place centrale qu’occupe le travail de deuil et tenterons d’aborder quelques enjeux relationnels qui se dégagent de la démarche psychothérapeutique.

**Violence intrafamiliale pathologique: expertise et traitement**

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Objectifs pédagogiques:
1- Se familiariser avec les différents types d’homicides intrafamiliaux dont les crimes dits passionnels
2- Évoquer les questions que cela soulève pour le psychiatre expert
3- Aborder les processus thérapeutiques qui en découlent

Italian Language Sessions

197. Criminalità in internet e criminalità economica e reati stradali

Le nuove forme di dipendenza e criminogenesi per mezzo dei “canali virtuali informatizzati:” dalle internet addictions al gambling fino alle nuove forme di devianza sul web per mezzo di social network, mmorpg, mud e videogiochi on line. Profili socio-antropologici, giuridici, responsabilità e tutele

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Ci troviamo di fronte a nuove dipendenze o trasmigrazione di patologie già conosciute verso le autostrade virtuali di internet? La presente ricerca risponde a questi ed altri interrogativi, anche al fine di arginare le pesanti ricadute sulle famiglie dei soggetti coinvolti e loro patrimoni. Partendo dall’analisi e studio delle internet addictions, a cavallo tra normalità e “anormalità,” s’indagano sfaccettati fenomeni controversi quali il gioco d’azzardo e quello patologico, lo shopping compulsivo e il commercio on line, la ricerca ossessiva di informazioni. Ci s’immergerà nel mondo dei casinò (addetti ai lavori e clienti) così come in quello dei giocatori professionisti on line, dei frequentatori di reti sociali “artificiali” fino alle piattaforme dedicate al sesso parafilico nei mondi virtuali. Si varcheranno le nuove frontiere internet dello spaccio di droghe così come quello del commercio di farmaci conraffinati, senza tralasciare l’onnipresente ingerenza delle associazioni criminali di stampo mafioso nel racket delle scommesse clandestine e gioco d’azzardo. Tra Oriente e Occidente, monitorando le dinamiche alla base delle dipendenze da social network, da MUD e da MMORPG si vaglieranno nuove ipotesi sulla devianza e fenomeni
Omicidio stradale: dalla proposta di legge alla possibilità di attuazione

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La sicurezza stradale è un tema molto attuale e spinoso. Le morti su strada, causate da soggetti che si mettono alla guida senza esserne in condizione, sono, infatti, sempre più numerose e, spesso, i provvedimenti disciplinari non sono commisurati alla gravità del danno prodotto. La semplice lettura di tale dato ha costretto le istituzioni e la politica italiana a una serie di riflessioni. Recentemente è stato creato ad hoc un sito per sensibilizzare l’opinione pubblica, al fine di inasprire le pene nei confronti dei reati occorsi su strada, tanto che è stata ventilata l’ipotesi di inserire una nuova fattispecie giuridica, l’omicidio stradale, appunto, per colpire chi guida sotto l’effetto di droghe o alcol, laddove il tasso alcolemico sia sopra 1,5%. Da 8 a 18 anni la pena proposta, fino all’arresto in flagranza di reato. Il discorso sulla normativa in tema di stupefacenti, sull’imputabilità o meno del soggetto resta aperto ed offre numerosi spunti di discussione, aprendo la strada a nuove prospettive in tema di prevenzione e di sicurezza tout court.

La legge di ratifica della convenzione di Lanzarote da parte dello stato Italiano e la punibilità del “grooming”

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La Convenzione, siglata a Lanzarote il 25 ottobre 2007 ed entrata in vigore il primo luglio 2010, impegna gli Stati membri del Consiglio d’Europa a rafforzare la protezione dei minori contro lo sfruttamento e l’abuso sessuale, adottando criteri e misure comuni per la prevenzione del fenomeno, il perseguimento dei rei e la tutela delle vittime. Finalmente anche lo Stato Italiano ha dato il via libera definitivo alla piena ratifica della Convenzione de quo nell’ordinamento italiano. Tra le novità più importanti previste dal documento, l’introduzione di due nuovi delitti nel codice penale italiano: l’istigazione a pratiche di pedofilia e di pedopornografia e l’adescamento dei minori anche per via telematica, il cosiddetto “grooming.” Tali fattispecie criminali, finora solo previste come ipotesi astratte, entrano a pieno titolo a far parte del codice penale italiano. Inoltre, con la normativa di ratifica viene data una completa definizione dell’adescamento di minore, inteso come «qualsiasi atto volto a carpire la fiducia del minore attraverso artifici, lusinghe o minacce posti in essere anche mediante l’utilizzo della rete internet o di altre reti o mezzi di comunicazione». Se da un lato la legge si propone come un’integrazione dell’attuale normativa in tema di reato commessi in danno di minori – dal momento che vengono previste pene più severe per una serie di reati: dai delitti di maltrattamenti in famiglia a danno di minori ai reati di associazione a delinquere finalizzata alla commissione dei reati a sfondo
sessuale nei confronti di minori, dall’altro introduce, finalmente, il principio fondamentale dell’inescusabilità dell’ignoranza dell’età (minore) della persona offesa dal reato. Ma la ratifica della Convenzione all’interno dell’ordinamento giuridico italiano non importa solamente per la previsione di nuove ipotesi di reato o per l’inasprimento delle pene per chi abusa di giovani vittime, anche a livello telematico, quanto piuttosto per gli strumenti di tutela messi in campo a salvaguardia del fanciullo, non solo a carattere nazionale: la Convenzione prevede, infatti, anche la predisposizione ed adozione di misure comuni tra gli Stati per la prevenzione ed il perseguimento degli autori di reati sessuali nei confronti dei minori, anche oltre i confini del loro Paese di origine, nonché il rafforzamento degli aiuti alle vittime della pedofilia.

**Guida in stato d’eccubrezza e guida sotto l’effetto di sostanze: il codice della strada e l’eccubrezza riformatrice del legislatore tra libertà personale, sicurezza della circolazione e grandi sviste**

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La sicurezza stradale è uno dei temi sociali che in Italia è stato affrontato con straordinario impegno politico, straordinario soprattutto in tema di risultati: dalla legge 125 del 2008 alla legge 94 del 2009 a quella 120 del 2010 per arrivare all’ultima del 2012. In pochi altri ambiti legislativi e sociali la politica italiana ha lavorato con tanto fervore e produttività. Un rincorrersi di riforme che ha prodotto un quadro di assurd complessità, animato da norme che si sono andate stratificando l’una sull’altra in un crescendo più emotivo che giuridico e/o scientifico e soprattutto un crescendo feroce e complicato sul piano sanzionatorio in particolare per i reati di guida in stato d’eccubrezza e guida sotto l’effetto di sostanze: per determinare giuridicamente il fatto e la conseguente sanzione bisogna considerare anche l’età del conducente, da quanto anni ha conseguito la patente, a che ora ha commesso la violazione, che tipo di veicolo conduceva, chi è il proprietario del veicolo, se ha causato un incidente. Un disordine normativo che ha generato sul piano applicativo difficoltà e superficialità. In questo lavoro osserveremo gli aspetti controversi e gli effetti che la confusione normativa ha generato e la sintesi dei risultati statistici in termini “preventivi.”

**198. Criminologia clinica e prevenzione**

*Petiot-Cianciulli (il lupo e la strega: due frettolosi processi)*

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Marcel Petiot (denominato il “LUPO”), Leonarda Cianciulli (detta anche “La Strega”): due vicende apparentemente lontane eppure incredibilmente simili. Marcel André Henry Félix Petiot nasce ad Auxerre in Francia il 17 gennaio 1897; si rese responsabile di oltre 60 omicidi. Fu ghigliottinato il 25 Maggio 1946. Leonarda Cianciulli denominata anche “La saponificatrice di
Correggio” oltre che “La Strega del Sapone” nasce invece a Montella in provincia di Avellino (Italia) il 14 novembre 1893; fu dichiarata colpevole di triplice omicidio (Ermelinda Setti, Francesca Soavi, Virginia Cacioppo), distruzione di cadavere tramite saponificazione e furto aggravato per cui fu condannata a trenta anni di reclusione e tre da scontare prima in ospedale psichiatrico. Le biografie di Marcel Petiot e di Leonarda Cianciulli sembrano molto simili, dei veri destini incrociati soprattutto in riferimento ai primi anni della loro infanzia e della loro giovinezza a tal punto da far pensare agli stessi fenomeni psicopatologici. I loro processi furono accompagnati da una enorme risonanza mediatica che incise non poco sugli esiti delle sentenze. Scopo della comunicazione è quello di ricostruire i due casi celebri alla luce delle recenti acquisizioni non solo di carattere storico ma soprattutto in un’ottica psicopatologica aggiornata alle più recenti acquisizioni scientifiche, tecnologiche e cliniche. Viene descritta una sorta di consulenza virtuale applicata ai due protagonisti che forse avrebbe cambiato, in ambedue i casi, i risultati processuali a nostro parere troppo frettolosi e che solo in una attuale revisione critica, possono assurgere all’altare della verità scientifica. I protagonisti sono teschi, depezzamenti, ossa, poliziotti, banditi, calce, giudici. In entrambi i casi rimangono mille misteri. Mentre tutt’intorno, come in Hannibal Lecter, ronza la Guerra.

**Dal tatuaggio alla scarificazione: quando il corpo diventa il proprio dipinto. espressività sociale o gratificazione autoaggressiva?**

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Risaputamente il tatuaggio non è una pratica dei nostri giorni e sin dalla preistoria l’uomo è stato portato a lasciare dei segni, delle tracce, sull’ambiente circostante e, in particolare, a decorare i luoghi a lui familiari, per renderli più intimi e personali. La pratica del tatuaggio, insieme alla scarificazione e alla pittura ornamentale, è da considerarsi dunque un’arte antica, nata per soddisfare un impulso umano con connotazioni non solo individualistiche, ma anche con risvolti sociali, tanto da poter essere considerata come un atto sociale primitivo, come mezzo di comunicazione espressiva di affermazione personale: “mi affermo anche comunicando il possesso e la gestione del mio corpo.” Il desiderio di tatuarsi, esploso negli anni 1990 insieme con il diffondersi di riviste e centri specializzati, non sembra portare con sè ribellione e rabbia, bensì piuttosto si pone come scelta di stile di vita personale. Il tatuaggio allora risulta portatore di un messaggio di identità, oltre che di isolamento poiché contemporaneamente equivale anche a dire *sono con voi/ sono contro di voi*, è un segno forte per affermare la propria identità e per sottolineare la comunanza con un gruppo e la distanza da altri, o dalla società nel suo insieme. La modificazione corporale, o body modification come viene comunemente chiamata anche in Italia, è una pratica che racchiude numerose varianti. In comune, queste varianti, possono essere lette come atti “estremi” compiuti sul proprio corpo, segni che in molti casi non sarà più possibile eliminare. Dal più controverso tatuaggio, all’incredibile modificazione chirurgica del corpo ed alla scarificazione, la body modification è oggi un fenomeno che accende l’interesse della tribù giovanile (e non solo) che riscopre, senza averne però l’intenzione, riti e culture tribal. Ma, cosa c’è dietro queste azioni?
Legami: il bondage tra cultura e perversione (?)

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Il comportamento sessuale possiede eterogenee manifestazioni in virtù delle fantasie che animano la psiche umana e l’incontro tra persone. Come è noto, nell’interrogativo culturale e scientifico volto a rintracciare i possibili limiti di una pratica nuova ed inusitata rispetto ai concetti di *lecito*, *lesivo* e *libertà*, la psichiatria da un lato assegna alle parafilie dei significativi confini nosografici tali da palesarle in qualità di “disturbi” (ovvero fonte di disagio soggettivo e limitanti nel contatto sociale in virtù del fatto di diventare compulsive ed esclusive nelle dinamiche che le esprimono), e la collettività dall’altro grida allo “scandalo” se non altro come primaria difesa verso ciò che non si conosce e che si interpreta, aprioristicamente e secondo speculazioni moralistiche, come inusuale. Seguendo questo duplice versante, desiderando sciogliere il conformismo scientifico e sociale di cui s’è fatta menzione, sono stati esaminati i BDSM ed in particolare il *Bondage* allo scopo di comprendere se tale pratica debba dirsi o no affine a quel concetto di “perversione” che tanto la clinica quanto il senso comune hanno indicato. L’approfondimento delle (pochi) fonti reperite, e quanto riferito dall’incontro con chi il Bondage la pratica e lo insegna, ha condotto all’individuazione di specifici criteri che pongono ad escludere tali agiti dalla sfera del comportamento “perverso,” ed essi verranno illustrati durante l’esposizione.

In tema di omicidiologia. Presentazione di alcuni casi avvenuti nella provincia di latina

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La presentazione riguarda una serie di Omicidi di particolare efferatezza avvenuti nella Città’ di Aprilia (Latina,) quarta Città’ del Lazio, dove in un breve lasso di tempo dalla sua Fondazione avvenuta nel 1936, hanno destato molto scalpore tra l’opinione pubblica e gli addetti ai lavori( Magistratura, Forze dell’Ordine, Criminologi). Si va da un caso di figlicidio avvenuto negli anni 1970, uno dei pochi casi in Italia che vede protagonista una donna Calabrese che uccide la figlia e il genero e perchè contraria alla relazione, nonche’ a vari omicidi maturati nell’ambito della Malavita locale, all’omicidio di un fidanzato che uccide la sua compagna per gelosia, ad un Omicidio cosiddetto “eccellente,” che vede vittima un noto Avvocato, omicidio peraltro oggi ancora irrisolto che rientra fra i cosiddetti “cold case,” fino agli ultimi recenti casi del 2012 che vedono un altro figlicidio ad opera di un padre esasperato dalle continue angherie da parte del figlio tossicodipendente. In questo contesto, si vogliono analizzare tutti gli aspetti criminologici, Sociologici, Ambientali e soprattutto valutare le varie personalita’ dal punto di vista psichiatrico-clinico dei vari soggetti autori degli Omicidi.
Azioni di prevenzione e comportamento a rischio devianza

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Incentivare ad intraprendere una disciplina sportiva i giovanissimi appartenenti alle prime classi delle scuole medie superiori, interessarli e stimolarli verso ciò che può tenerli lontani dalle quotidiani “insidie di piazza,” formarli e seguirli costantemente per avviarli alle regole del mondo sportivo “non esasperato” è il ns. Obiettivo primario che vuole riallacciarsi a precedenti azioni di coinvolgimento intraprese nel corso di questi anni con i ragazzi che frequentano Istituti Scolastici della scuola media secondaria, che hanno riscontrato un notevole successo in quanto abbiamo proposto un’attività che esula dai tradizionali canoni sportivi proposti dalla scuola.

Obiettivi generali che ci si è posti all’interno di tale azione progettuale sono stati:

- Prevenzione primaria delle alcoltossicodipendenze;
- Educazione alla tutela della salute inteso come “valore” di crescita;
- Educazione al “valore della relazione umana.”

Si è utilizzata un tipo di metodologia attiva e partecipativa tesa a informare e sensibilizzare i giovani sulle conseguenze delle alcoltossicodipendenze, a creare momenti “sani” di aggregazione giovanile, a sviluppare il senso critico e la capacità di scelta. I partecipanti alle azioni sono stati stimolati attraverso una scientifica informazione, alla riflessione sulle tematiche legate alla salute per l’acquisizione di corretti stili di vita al fine di mantenere il benessere psicosociale, a prevenire il consumo di sostanze stupefacenti alcool compreso. Infine, attraverso le attività sportive proposte, si è affrontato anche lo sviluppo della consapevolezza riguardo ad alcuni comportamenti di “devianza sociale” quali sopraffazione, violenza, bullismo, che spesso vengono incentivati dai microambienti di riferimento e da (gruppo di amici, pubblicità, mode) favorendo così l’emersione di una motivazione interna per la formazione di un’autonomia nelle scelte personali.

Il suicidio in famiglia. Quando una morte segna la vita

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Partendo da differenti approcci relativi al tema del suicidio, si affronterà il lutto come evento intrapsichico, interpersonale e sociale. Ma, come si sente il familiare rimasto in vita? Quali sono i suoi sentimenti verso la persona persa? E soprattutto quali spiegazioni riesce a dare a tale gesto? Queste sono alcune delle domande a cui cercheremo di dare risposta. Il tema è molto delicato perché sono molti fattori che intervengono: il contesto sociale, il contesto familiare, il tipo di rapporto con la persona defunta ed il vissuto soggettivo dei componenti familiari. Nella nostra società esiste nei confronti del suicidio una sorta di “cospirazione del silenzio,” una
negazione della situazione; pur essendo una delle dieci principali cause di decesso nei paesi industrializzati resta un argomento tabù e le famiglie, spesso stigmatizzate, nascondono questa “vergogna sociale.” Un evento che sicuramente, e vedremo in quale maniera, segnerà le vite dei “sopravvissuti,” ovvero di coloro che sono rimasti. Infatti l’accettazione della perdita di una persona è un cammino molto lungo e difficile, il tempo per alleviare la sofferenza non è definibile e chiedere aiuto è ancora più difficile. Cercare di analizzare e riflettere sul vissuto, sulle emozioni che emergono, sul processo di elaborazione del lutto per suicidio, in relazione al contesto familiare e al contesto sociale, ci può aiutare a capire come possiamo intervenire per aiutare queste persone, sia da un punto di vista professionale che da un punto di vista affettivo.

**Morire per la crisi economica: il fenomeno del suicidio in Italia ed in Europa**

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La crisi economica, la perdita del lavoro, l’aumento dei fallimenti, la crescita della povertà non sono solo tristi accadimenti che riempiono ogni giorno le pagine politiche ed economiche dei giornali, ma rappresentano importanti fattori di rischio per quel fenomeno a cui il sociologo francese, Emil Durkheim, aveva dato il nome di “Suicidio Anomico.” Sebbene il suicidio si configuri come un fenomeno risultante da una complessa interazione di fattori biologici, genetici, psicologici, sociali, culturali e ambientali; nel presente lavoro si può definire come il gesto di chi non riesce a sopportare improvvisi pericoli economici che abbassano il livello del proprio stile di vita; ma anche il gesto di chi non riesce più a ritrovare se stesso all’interno di una società che evolve troppo in fretta. Parliamo dunque di crisi sociale, di un disagio sociale che si riverbera sullo stato di salute della popolazione ed in particolare sulla salute mentale. Prima di soffermarci sull’analisi del suicidio in Italia e sull’evoluzione attuale del fenomeno, è necessario un suo inquadramento all’interno del Panorama Europeo: servendoci dei dati resi disponibili dall’Organizzazione Mondiale della Sanità e dall’Eurostat e prendendo in considerazioni molteplici studi, viene messo in luce quanto la condizione socio-economica, e dunque occupazionale, influisca in modo considerevole sulla salute fisica e mentale delle diverse nazioni e sull’aumento dei suicidi. In quasi tutti i Paesi Europei è emerso un legame tra lavoro precario e problemi di salute e dunque tentativi di suicidio e suicidi portati a termine. Il numero di suicidi, secondo i dati “EURES,” è cresciuto contestualmente alla crisi (dal 2009) in tutta Europa dal 5 al 17%. Il dato più drammatico riguarda il tasso di suicidi dovuti alla crisi che sta attraversando la Grecia e a seguire Spagna, Gran Bretagna ed Italia. Vengono prese in considerazione diverse variabili quali status occupazionale, caratteristiche socio-demografiche e modalità di esecuzione dell’atto in un confronto che mette in evidenza quanto un ulteriore Paese, la Germania, registri il più alto tasso di suicidi ma che non sono, a differenza degli altri, causati dall’attuale crisi economica.
Vittime e carnefici: tra spettacolo e realtà statistica

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Il lavoro prende avvio dalla disamina delle statistiche prodotte dal Dipartimento dell’Amministrazione Penitenziaria considerando l’ultimo ventennio a partire dagli anni 90, al fine di evidenziare l’eventuale distonia tra delitti realmente perpetrati e percezione sociale del crimine. Scopo della presentazione sarà quello di discutere del possibile legame tra “fascino del male” e vulnerabilità sociale. Da un lato, tenendo presenti quanto proposto da alcune tradizioni teoriche in merito alla percezione di insicurezza sociale, in cui rientra anche una sovrastima dei fenomeni criminosi (in particolare di natura violenta) tale da concorrere alla riduzione della coesione sociale ed al contestuale re-incremento della paura e del senso di insicurezza, si assumerà il tasso di criminalità come elemento del termometro sociale, consci che l’esposizione della sua esistenza consente di valutare i criteri di appartenenza e di esclusione (nella distinzione tra “nemici” ed “amici”) di una collettività. Su un altro versante, osservando che nella diffusione della misura quantitativa della criminalità concorrono anche i mezzi di informazione di massa, si valuterà fino a che punto i processi di spettacolarizzazione di numeri, tipologie e dinamiche influenzino l’opinione pubblica, cercando di comprendere se la responsabilità di tale processo appartenga ai mezzi di informazione nel raccontare in modo così accentuato i fatti di cronaca nera o non derivi piuttosto dall’assecondare le “richieste” del pubblico, così come avviene nel mercato economico dove per ogni domanda c’è un’offerta (in questo caso si tratterebbe di un’informazione che influenza sui comportamenti sociali e, al contempo, li riflette).

Dei “non luoghi.” Narcocrazie, territori di confine, associazioni criminali e intelligence: mafie internazionali e terrorismo, pirateria del terzo millennio, corruzione e connivenze tra vecchie e nuove rotte per i traffici

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Le organizzazioni criminali si muovono in modo efficace e veloce in una cornice globale per intessere accordi commerciali, inseguire vecchi e nuovi business così come veicolare i “beni” dell’industria criminale da una frontiera a un’altra, da un continente all’altro seguendo antiche ovvero innovative rotte e sistemi di trasporto, dal mulo ai sottomarini. I terremoti geopolitici, dalla primavera araba ai diversi recenti conflitti bellici, favoriscono il proliferare di flussi migratori, anche sull’onda del traffico di esseri umani, assieme con una moltitudine di merci (legali ed illegali) che confluiscono verso l’Europa e in particolare verso le molto permeabili frontiere italiane. C’è da aggiungere che le immani difficoltà di effettuare meticolosi controlli è direttamente proporzionale alle indubbie ingerenze da parte delle associazioni criminali di livello
internazionale che hanno preso letteralmente possessio di taluni hub aero-portal di piccole o grandi dimensioni, che si tratti di strutture pubbliche o clandestine. Principale obbiettivo è l’analisi di quei fenomeni criminali caratteristici e peculiari di quei territori liminali, delle c.d. narcocrazie sparse tra Medio Oriente, America latina e Sud Est asiatico cos’i come di altre aree dell’Eurasia tuttora instabili (ad es. tra Russia e Cina) e del continente africano. Stati guscio antitesi delle democrazie, culle del capitalismo monopolistico criminale e della destabilizzazione politica così come di un tipo di corruzione endemica ed irreversibile, del terrorismo internazionale e finanche della recrudescenza del fenomeno della pirateria del terzo millennio.

**Verso uno spazio di sicurezza Europeo: il ruolo dell’intelligence**

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**Caso yara gambirasio (ipotesi alternative)**

Sandra Lippi, *Sapienza – Università di Roma* (dot.ssasandralippi@gmail.com)

Premesso che

Le informazioni in mio possesso, relative ai segni trovati incisi sul corpo della ragazzina meriterebbero un più attento esame, complessivo, pertanto la decifrazione che espongo è un’ipotesi interpretativa dei segni riportati dai massa-media.

Ciò premesso

Ho iniziato a cercare un significato possibile e attinente all’omicidio, ho cominciato a spulciare – *Le livre des Signes et des Symboles* di I.Schwarz-Winklhofer et H. Biederman. Editeur Jaques Grancher- Paris 1992-
Ho controllato i segni delle rune come già indicato da esperti ed ho trovato che la X ha anche un significato letterale che corrisponde al suono “g” e corrisponde anche alla parola “SACRIFICIO” e “OFFERTA” (pag.82-83);

Più misterioso il segno di due parallele =, ho trovato nei simboli della paleografia , che studia i diversi sistemi di scrittura, un’interessante interpretazione: le due linee parallele hanno, tra gli altri, questo significato: Il sesto che rappresenta - Il sesto in un libro.

(pag.190, 191).

Ho iniziato la ricerca su internet ed in prima battuta ho trovato che il sesto canto dell’Inferno di Dante rappresenta il girone dove sono punite le anime dei golosi, i quali vengono martoriati in eterno da pioggia battente, grandine e neve....

Ma non trovavo attinenza all’omicidio della povera Yara esposta verosimilmente alle intemperie, ma punita perché golosa? Da chi?

Sono andata oltre ed invece di chiedere sesto in un libro, ho cercato sesto nel libro e, sorpresa trovo che sesto nel libro di enoch, il sesto, corrisponde all’arcangelo Remiel o Ramiel angelo del fulmine, posto ad uno dei 4 punti cardinali.


Ci indicano gli esperti che il nome Enoch probabilmente significhi sacrificio ed indichi proprio quei sacrifici rituali in cui una vergine o un bambino, venivano uccisi sulle fondazione delle città, in modo che il loro FANTASMA LE INFESTASSE E SI OPPONESSEO A QUALUNQUE MALE.

Inoltre, in costruzione, sia la X che le parallele = formano la stella di Davide.

In conclusione

I simboli sovrapposti sono, la firma e il movente della setta segreta, ma setta altamente qualificata, non si tratta a mio avviso di sventurati che s’improvvisano satanisti o che fanno parte del satanismo acido. Ma di una setta ben definita e segreta, atta ai sacrifici umani ritualistici su commissione, o per favorire qualche adepto, dietro compenso.

La ragazza non è probabilmente uscita da un raggio di 30 Km dal luogo della scomparsa.

Uccisa verosimilmente in altro posto, forse proprio nel cantiere o in una stanza dove officiano rituali e trasportata successivamente nel luogo dove è stata ritrovata.

Lo scopo per cui potrebbe esser stata uccisa cioè :

Ragazza vergine offerta in sacrificio per proteggere qualcosa o in costruzione o da costruire anche eventualmente nel campo del ritrovamento.

Sarebbe interessante scoprire se in quel campo dovrà sorgere qualcosa o se vi sono progetti e se i cantieri attuali hanno problematiche varie.

In seconda ipotesi se i segni significassero un simbolo ginnico, sarebbe da ricondurre a persone che frequentano la palestra, l’invidia per la bravura della povera Yara?

**Ritardo mentale ed atti sessuali su minori: analisi di una casistica**

200. Devianza, disturbi comportamentali e trattamento penitenziario

Le sezioni protette: il trattamento penitenziario dei sex offenders

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Un argomento che sempre più frequentemente stà attirando l’attenzione del mondo scientifico e dell’opinione pubblica, è quello delle perversioni sessuali e della tipologia di trattamento che riguarda gli autori di reati a sfondo sessuale. L’obiettivo del presente lavoro, consiste nel ricercare - dopo aver dato luogo ad un rapido excursus sulle premesse - ed identificare quali comportamenti sessuali vengono considerati anormali, percorrendo l’origine della sessualità distorta fino a giungere all’esposizione dei parametri che analizzano tali condotte. Verranno esaminate le definizioni psicopatologiche, relative ai comportamenti tenuti dagli autori di questi reati (sex offenders), utilizzando sia criteri medico – psichiatrici, sia sociologici che giuridici; nonché sarà esaminato quale tipo di trattamento viene maggiormente impiegato per il recupero ed il reinserimento sociale del condannato, in esecuzione penale, per tale tipologia di reato. A fronte di ciò è necessario chiarire l’ambito nel quale questa categoria di persone è collocata, nello spazio ristretto di un carcere, e quindi saranno esaminate le problematiche custodiali che determinano la gestione di tale tipologia di reclusi, specie nei confronti degli altri detenuti. Verrà quindi posta l’attenzione sugli scopi e sulle tecniche operative del trattamento specifico, evidenziando come tali tecniche utilizzano una rete integrata di servizi pluridisciplinari, fino a comprendere i trattamenti medici allorquando risultino manifeste problematiche neurologiche, ormonali, anomalie cromosomiche, ecc. In tali ipotesi il ricorso a farmaci antipsicotici, antidepressivi e antiipersessualità diventa assolutamente necessario.

Farsi del male per sopravvivere al dolore: l’autolesionismo nei minori istituzionalizzati vittime di abuso sessuale e maltrattamento intrafamiliare
Maltrattamento ed abuso sessuale intrafamiliare: ecco che la famiglia può diventare davvero il luogo del paradosso. Barrois definisce la condizione comune di queste giovani vittime come “trauma psichico,” ossia una frattura dell’essere per cui l’individuo si sente completamente reificato, annullato, una cosa tra le cose, un cadavere nella condizione di dover rinunciare a se stesso il più velocemente possibile. Ed è proprio in questo contesto che va inserito il discorso autolesionista del minore abusato e maltrattato in contesto intrafamiliare: il corpo della giovane vittima è un corpo abusato, violato, maltrattato, alla deriva emotiva e fisica. Si lacera la propria pelle, da un lato, per concretizzare le ferite che diventano tramite oggettivo per commutare il dolore e l’angoscia in uno stato fisico tangibile e più controllabile; dall’altro, per punire – estirpare – purificare la parte cattiva di sé al fine di disintossicarsi. Punire un cattivo Sé, dunque, per attaccare pensieri, sentimenti, ricordi o anche per ripetere inconsciamente una storia di abuso infantile: laddove ripetere l’esperienza traumatica prende il posto della possibilità di ricordare/elaborare, svolgendo una funzione di schermo. Nei minori vittima di abuso sessuale e maltrattamento intrafamiliare, gli atti autolesivi nascono solitamente in contesto familiare e si perpetrano fin quando viene mantenuta una dipendenza fisica ed emotiva con il genitore abusante. Le modalità autolesive più diffuse si riferiscono alla self – injurious behaviour (SIB), ossia a forme lievi di autolesionismo, come il tagliarsi, l’incidere, il bruciarsi la pelle con oggetti acuminati e taglienti. Una volta che i minori sono stati allontanati dal luogo di violenze, e quindi accolti in comunità educativa protetta, le modalità più diffuse mutano, soprattutto nel primo periodo di accoglienza, fino a diventare self – harming behaviour che comprende forme indirette di danno alla propria salute, come per esempio il non alimentarsi. Concluderemo la nostra riflessione con alcune storie di ragazzi raccolte in una comunità educativa.

Il trattamento penitenziario in presenza di devianze: esperienze in Italia e nuove prospettive di legge

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L’ordinamento penitenziario italiano, in conformità al dettato costituzionale e in aderenza ai principi enunciati nella “Dichiarazione universale dei diritti dell’uomo” proclamata dalla assemblea generale delle Nazioni Unite il 1° dicembre 1948 a New York, si articola e si sviluppa attraverso alcune importanti diretrici:

1. l’espiazione della pena improntata ai criteri di umanità, salvaguardando la dignità e i diritti spettanti ad ogni persona;
2. la rieducazione del detenuto e il suo reinserimento sociale come scopo principale dell’espiazione della pena;
3. la prevenzione della criminalità.
Ai sensi degli Artt. 59-63 della l. 354, gli Istituti penitenziari si distinguono in: Istituti di custodia preventiva, Istituti per l’esecuzione delle pene, Istituti per l’esecuzione delle misure di sicurezza e i Centri di osservazione: il cui compito è l’osservazione scientifica della personalità al fine di rivelare le carenze fisiopsichiche e le altre cause del disadattamento sociale nei confronti dei condannati e degli internati (art. 13 l.354/75 2c.). Istituti o sezioni per infermi e minorati destinati ad accogliere soggetti affetti da infermità o minorazioni fisiche o psichiche.Gli ospedali psichiatrici giudiziari, gli ex manicomi criminali, dovranno chiudere i battenti entro l’inizio del 2013: la data fissata è il 31 marzo. Lo stabilisce un emendamento al decreto sul sovraffollamento delle carceri. Tale mutamento Istituzionale prevede un nuovo approccio metodologico e l’individuazione di strutture alternative.

**Risocializzazione e recupero del rapporto tra bulli e bullizzati attraverso il circuito giuridico della mediazione penale minorile**

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L’oggetto della relazione è una analisi delle matrici profonde del bullismo, al fine di individuare, attraverso gli strumenti e le tutele riconosciute ed apprestate dall’ordinamento giuridico italiano, risposte propositive e non solo contenitive ad un fenomeno deviante in fase di rapida espansione. L’obiettivo del bullo è quello di “nutrire adepti,” seminando terrore nei soggetti deliberatamente esclusi, che assumono il ruolo di vittime predestinate. Si procede quindi ad analizzare i motivi, e se effettivamente esistano, che danno l’incipit alla condotta deviante in sé. Il motto, infatti, che sintetizza il loro comportamento è “SPIETATI CON GLI SFIGATI;” l’unica cosa che conta è sottomettere gli altri al proprio volere, ai propri “desiderata.” Il bullo, in senso stretto, si sente galvanizzato e giustificato nella commissione dei propri eventi delinquenziali, fino a sfociare nel delitto, dal timore che riesca a generare negli altri. Al fine di favorire il recupero ed il reinsierimento sociale dei giovani bulli è necessario prevedere un meccanismo punitivo, ma solo se in presenza di una finalità rieducativa e risocializzativa, in conformità a quanto previsto dall’art. 27 della nostra Carta Costituzionale; la risposta che si propone è la MEDIAZIONE PENALE MINORILE, che, pur trovando la propria matrice nel procedimento penale, tenta di non limitarsi ad applicare una pena al minore autore di reato, ma di avviare un percorso relazionale tra tutti i soggetti coinvolti. La vittima, che nel procedimento penale minorile non può costituirsi parte civile ed è quindi esclusa dal procedimento, in questo modo diventa parte attiva del percorso risonzializzato di entrambi. Si evisceranno le motivazioni che hanno indotto il comportamento violento al fine di assicurare la RAPIDA FUORIUSCITA dell’autore DAL CIRCUITO PENALE ed il minor impatto emotivo anche in colui/colei che ha subito le condotte emarginanti e discriminanti.

**Il delitto d’onore: quando l’onore diventa un diritto alienabile**

Antonella Rigazzi, *Sapienza – Università di Roma* (rigazzina@libero.it)
Il fenomeno criminale, quale fatto sociale, trova valore aggiunto nel gioco di relazione sotteso fra Reo e Vittima. Questo lavoro dimostrerà come anche l’arte filmica abbia contribuito a mettere in luce inquietudini umane mai decifrante risoltesi in una sola verità: la pochezza, in termini di valore, che ancor’oggi si da alla vita umana. In bilico tra finzione e realtà il Delitto d’onore è il compiersi di un’amarà verità: l’alienabilità che qualifica alcuni diritti della persona, conquiste ormai solo in astratto. Un fatto di costume che coniugato con ignoranza e relativismo gnoseologico ha aumentato di molto forme sempre nuove di femminicidio. Questo excursus fîlmico, da pellicole cult del cinema sino alle più underground, sarà il giusto proscenio per il compiersi di una “ballata del paradosso” in cui le figure prenderanno corpo e spessore in un susseguirsi di chiari e scuri in cui anche il sub-plot concorrerà a render partecipe lo spettatore dell’iter sotteso che porta il soggetto attivo a rivestire i panni di un vero e proprio deus ex machina che si pone al centro della scena con l’assolutezza e l’inappellabilità propria di un’agire dominante. Humus emozionali che fungono da naturale premessa per certe azioni delittuose non poi così lontane da noi. Case studies che dal 1922 sino ad oggi permetteranno di avere uno sguardo d’insieme su un’amarà realtà che continua anche oltre i titoli di coda.

**Patologia psichica e compatibilità carceraria: analisi di una casistica**

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**Obiettivi**: Scopo dello studio è verificare se le psicopatologie manifestate in regime detentivo siano una risposta ad eventi psicostressanti, quali l’imprigionamento o la condanna, o la slatentizzazione di disturbi psichici preesistenti.

**Materiali e Metodi**: Sono stati presi in esame 33 casi di accertamento di compatibilità o meno con il regime detentivo per problemi psichiatrici, giunti alla nostra osservazione su incarico di Tribunali dell’Italia meridionale.

Il numero di casi è stato il prodotto dell’applicazione di criteri di esclusione e di inclusione.

Di ogni caso sono stati analizzati e comparati determinati parametri e prese in esame le valutazioni psichiatriche di parte raffrontate con quelle dei nostri accertamenti (test mentali).

**Conclusioni**: L’analisi comparativa dei casi ha evidenziato che la maggioranza delle psicopatologie presentate dai detenuti era ascrivibile a disturbi dell’adattamento (32,7%) ed a reazioni depressivo-ansiose (25%). Solo una minoranza di essi presentava forme psicopatologiche più gravi, alcune evidenziatesi in carcere, altre già in precedenza.

**Le molestie assillanti: rapporti con la patologia psichica, normativa e casistica nelle strutture penitenziarie Italiane**

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Il D.L. n. 11 del 2009 ha previsto specifici interventi di sanzione e misure di prevenzione nei confronti dei comportamenti assillanti configurando la fattispecie di reato specifico. Il rapporto tra comportamenti assillanti (stalking) e presenza di patologia psichica è oggetto di molteplici indagini e valutazioni. Le norme del Codice Penale prevedono l’applicazione di misure di sicurezza in Ospedale Psichiatrico Giudiziario (OPG) per la presenza di patologia psichiatrica, che influenzano la capacità di intendere e volere, qualora sia accertata la “pericolosità sociale.” Alla dimissione può essere mantenuta una misura di sicurezza non detentiva con prescrizioni e controlli. A distanza di pochi anni dall’approvazione della normativa è stato effettuato un rilievo su una popolazione di persone internate in misura di sicurezza detentiva nell’OPG di Montelupo Fiorentino per verificare la casistica rispetto alle misure applicate, alla tipologia dei comportamenti, alle misure di trattamento adottate, sia nell’OPG che nel territorio all’atto della dimissione. La recente sentenza della Corte di Cassazione sulla connessione tra Disturbi di Personalità Gravi ed imputabilità fa prevedere il ricorso alla misura di sicurezza per il controllo della specifica pericolosità sociale dello stalker. Il percorso di superamento degli OPG comporterà la necessità di prevedere mirati e specifici percorsi di trattamento, sia nelle strutture penitenziarie che nel territorio, per tali soggetti.

**Sexual offenders e legami d’attaccamento: una ricerca su un campione Italiano**

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Le osservazioni, le analisi e le valutazioni sui sexual offenders ipotizzano che il profilo e le caratteristiche di autori di reati così “particolari,” coinvolgano una serie diversificata di fattori eziologici. Una delle chiavi di lettura è quella che esplora il ruolo giocato dalle esperienze di attaccamento di questi soggetti. La nostra indagine ha avuto lo scopo di rilevare quale fosse la categoria di attaccamento prevalente in un gruppo di venti sexual offenders, condannati e ristretti in carceri italiane. La ricerca ha riguardato sia la dicotomia sicuro/insicuro, sia rispetto alle tre categorie F (free), Ds (dismissing), ed E (entangled), riportando l’eventuale presenza di stati mentali di tipo Unresolved. Sono state inoltre indagate in maniera descrittiva le esperienze infantili di tali soggetti in relazione alle figure significative di attaccamento. Il punto di forza di
tale studio, sul piano metodologico, è stato l’utilizzo dell’*Adult Attachment Interview*. Se, infatti, molte indagini presenti in letteratura evidenziano l’uso di strumenti self-report o di questionari per la rilevazione delle esperienze di attaccamento dei soggetti coinvolti, nella nostra ricerca è stato utilizzato uno strumento standardizzato, la cui validità è ampiamente documentata e riconosciuta nell’ambito della ricerca clinico-psicologica e medico-psichiatrica.

### 201. Nuove emergenze criminologiche: profili, confini e possibili rimedi

**Amore e psiche: I delitti passionali**

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La Psichiatria ed diritto negli anni si sono distinti per il loro connubio amoroso. Ovviamente, come in tutti gli amori che si rispettano, anche psichiatria e diritto hanno dovuto fare i conti con la mutevolezza dei sentimenti ed a completare il quadretto non poteva mancare il terzo incomodo: quell’antipsichiatria tanto cara allo psichiatra statunitense Thomas Stephen Szasz che ha, forse, definitivamente sancito la rottura definitiva del connubio diritto e psichiatria che per anni si era retto e stretto attorno al concetto di malattia di mente forgiato dalla scuola positivista. Oggi l’amore di un tempo è un ricordo lontano e la colpa è soprattutto della psichiatria che rifiuta il vecchio concetto positivista di malattia di mente e sente sempre più stringente l’abbraccio asfissiante e statico della Legge. Per continuare nella metafora diremmo che l’amore è finito perché all’interno della coppia uno dei due (la psichiatria) è diventata adulta, è maturata mentre l’altro (il diritto) si rifiuta di stare al passo con l’evoluzione della scienza psichiatrica ma soprattutto della società. La riconciliazione, però, tra le più antiche e nobili ars che il figlio dell’uomo conosce non solo è sperata, agognata ma è anche irrinunciabile. La posta in gioco: diritti inviolabili dell’uomo, sicurezza sociale etc. è troppo alta per tentare di ricostruire se non un matrimonio quantomeno una pacifica e fruttuosa convivenza. Si tratta, in buona sostanza, di provare a trovare un equilibrio tra stato psicopatologico e comportamento criminale. Dal punto di vista comparativistico utile, anche se tutt’altro che esaustiva, appare la suddivisione operata Schreiber volta ad individuare i metodi di valutazione della responsabilità penale in presenza di malattie mentali o disturbi psichici.

**Pet-therapy: risultati di una ricerca condotta in un penitenziario Italiano**

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La vicinanza uomo-cucciolo svolge una molitudine di funzioni con effetti visibili nella mente, nell’emotività e nel comportamento del detenuto. Intanto, migliora la qualità della vita del detenuto attraverso un momento di gioco interattivo e benefico con l’animale, dando un
significato, uno scopo alla giornata del detenuto, attenuando il senso di solitudine e l’involuzione emotiva. Nel prendersi cura di un cane il detenuto esperisce un senso di responsabilità e di utilità: la persona sente che la vita e il benessere del cucciolo dipende dalle sue cure, e inoltre scopre giorno dopo giorno lo sviluppo di uno straordinario legame con l’animale, riscoprendo sentimenti ed emozioni sopite, coartate o mai espresse durante la vita in prigione, o peggio ancora, durante la vita prima della prigione. Inoltre l’animale, per sua natura, utilizza una modalità di comunicazione interattiva, non manipolativa e priva di sovrastrutture. la comunicazione dell’animale è immediata e si basa su sentimenti veri, cosicché anche il detenuto, inconsapevolmente, adotterà la stessa modalità, imparerà nuove espressioni e modalità comunicative sincere e immediate. Questa modalità muove a favore di una migliore ristrutturazione del sistema cognitivo nel suo insieme.L’affetto che il cucciolo dimostra alla persona che lo accudisce è sincero e disinteressato, pertanto il detenuto ridurrà il senso di emarginazione e di rifiuto tipici della sua condizione.

**Analisi comparata delle legislazioni anti-terrorismo**

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Gli attacchi dell’11 settembre, contro gli Stati Uniti, hanno drammaticamente riproposto la necessità di sviluppare nuovi strumenti per combattere il terrorismo Il terrorismo è un fenomeno non nuovo, come non è nuova la difficoltà di una definizione esaustiva e ampiamente condivisa. Gli ostacoli, ad una unità di vedute, sono costituiti essenzialmente dalle diverse esperienze all’interno dei singoli Stati, nonché dalle diverse metodologie normative messe in atto per risolvere il “problema.”

Inoltre, giova tenere in considerazione tenete a mente il terrorismo è come un virus in grado di cambiare e di adattarsi a nuove esigenze, per cui gli strumenti idonei per contrastarlo in un dato momento storico, il giorno successivo, spesso, sono già obsoleti. Il compito di questo lavoro è quello di illustrare, comparativamente, le legislazione di alcuni Stati, soprattutto dopo quello che è successo, nel 2011, negli USA, tracciando le linee di demarcazione tra ordinamenti di common law e quelli di civil law, con particolare riferimento alla legislazione italiana.

**Quello che le grafie ci dicono: alcuni esempi di madri assassine**

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Per devianza si intende abitualmente il comportamento di una persona o di un gruppo che viola le regole di una società, e che di conseguenza genera una sanzione nei confronti del suo autore. Qualsiasi atto deviante è il risultato che emerge dall’unione di più fattori che influiscono sull’individuo, con il suo temperamento, la sua storia, il contesto in cui vive e gli eventi. La complessità dei soggetti che hanno manifestato un comportamento deviante può essere indagata, tra le altre cose, anche con la grafologia, che può essere considerata come una vera e propria
possibilità di instaurare un dialogo tra l’autore di uno scritto e il grafologo che lo indaga. Ciò significa che osservando e analizzando le scritture si può comprendere chi le ha prodotte, anche senza averlo di fronte. Ovviamente l’analisi grafologica non è un’analisi psichiatrica, medica o psicologica, ma è in grado di evidenziare il temperamento di una persona, cogliendone le predisposizioni. In questo senso la grafologia può collaborare con altre discipline, psicologiche o psichiatriche, che esplorano la personalità umana: la grafologia, cogliendo la personalità nell’ambito delle sue tendenze innate e del suo modificarsi in base alle esperienze, può descrivere le tendenze psicofisiche di un soggetto, dando informazioni specifiche sulla sua costituzione individuale. Nella presente ricerca, grazie alla collaborazione del Dott. Antonino Calogero, Direttore dell’Ospedale Psichiatrico Giudiziario di Castiglione delle Stiviere, porterò all’attenzione dei presenti alcuni casi di madri figlicide, detenute nel sopraccitato istituto, evidenziando i segni grafologici più importanti.

Il parricidio, un omicidio particolare: tre case study Italiani

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Il termine parricidio si riferisce all’uccisione del proprio genitore, biologico o acquisito. Questo particolare omicidio può comprendere: patricidio; matricidio; doppio particidio, uccisione di entrambi i genitori. Il parricidio è raro e rappresenta una piccola percentuale di tutti gli omicidi commessi. In Europa e Nord America la sua diffusione varia dal 2 al 4%. Il numero dei patricidi supera quello dei matricidi. In Italia, il Rapporto EURES-ANSA (2008) segnala che i particidi rappresentano meno del 3% del totale degli omicidi. I matricidi, in Italia, sono maggiori dei patricidi. Il parricidio commesso da un adolescente si differenzia da quello compiuto da un adulto. Il parricidio ha caratteristiche differenti dal matricidio. La letteratura offre diverse chiavi di lettura per questo particolare tipo di omicidio, ne evidenziamo alcune:

a) porre fine con un atto disperato a situazioni di abuso e violenza intrafamiliari che durano da molto tempo. Gli adolescenti omicidi difendono sé stessi e altri membri della famiglia da comportamenti tirannici e dispotici.
b) presenza di disturbi psichiatrici gravi con abuso di sostanze e di alcool

c) ciclo della violenza: adolescenti vittime di violenze, che diventano autori di violenze. Nel nostro studio sono stati analizzati tre casi di parricidio commessi da adolescenti.

202. Profiling criminologico: dalla scena del crimine ai profili socio-psicologici

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Prima del “d.d.l. n°11 del 23 Febbraio 2009” nel sistema legislative Italiano non esisteva specifica tutela circa il fenomeno dello Stalking. Questo documento introdusse il reato denominato “atti persecutori” inserendo l’Art. 612-Bis nel codice penale. Solo da questa data in poi gli studiosi hanno la possibilità di esaminare dati ufficiali circa tale fenomeno; ma noi sappiamo che esistono molte vittime di Stalking che non denunciano gli atti subiti. Noi crediamo che il Numero Oscuro circa questo fenomeno sia elevato. La nostra ricerca è delimitata nel territorio del Sud-Italia e più precisamente nelle regioni: Basilicata, Campania, Calabria, Puglia e Sicilia. La ricerca intende innanzitutto monitorare il fenomeno tramite dati ufficiali del Ministero dell’Interno circa le denunce per stalking dal 2009 in poi. Inoltre si cercherà di stimare il Numero Oscuro dello Stalking nel Sud Italia mediante uno specifico ed anonimo questionario conoscitivo, che verrà somministrato in selezionate città rappresentative delle regioni sopracitate, atto ad indagare se il soggetto ha denunciato l’accaduto, se lo Stalker era persona conosciuta, quanto sono durati gli atti di Stalking, e altri elementi di interesse.

Autopsia psicologica con la psicologia della scrittura

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In procura ultimamente da magistrati “illuminati” si ha una richiesta di un profilo psicologico attraverso l’analisi della scrittura nei casi di morte dubbia, analisi che poi viene utilizzata dalle procure attraverso i consulent ip giudiziari al fine di spiegare il gesto e/o valutare se il soggetto si può realmente essere tolto la vita spontaneamente, se sia stato indotto al suicidio oppure se può essere un omicidio camuffato. Si procede attraverso due esami paralleli: lo psichiatra forense ricostruisce tutta la storia clinica del paziente attraverso colloqui con familiari, amici e colleghi, legge le carte cliniche ed infine formula un parere. L’autopsia psicologica invece condotta attraverso l’analisi della scrittura permette di esaminare tutte le scritture del soggetto, siano essi appunti personali e casuali, e là dove è possibile il suo biglietto d’addio. Al termine dell’analisi psicologica “longitudinale” sarà possibile rispondere ai quesiti della procura. Analisi dei casi.

Ricerche in tema di psicografologia nelle sindromi pedofile e negli assassini seriali

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Da una ricerca condotta presso la Cattedra di Psicopatologia forense (Dir. Prof. V. Mastronardi) della Sapienza Università di Roma e nell’ambito dell’insegnamento di Psicografologia presso il Master in Scienze Criminologico Forensi, abbiamo focalizzato la nostra attenzione sulle ricerche relative alla disamina psicografologica in tema di Sex offenders, Serial Killer, Classic Mass Murder, Family Mass Murder, Madri Figlicide ed altre fenomenologie criminali con l’intento di evidenziare ove esistenti, eventuali caratteristiche assimilabili ai vari soggetti responsabili dello stesso tipo di reato e quindi eventuali segni specifici da evidenziare, procedendo ad una sorta di comparazione sia pur tra differenti strutture di personalità, riscontrando alcune peculiarità come ad esempio, i segni che riconducono all’aggressività. Interessante quanto emerso da questo studio. Considerando che la Psicografologia è un indicatore efficace della struttura di personalità e quindi rappresenta un eccellente strumento rivelatore delle dinamiche più profonde dell’individuo sia a livello intrapsichico che interpersonale, (scevro da qualsivoglia ipotesi diagnostica), la scrittura può essere considerata alla stessa stregua di una impronta grafica dello psichismo individuale e la percentuale di certezza è dell’ 80% circa, lì dove peraltro non vi è possibilità di simulare o dissimulare, per una serie di fattori specifici. La ricerca nell’ambito della Pedofilia, ha già orientato verso peculiari caratteristiche femminili ed infantili di personalità, comuni a molti pedofili, negli assassini seriali verso la tangibile estrinsecazione di istanze aggressive e per i Mass Murder, la tendenza ad un fundus depressivo, alla bassa soglia di tolleranza allo stress, nonché ad un narcisismo particolarmente accentuato.

**Criminal profiling e staging**

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La mia presentazione verterà sull’esame della scena del crimine e di come essa viene interpretata dalle analisti al fine di effettuare una valutazione globale dell’evento criminis. Gli esperti di scienze forensi danno molta rilevanza alla lettura della scena del crimine perché i dati contenuti nella stessa costituiscono la base per la costruzione del profilo criminale di un autore di reato ignoto, coadiuvati dalle moderne tecniche di offender profiling. Ogni scena del crimine è unica nel suo genere, nonostante le apparenti similitudini con le altre, ogni tassello va collocato sempre nel posto giusto altrimenti non fornirà informazioni rilevanti. Ci sono alcune scene del crimine più difficili da valutare, spesso anche perché il corpo della vittima o altri elementi in essa sono stati manipolati. Analizzerò casi di particolare rilevanza mediatica, alcuni dei quali ancora in attesa di giudizio definitivo, e esaminerò approfonditamente non solo i motivi dell’azione di camuffamento della scena del crimine ma anche i motivi dell’azione originaria, per arrivare a comprendere in che modo il criminal profiling opera nella scoperta “dell’inganno.” La mia ricerca è indirizzata ad evidenziare quindi come i contributi psicologici e criminologici coadiuvino le indagini con la tecnica del criminal profiling con particolare rilievo al fenomeno dello “staging.”

**Lo stalking nel setting psichiatrico: caratteristiche psicopatologiche e considerazioni**
Secondo quanto evidenziato dalla letteratura internazionale e dalla attività quotidiana dei centri antiviolenza presenti in Italia, i medici ed il personale paramedico sono i soggetti a maggiore rischio di stalking. In particolare i professionisti della salute mentale da soli rappresentano un terzo delle vittime di condotte persecutorie. Alla luce dei pochi dati presenti in questo specifico settore, in particolare per quanto concerne l’Italia, abbiamo deciso di esaminare il fenomeno dello stalking messo in atto dai pazienti psichiatrici a danno dei loro terapeuti, valutando le differenze di genere e l’incidenza del fenomeno nelle strutture specialistiche pubbliche e private, intervistando gli psichiatri che operano nella città e nella provincia di Roma. Abbiamo riscontrato che l’incidenza dello stalking nei setting di tipo privato è significativamente più elevata rispetto a quanto avviene nelle strutture pubbliche e che gli autori del reato verso il proprio terapeuta privato sono in gran parte di sesso femminile. In base a quanto riscontrato possiamo stabilire uno specifico profilo della stalker donna che perseguita il proprio psichiatra. Si può chiaramente dimostrare inoltre che lo stalking commesso dalle donne, soprattutto in ambito psichiatrico, è un fenomeno spesso sottovalutato e misconosciuto che merita una maggiore attenzione e che va affrontato terapeuticamente in maniera attenta ed articolata.

203. Sceneggiatura e modalità di scrittura dell’argomento criminologico

Creatività e rispetto delle procedure, aspetti comuni fra sceneggiatura e tecniche di indagine

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Nella scrittura di una sceneggiatura televisiva o cinematografica si deve sviluppare un’idea di base con creatività facendo in modo che si possa concretizzare in una storia, all’interno di una struttura. Quest’ultima garantisce una narrazione completa, che inizi e si esaurisca nel tempo di un film o di un episodio restando coerente con la realtà e mantenendo l’attenzione del pubblico Nella realtà del processo d’indagine sul crimine avviene qualcosa di simile nel momento in cui i dati di partenza sono solo quelli contenuti in una querela da parte della persona offesa. Qui l’investigatore ha a disposizione solo un “racconto” più o meno dettagliato che ha come caratteristica fondamentale la parzialità (un punto di vista ben definito: quello della vittima o presunta tale). Una serie di passi va fatta nel minor tempo possibile e nel rispetto delle procedure. Si parte con lo studio della vittima, eventuali testimoni oculari o indiretti che possano confermare o smentire la genuinità della denuncia. Si analizzano tutti i verbali a disposizione e si lavora poi sui sospetti. Questo è solo il punto di partenza ma se pure la “griglia procedurale” sia molto rigida (vedi “struttura”) bisogna sviluppare ogni azione con grande creatività e predisposizione continua all’adattamento rispetto alle circostanze ambientali, geografiche e psicologiche delle tante persone coinvolte.
Corpi scomparsi: la ricerca dei cadaveri occultati tra sedicenti medium e scienze forensi

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La divulgazione dell’investigazione forense appaga la sete di mistero del grande pubblico, che si immedesima nella ricerca di un soggetto ignoto autore di un efferato crimine; l’enigma si accresce nei casi in cui anche la vittima risulta sconosciuta o nascosta, scomparsa. Questo è il campo d’indagine dell’antropologia forense, la scienza che mediante l’analisi morfometrica dei resti scheletrici di una vittima ed il ricorso alle metodologie stratigrafiche dell’archeologia individua il luogo di occultamento del corpo e mette in essere un’esauritiva analisi della scena criminis con conseguente repertamento dei resti, poi sottoposti ad analisi investigativa. Sfortunatamente alcuni aspetti della ricerca del cadavere occultato sono stati mediaticamente affidati a sedicenti medium e sensitivi, che avrebbero affiancato le autorità inquirenti. Una semplice disamina dei casi più noti mette in luce come il contributo di tali “rabdomanti dell’investigazione” sia stato fallace ed infruttuoso, rappresentando spesso, invece, un intralcio alle indagini. L’antropologia forense, con le sue tecniche, non solo si rivela la vera ed unica disciplina degna di coadiuvare gli investigatori in questo tipo di ricerche, ma altresì racchiude affascinanti aspetti che possono trovare negli autori e nel pubblico ampio apprezzamento.

Sceneggiatura e criminologia

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Le proporzioni del successo di prodotti televisivi e cinematografici di genere “Crime” sono tali da farne un fenomeno sociale, attribuendo loro un grande potenziale di diffusione dei temi criminologici col rischio correlato di diffondere informazioni fuorvianti e creare falsi miti. Partendo dall’assunto che la qualità e il successo di un prodotto di intrattenimento aumentano in funzione della sua aderenza con la realtà e del rispetto della tridimensionalità dei personaggi (dimensione sociale, psicologica e fisica) chiediamoci: cosa può fare la scienza criminologica per la scrittura creativa? Può fornire nozioni e strumenti operativi relativi alle singole operazioni del processo di indagine sul crimine. Potrebbe guidare gli sceneggiatori verso l’assunzione di un approccio all’argomento criminologico. Le caratteristiche di questo approccio saranno: storico (dietro ogni crimine c’è una storia), processuale (ogni operazione compiuta rispetto ad un crimine è parte di un più ampio processo di indagine), dinamico (il processo di indagine è in continuo divenire). Lo scopo non è quello di limitare la creatività dello sceneggiatore ma di aiutarlo ad ottimizzare lo sviluppo delle proprie idee e la successiva realizzazione. In questo caso l’interazione tra criminologo e sceneggiatore è fondamentale per garantire il rispetto della storia e della verità nel mimetismo sociale.

Chi inquina la scena del crimine: la fiction…
Al giorno d'oggi lo spettatore appassionato di criminologia segue le moltissime trasmissioni che trattano di cronaca nera e molte fiction che si occupano di investigazioni sulla scena del crimine. Ma queste fiction seguite da milioni di spettatori in particolare possono essere dannose e controproducenti per gli operatori di Polizia? Uno dei problemi che maggiormente viene sollevato è che spesso nelle varie puntate vengono spiegate nei minimi particolari le tecniche utilizzate dagli investigatori scientifici. Si ritiene infatti che l’autore di un crimine nel pianificarlo potrebbe aver acquisito da queste trasmissioni un bagaglio di nozioni che gli possono permettere di vanificare le ricerche da parte dei tecnici sulla scena del crimine. Il caso appena accennato è comunque poco frequente, la problematica maggiore è data, invece, dal contenuto delle scene del crimine presentate. Quadri perfetti ed investigatori scientifici che risolvono il crimine in poche ore per una qualche analisi dal DNA o ricorrendo all’entomologia forense. La percezione di chi guarda è che la “prova” scientifica è infallibile. Ma fra gli spettatori che ormai giornalmente guardano queste fiction ci sono anche tutti gli addetti del settore. Appartenenti alle forze dell’ordine, giudici, investigatori privati, in quel momento ricoprono il ruolo di spettatore che si convince sempre più che l’indagine tradizionale abbia lasciato ormai il posto a quella tecnica scientifica sovradimensionandola e ritenendola infallibile. Quindi uno dei problemi riscontrato dal proliferarsi di questa tipologia di fiction è che avvenga da parte degli investigatori tradizionali un rilassamento del loro operato, dell’indispensabile indagine tradizionale, credendo nella prova scientifica quasi come un elemento sovra naturale che possa risolvere ogni problema.

**Un esperimento di drammaturgia penitenziaria**

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Il Teatro, aldilà di qualsiasi connotazione stilistica, di qualsiasi vicenda normativa e di qualsiasi rivendicazione terapica, ha avuto, nella dimensione reclusa, un merito di indiscutibile valore. Ha consentito, cioè, più e meglio di altre opportunità di coinvolgimento collettivo, di superare steccati e appartenenze; ha permesso a detenuti, provenienti dalla criminalità organizzata, di confrontarsi su un terreno in cui i ruoli non sono stati determinati dalle funzioni attivate nell’area di provenienza. Il teatro in carcere, se opportunamente canalizzato dal lavoro comune di operatori del settore e di registi, è stato lo strumento con cui si sono sconfitti, anche se in una zona circoscritta, gli stili e i costumi propri dell’agire deviante. E questo è un aspetto vincente sul quale poco si è riflettuto, perché spesso abbagliati dal sentire dottrinale.

Che il teatro produca autoconsapevolezza e auto percezione, che la pratica determini migliore capacità comunicativa, che l’azione scenica sia elemento per consolidare percorsi socializzanti, che la riflessione di gruppo possa costituire una concreta opzione terapica individuale e collettiva, di tutto questo, da tempo si ha distintamente cognizione.
E’ altra la vicenda sulla quale riflettere e sulla quale impostare un discorso sul futuro, indipendentemente dal modo di intendere questa attività.

Se il teatro carcerario può essere inserito, di diritto, nella categoria del “Teatro delle differenze,” questa notazione è ancora più appropriata se si pensa alla sua innegabile capacità di essere un mezzo che “UNISCE LE DIFFERENZE.”

Come responsabile dei laboratori teatrali della Casa di Reclusione Alta Sicurezza di Spoleto e della Casa di Reclusione di Rebibbia Penale, da alcuni anni lavoro per mettere in scena spettacoli del tutto inediti, scritti da detenuti in collaborazione con gli operatori penitenziari o con espressioni del volontariato, su argomenti strettamente legati al mondo del disagio e della emarginazione. Malattia mentale, tossicodipendenza, ergastolo ostativo, incomunicabilità, alcuni degli argomenti trattati. I detenuti hanno la possibilità di scrivere dei testi che racchiodono le loro storie, racconti di viti difficili vissute, pensieri profondi, speranze inarrendevoli, desideri mostrati e opinioni personali, messi a disposizione del gruppo e della drammaturgia dello spettacolo finale.

L’impostazione scientifica data al laboratorio teatrale ha permesso il configurarsi di una nuova forma d’intervento nel trattamento penitenziario.

Il Congresso diventa un’occasione per condividere l’esperienza portata avanti negli ultimi anni.

Spanish Language Sessions

204. Bioética y toma de decisiones en la práctica médica asistencial

El principio de autonomía del paciente en la práctica médica

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La bioética, o ética de la vida atendiendo a sus raíces etimológicas, surge como un diálogo necesario entre las ciencias de la vida y los valores humanos. Se ocupa del estudio sistemático de la conducta humana, en el ámbito de las ciencias de la vida y de la salud, analizado a la luz de los valores y los principios morales. Se consolidó, siguiendo a Altisent en torno a tres factores decisivos: 1- los avances científico-técnicos de la medicina, 2-La conciencia y desarrollo de los derechos del paciente (concepto de Autonomía) y 3- la organización sanitaria con sus nuevos modelos sociales (concepto de Justicia Social). Se concibe la bioética como “una ayuda para la toma de decisiones en los dilemas éticos que se plantean en medicina y biología; y se entiende por dilema ético, la situación que se produce cuando los principios éticos entran en conflicto.” El principio de Autonomía afirma la capacidad que la persona tiene sobre su autodeterminación. Se expresa como el respeto a la capacidad de decisión de los pacientes, y propone tener en cuenta sus preferencias en aquellas cuestiones de salud relativas a su persona. Se define como persona autónoma aquella que tiene capacidad para obrar, facultad para enjuiciar razonablemente el alcance y significado de sus actuaciones y responder por sus consecuencias. Significa que en la
relación sanitario-paciente, la prioridad en la toma de decisiones sobre la enfermedad, es la del paciente, cuando se trate de decidir lo que es conveniente para él. Significa dar valor y considerar las opiniones y elecciones de las personas y abstenerse de obstaculizar sus acciones, a menos que éstas produzcan un claro perjuicio a otros.

Adaptación y validación al Español del cuestionario “Aid to Capacity Evaluation,” para la valoración de la competencia del paciente en la toma de decisiones médicas

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El consentimiento informado es el modelo de relación entre personas en el marco de procesos de toma de decisiones donde participan profesionales. Se trata de la explicación a un paciente atento y mentalmente competente, de la naturaleza de su enfermedad, efectos de la misma, riesgos y beneficios de los procedimientos diagnósticos y terapéuticos, para solicitar su aprobación a ser sometido a cualquiera de ellos. La competencia es la capacidad de la persona para comprender la situación a la que se enfrenta, los valores que están en juego, los cursos de acciones posibles y las consecuencias previsibles para, a continuación, tomar, expresar y defender una decisión que sea coherente con su propia escala de valores. El requisito de competencia o capacidad es uno de los elementos clave de un proceso de consentimiento informado. La Ley catalana sobre los derechos de información establece, de forma explícita, el deber del profesional de valorar la capacidad del paciente pero no da orientación alguna sobre la manera adecuada de hacer esto, y tampoco sobre el momento y forma en que su obligación excede sus atribuciones, y deben intervenir por ejemplo los jueces. Se considera que la mejor herramienta disponible, en la asistencia médica, para la valoración de la capacidad de tomar decisiones médicas es el cuestionario validado en otros países llamado Aid to capacity evaluation (ACE). Este proyecto tiene como objetivo adaptarlo y validarlo al español, a través de un estudio observacional transversal. El ámbito será el hospital, centro de salud, domicilio y residencias.

Participación de los profesionales de salud mental en la determinación de capacidad y competencia para consentir libremente

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Drane en 1985 afirmó que la competencia de una persona no es un valor genérico ni estable, y que dependía en esencia del tipo de decisión que deba tomar, y sobre todo de sus consecuencias. En función de ellas, las demandas funcionales (las aptitudes o habilidades psicológicas necesarias) cambian, y por tanto los requerimientos que exigimos para aceptar la competencia del paciente. Drane clasifica las distintas tipologías de decisiones en el marco sanitario en: decisiones difíciles, fáciles y de mediana dificultad. A éste modelo se le denominó “escala móvil de la competencia.” Más tarde, en 1988, Appelbaum y Grisso publicaron sus criterios de
competencia: 1. La habilidad o capacidad de expresar una elección; 2. La capacidad de entender la información relevante para la toma de la decisión; 3. La capacidad de valorar el significado de esa información en relación con la propia situación, especialmente en lo referente a la propia enfermedad y el significado personal (valores) de las probables consecuencias de las opciones de tratamiento; 4. La capacidad de razonar, manejando la información relevante, para desarrollar un proceso lógico de adecuada consideración de las opciones terapéuticas. Desde esta lógica, la adecuada comprensión de la información por parte del paciente se convierte en una condición muy relevante del proceso. No basta con emitir el mensaje, también se debe procurar su adecuada recepción. El requisito de competencia o capacidad es uno de los elementos clave de un proceso de consentimiento informado. Sólo si el paciente es competente podrá tomar decisiones autónomas sobre su salud. Sin embargo éste es, con toda seguridad, el elemento del consentimiento informado que plantea mayores dificultades. La evaluación y determinación de la competencia de un paciente es una tarea que entraña una enorme responsabilidad ética y jurídica. Los profesionales sanitarios no tienen potestad para establecer por su cuenta la capacidad de obrar legal de un paciente. Éstas son cuestiones que vienen dadas por el ordenamiento jurídico. La modificación más importante de dicha capacidad de obrar, la incapacitación, es -como establece claramente el artículo 199 del Código Civil- una potestad y una responsabilidad exclusiva de los jueces. Los profesionales sanitarios no quedamos al margen y somos requeridos como peritos expertos para medir y evaluar la Capacidad. Abordaremos la aportación desde los campos de la medicina de familia, psiquiatría y neurología y las distintas herramientas y medios de mayor aceptación y uso internacional.

**Tratamientos no consentidos hospitalarios y ambulatorios: aspectos ético-legales**

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La normativa española sobre tratamientos sanitarios involuntarios es muy escasa. Se aprecia, sobre todo la inexistencia de criterios para la imposición de los mismos. Parece recomendable por ello la aplicación de los estándares internacionales, especialmente los contenidos en los principales instrumentos internacionales de referencia de Naciones Unidas y del Consejo de Europa. Igual déficit es constatable en relación con los internamientos involuntarios por razón de trastorno psíquico. A dicho déficit se añade el inadecuado rango normativo para la regulación de los mismos, lo cual ha llevado a un importante pronunciamiento del Tribunal Constitucional. Se propone la implantación de unos criterios básicos ético-legales para la aplicación de tratamientos involuntarios y de otros medios coercitivos en el ámbito de la salud mental. Por su parte, la implantación en España de los denominados “tratamientos ambulatorios involuntarios” (TAI) ha generado un importante debate en el ámbito social, judicial y parlamentario. Aunque se han rechazado hasta ahora varias iniciativas legislativas, periódicamente aparecen nuevas propuestas al respecto. Se defiende la innecesariedad de regulación de los TAI, básicamente por no constituir, de hecho, la alternativa menos restrictiva, aunque también por otras razones.
205. Delitos violentos: datos epidemiológicos, abordaje y recursos terapéuticos

**Estudio preca. Epidemiología psiquiátrica en prisiones Españolas**

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La prevalencia de los trastornos mentales entre los presos ha sido investigado en en unos pocos países en todo el mundo, pero no en España. El estudio PRECA fue diseñado para estimar la prevalencia del último mes y prevalencia-vida de los trastornos mentales en población reclusa española. El estudio PRECA fue un estudio transversal, que incluyó a 707 reclusos varones. Datos sociodemográficos, clínicos y delictivos fueron recogidos por entrevistadores. Los daños del delito fueron confirmados utilizando los registros penitenciarios. Los trastornos mentales se evaluaron con la versión clínica de la Entrevista Clínica Estructurada (SCID 1) para el DSM-IV Trastornos del Eje I, y los trastornos de la personalidad se evaluaron a través de la versión en español de la Personalidad Examen Internacional de Enfermedades (IPDE). La prevalencia de los trastornos mentales fue del 84,4%. El trastorno de uso de sustancias (abuso y dependencia) fue el trastorno más frecuente (76,2%), seguido por el trastorno de ansiedad (45,3%), trastornos del estado de ánimo (41%) y el trastorno psicótico (10,7%). Durante el último mes, la prevalencia de cualquier trastorno mental fue de 41,2%. El trastorno de ansiedad fue la más frecuente (23,3%), seguido por el trastorno por uso de sustancias (abuso y dependencia) (17,5%), trastornos del estado de ánimo (14,9%) y el trastorno psicótico (4,2%). Si bien las cifras del período de prevalencia, , son útiles para la planificación de mejoras en los servicios dentro de las cárceles, el hecho de que casi todos estos hombres tenían una prevalencia- vida de por lo menos un trastorno sugiere la r necesidad de mejora de los servicios de salud mental , incluidos los servicios de la comunidad, para este grupo.

**Riscanvi: valoración de riesgo de violencia en las prisiones de Catalunya**

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El comportamiento violento es uno de los elementos más característicos y alarmantes de la delincuencia grave. La atribución de peligrosidad a los responsables de estos delitos violentos ha servido durante muchos años como factor explicativo y sobre todo predictivo de la reincidencia y la gravedad de las actuaciones de estos delincuentes, entre los que destacan los agresores sexuales, los homicidas y los maltratadores familiares. La intensa preocupación social por el comportamiento violento ha demandado a la Psicología soluciones que han superado el ámbito tradicional de aplicación de la Psicología de la Delincuencia al definirse nuevos delitos como la violencia de género y especialmente por el surgimiento de las demandas atencionales que requieren las víctimas. Hoy los profesionales de la Psicología son requeridos para actuar también en la prevención, para evitar la ocurrencia y el mantenimiento de cualquier tipo de violencia.
Entre estas nuevas demandas se encuentra la predicción futura de las conductas violentas que tienen una alta tasa de repetición. El atributo esencial sobre el que se ha fundamentado la predicción de la violencia ha sido la peligrosidad. La peligrosidad es un constructo con una capacidad predictiva limitada ya que no es el único determinante del comportamiento violento. En los últimos 15 años han surgido nuevas técnicas de predicción basadas en la valoración del riesgo de violencia que han demostrado tener una mayor eficacia predictiva. Presentaremos estas nuevas técnicas de predicción de la violencia, sus propiedades y sus aplicaciones. Dichas técnicas mejoran de forma significativa la eficacia predictiva, ayudan a clarificar las bases sobre las que los profesionales sustentan sus decisiones relacionadas con el futuro del comportamiento individual y facilitan la gestión y prevención de la violencia.

**Programas de tratamiento penitenciario de delitos violentos y abusos de substancias en Cataluña**

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En el año 1984, la comunidad Autónoma de Catalunya asume competencias en materia penitenciaria y marca diferencias con el resto del estado español en el desarrollo de intervenciones especializadas en el tratamiento de la delincuencia a través de programas estructurados para conseguir los objetivos de rehabilitación y reinserción social que marca la Constitución Española en su artículo 25.2. Las primeras intervenciones técnicas para el tratamiento de la violencia tenían como objetivo básico la promoción de la competencia social.

En el año 1996 empieza a aplicarse el primer programa estructurado, intensivo e integral para el tratamiento de los delincuentes sexuales. Este programa denominado SAC (sexual aggression control) fue diseñado por Garrido y Beneyto (1995).

En los años posteriores, tomando como base la metodología de los programas estructurados que propone el programa SAC, se diseñaron otros programas que incidían en las necesidades criminógenas de los internos/as derivadas de otras conductas violentas, como el programa de Delitos Violentos (DEVI) o el programa para el tratamiento de Delitos de Violencia Doméstica (VIDO).

En este sentido, y posterior a las revisiones necesarias que se han venido desarrollando fruto de los cambios sociales, avances científicos en la evaluación y tratamiento de la delincuencia, etc. se cuenta con una oferta de intervenciones que dan respuesta al conjunto de necesidades de intervención que se evalúan con los internos y internas que conforman la población penitenciaria catalana. Estos programas de tratamiento especializados en conductas violentas comparten una serie de características que los hacen singulares y a su vez homogéneos en cuanto a sus objetivos y metodologías: se sustentan en el modelo teórico-técnico de intervención cognitivo-conductual, son intervenciones de larga duración en las que se trabajan contenidos específicamente dirigidos
a intervenir los déficits relativos a la emisión de la conducta violenta (sexual, de género o general). Otro objetivo fundamental es que una vez superada la intervención intensiva realizada en el centro penitenciario, los internos puedan generalizar los aprendizajes adquiridos en un ámbito de supervisión comunitaria.

En este simposio explicaremos con más detalle el desarrollo de cada uno de los programas de intervención de conductas violentas que actualmente se realizan en los centros penitenciarios de Cataluña, y cómo estos se complementan con otras intervenciones necesarias para el abordaje integral de las necesidades rehabilitadoras de los internos e internas.

**Delitos violentos, trastorno mental y trastorno por uso de substancias**

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*Introducción.* La relación entre delitos violentos, trastornos mentales y abuso de sustancias ha sido ampliamente analizada, aunque con resultados contradictorios. Los estudios sobre esta relación en población penitenciaria son escasos.

*Objetivos.* El objetivo del estudio fue analizar la relación entre delincuencia violenta y trastornos por abusos de sustancias o mentales.

*Método.* Estudio epidemiológico, descriptivo, transversal sobre 707 prisioneros masculinos. A través de las entrevistas se recogieron datos sociodemográficos, clínicos y penales. La información penal se confirmó con los registros penitenciarios. La información clínica se obtuvo empleando el SCID (*Structured Clinical Interview* 1) para el diagnóstico de acuerdo al DSM-IV Eje I (First et al., 1999) (incluyendo trastornos por abuso de sustancias). Internos que tenían antecedentes de uso a lo largo de su vida de abuso de sustancias se clasificaron de acuerdo al tipo y al número de sustancias usadas.

*Resultados.* Prisioneros violentos que había usado drogas (n=539) fueron más prevalentes que los que no las habían usado (68,6 vs 39,9%). El riesgo de incurrir en un delito violento fue el doble en prisioneros que habían usado solo un tipo de droga sobre los que no habían usado ninguna y también sobre los no reincidentes (OR=2,02, 95% CI [0,98-3,78]). El riesgo aumenta cuando los prisioneros son reincidentes (OR=3.34 95% CI [1.45 – 7.7]). Más aún, el riesgo es mayor en aquellos reincidentes que consumen más de n tipo de droga (OR=5.35 95% CI [2.85– 10.05]) comparados con los no consumidores.

*Conclusión.* En nuestro estudio, los factores de riesgo de cometer un delito violento fueron ser reincidentes y consumir más de una sustancia. La salud mental de los prisioneros no mostró ser un riesgo para incurrir en delitos violentos.

**Asistencia psiquiátrica en las prisiones del área de Barcelona**

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Desde el años 1985, las transferencias desde el estado español a Cataluña en materia de prisiones significa un cambio en la planificación de los servicios psiquiátricos en las centros penitenciarios en Catalunía. A partir del 1987, la Orden Hospitalaria de San Juan de Dios se hizo cargo de la asistencia psiquiátrica en las pisones de Barcelona. En esta presentación se explica el desarrollo de las diversas estructuras y servicios y la situación actual así como de los proyectos de futuros de la asistencia psiquiátrica en las cárceles de Barcelona. Desde la asistencia ambulatoria y del soporte a la asistencia primaria hasta la hospitalización psiquiátrica tanto aguda como de larga estancia.

206. La enfermedad mental y sus cuidados en las prisiones

Hospitales psiquiátricos penitenciarios y necesidad de medidas alternativas

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En España quien, en el momento de cometer un delito, padece una anomalía o alteración psíquica que le impide comprender la ilicitud del hecho o actuar conforme a esa comprensión, recibe un tratamiento penal y penitenciario diferenciado: sometimiento a alguna/s de las medidas de seguridad, privativa o no privativa de libertad, contempladas en el Código Penal. La medida de internamiento para tratamiento médico, por lo general, se cumple en establecimientos gestionados por la Administración Penitenciaria (dos hospitales psiquiátricos, una unidad psiquiátrica y una unidad para discapacitados). Estos establecimientos especiales están en ocasiones masificados y provocan el desarraigo familiar y social. El perfil sociodemográfico de los pacientes, es semejante a los pacientes psicóticos de la comunidad. La incapacitación civil y el suicidio tienen una incidencia específica en este contexto. Se aprecia últimamente un incremento de pacientes diagnosticados con trastorno de personalidad y abuso de múltiples sustancias. Tras la promulgación de la legislación sobre maltrato en el ámbito familiar, se ha incrementado el número de internamientos de corta estancia, acompañados de órdenes de alejamiento, incluso tras el cumplimiento de la medida de internamiento. Todo ello invita a una revisión de la situación actual y plantear medidas alternativas al internamiento.

Impulsividad y bienestar en mujeres encarceladas en Lima

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El aumento de la proporción de las mujeres que se encuentran en la cárcel genera la necesidad de estudiar la salud mental de manera específica en este grupo. Las teorías que explican el
comportamiento delictivo resaltan el rol de la impulsividad en la explicación del origen de la delincuencia, ya que se la ha relacionado con conductas agresivas y como un componente clave de la psicopatología. Diversas investigaciones parecen comprobar una calara cercanía entre la impulsividad y el afecto negativo. Sin embargo diversas teorías han comprobado que la impulsividad no siempre posee alcances negativos sino que más bien permite el desarrollo o el crecimiento, lo que también podría llamarse bienestar. Sin embargo estas propuestas han sido estudiadas en población comunitaria y no con población forense. Es así que se estudiará la relación entre la impulsividad y el bienestar en una población de mujeres encarceladas, en las que se supone deberían mantener altos niveles de impulsividad “negativa.” Es especialmente importante estudiar estos constructos en estos grupos para poder dilucidar mejor la relación entre bienestar e impulsividad.

**El trastorno mental grave y el riesgo de prisión**

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Se acepta que entre 50 y 70% de los diagnósticos de esquizofrenia evolucionan hacia la cronicidad y más de 1/3 no reciben tratamiento. Un estudio patrocinado por OMS (Demitennaere y cols., 2004) identificó las prevalencias más frecuentes y más severas entre las enfermedades mentales; entre los Trastornos Mentales Severos (TMS), 35-50% estaban incursos en brecha terapéutica (BT) en países desarrollados. Otro estudio (Kohn y cols., 2004) mostró que el 32% de los diagnosticados de esquizofrenia estaban en BT. Siguiendo la política recomendada internacionalmente por OMS\(^1\) y otros organismos internacionales, se están cerrando hospitales psiquiátricos o reduciendo sus camas. Sin embargo, el cierre de camas no es reemplazado por recursos comunitarios alternativos. Esta carencia de continuidad terapéutica hace del TMS un grupo altamente vulnerable y en números casos su destino alternativo termina siendo la cárcel. Ya en1998 Lamb y cols., advirtieron sobre el incremento en el número de TMG en prisión en relación con las prevalencias que se comunicaban en la década de los 70. Un nuevo artículo del mismo grupo (2001) planteó la posibilidad de que la atención a enfermos mentales estuviese siendo transferida a las cárceles; preocupación compartida por otros autores (Priebe y cols. 2005).

**El uso de medidas coercitivas por indicación médica en prisiones y hospitales psiquiátricos penitenciarios**

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Hemos estudiado el empleo de medidas coercitivas (medicación forzada, aislamiento y contención mecánica) por indicación médica en tres prisiones y dos Hospitales Psiquiátricos Penitenciarios españoles. Analizamos las variables relacionadas con la medida coercitiva empleada, opinión del interno-paciente y opinión del personal médico. Tras estudiar 209 pacientes, 108 de Hospitales y 101 de Prisiones, los resultados más relevantes fueron que el...
aislamiento era la medida más frecuente (41.35%), seguida de la contención (33.17%) y de la medicación forzada (25.48%). Mayoritariamente (87%) se adoptaron conjuntamente dos o más medidas. Los tipos de medidas coercitivas no diferían significativamente en cuanto a la mayoría de variables estudiadas. No obstante, el tipo de centro sí tenía alguna influencia; con menor riesgo de sufrir aislamiento y contención en prisiones, aunque mayor riesgo de medicación forzada. El hecho de vivir en pareja antes de su ingreso reducía el riesgo de medicación forzada y la comunicación con la familia disminuía el riesgo de aislamiento. Con respecto a las escalas psiquiátricas empleadas, el incremento en las puntuaciones del Global Assessment of Functioning (GAF) disminuía el riesgo de sufrir cualquier medida coercitiva, mientras que el incremento en la puntuación del Modified Overt Aggression Scale (MOAS) incrementaba el riesgo de contención.

**207. La hospitalización involuntaria y otras medidas de coerción y la discapacidad**

**Coerción y tratamiento involuntario, salud mental versus derecho a rechazar tratamiento**

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La Coerción es el acto de ejercer el poder y se define como la acción de un agente quien intencionalmente busca influir la conducta de los otros. El agente coercitivo lo puede hacer usando la persuasión, pero si ésta falla, el agente recurrirá a imponer sus órdenes contra la voluntad del otro a través de amenazas, el uso de la fuerza física, o de la extorsión. La coerción puede que necesite del uso del dolor físico o psicológico que se utiliza para dar credibilidad a la amenaza. La Coerción es un elemento intrínseco en las relaciones humanas. Las personas con cierto nivel de autoridad tratan de explicar sus mandatos y buscan el soporte de los subordinados, pero éstos saben muy bien que si las órdenes no se cumplen o los pedidos no se atienden, o se obedezcan, habrá que atenerse a las consecuencias. La coerción, entonces, se manifiesta a través de la persuasión o imposición y como tal se contrapone a la libertad no importa como ésta se defina. Si la libertad se define en términos positivos tal como “ser el amo de uno mismo,” entonces si se siguen las órdenes de algún otro, la libertad personal sufre coerción. Pero si se define la libertad en términos negativos tal como “no poder evitarse que uno escoja como los demás” entonces, órdenes de no hacer algo son coercitivas. En Psiquiatria, aún en casos cuando el paciente se somete al tratamiento voluntariamente, hay siempre una amenaza de que medidas coercitivas se puedan usar en cualquier momento dado si las circunstancias así lo requieren. La coerción es una característica constante de la Psiquiatría.

**La hospitalización psiquiátrica involuntaria**

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La hospitalización involuntaria en psiquiatría existe en el mundo pese a constituir una privación de libertad, lo cual afecta un derecho humano principal. En general se intenta aplicar basada en los “Principios para la protección de los enfermos mentales y para el mejoramiento de la atención de la salud mental.” “La Convención de Derechos de las Personas con Discapacidad” expresa el derecho a ser tratado sobre la base de la voluntariedad y que las personas con discapacidad no pueden ser privadas de su libertad fuera del marco de la ley. La aprobación de la CDPD ha permitido que se cuestione la legitimidad de este procedimiento. El presente trabajo analiza la realidad de la internación involuntaria, su estatus legal y las controversias que genera. Asimismo, se estudian los casos de internación involuntaria generados en un servicio de psiquiatría en Chile, el perfil de las personas afectadas, las razones de su aplicación, la evolución de los usuarios y la capacidad de las redes de salud mental para evitarlas. Se concluye que su existencia en muchos casos esconde una realidad de carencia de recursos para la atención clínica y soporte social a las personas con discapacidad mental.

Coerción percibida y efectos psicológicos durante la hospitalización psiquiátrica

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Las consecuencias de la utilización de medidas coercitivas en el tratamiento psiquiátrico como son el ingreso involuntario, el aislamiento, la contención física y la medicación forzada aun plantean grandes incógnitas y abren la puerta a un intenso debate entre juristas, clínicos y asociaciones de familiares y usuarios. Un estudio llevado a cabo en 13 centros de 12 países europeos (EUNOMIA) (1) mostró una amplia variabilidad tanto en el marco jurídico como en el terreno empírico de su aplicación. Las principales cuestiones que aún quedan abiertas son:

¿Existen algunas características socio-demográficas y/o clínicas de los pacientes que los hagan ser candidatos de sufrir medidas coercitivas durante su tratamiento?
¿Cómo son percibidas por los pacientes tales medidas coercitivas en relación con el tratamiento?
¿Cuáles son los resultados a medio plazo de la aplicación de medidas coercitivas en los pacientes a los que les son aplicadas en comparación con los que no se le aplican?

La discapacidad mental en el ordenamiento jurídico Español

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En España el trastorno y el retraso mental tienen incidencia en diversos ámbitos jurídicos. Penalmente pueden comportar desde la exención de responsabilidad hasta la atenuación de la misma. En uno y en otro caso, las consecuencias son notablemente diferentes respecto a
	  

delincuentes no pacientes mentales (tanto por el tipo de consecuencia penal, como por el lugar de
cumplimiento de la medida). Civilmente, trastorno y retraso mental pueden conllevar el
internamiento (voluntario/involuntario), la incapacitación (total o parcial) u otras medidas de
protección. Administrativa y laboralmente, existe un sistema de incapacidades específico.
Especialmente en los ámbitos civil y penal se aprecian relevantes disfunciones provocadas por la
desconexión existente entre el teórico marco jurídico de garantías y su plasmación en la práctica.
Así, en el plano civil, recientemente se ha producido un importante pronunciamiento declarando
la inconstitucionalidad de parte de la regulación del internamiento involuntario por falta de
adecuado rango normativo. En el ámbito penal existen importantes déficits institucionales (de
recursos y organizativos). La ratificación por España de la Convención de Nueva York de 2006,
ha planteado la interesante problemática de la adaptación del ordenamiento jurídico español a la
interesante problemática de la adaptación del ordenamiento jurídico español a la misma. Tal
cuestión ha llegado a nuestros más altos Tribunales recientemente.

La discapacidad mental en la experiencia Chilena: el derecho a vivir
en comunidad
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El sistema de salud público chileno, que provee servicios a alrededor del 75% de la población, ha
realizado profundas transformaciones en la atención psiquiátrica en los últimos 21 años,
disminuyendo significativamente el número de personas recluidas en hospitales mentales, al
mismo tiempo que fortaleciendo y descentralizando los servicios ambulatorios y comunitarios.
La presencia de equipos especializados con mayor accesibilidad, programas de rehabilitación
psicosocial basados en la comunidad y los hogares y residencias protegidas insertos en cualquier
vecindario han facilitado que miles de personas con discapacidad mental de causa psíquica
puedan ejercer su derecho a vivir en la comunidad. No obstante los avances logrados, la
legislación chilena no ha realizado los cambios necesarios para favorecer este proceso y cumplir
con el artículo 19 de la Convención de las Naciones Unidas sobre los Derechos de las Personas
con Discapacidad, de la cual el país es signatario. La existencia de vacíos y contradicciones con
dicha Convención, exponen a un debilitamiento en el desarrollo de apoyos comunitarios y a
dificultades en la inclusión social. El presente trabajo expondrá algunos indicadores sobre los
avances, retrocesos y amenazas del derecho de las personas con discapacidad mental a vivir en la
comunidad en Chile.

208. Innovaciones legislativas en Chile
La nueva ley Chilena sobre derechos y deberes de los pacientes.
Progresos y controversia
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El Gobierno y el Parlamento chilenos han aprobado recientemente una nueva ley sobre Derechos y Deberes de los pacientes en general, y de los pacientes mentales en particular. Esta nueva ley refuerza aspectos relativos al consentimiento informado, pero entreabre espacios para la liberación de información confidencial a los prestadores institucionales de salud, privados o públicos, al mismo tiempo que descarga en la responsabilidad individual del médico sus eventuales quiebres o incumplimiento. No se establecen los grados y tipos de responsabilidad institucional en la formulación de guías de procedimiento, y la constitución de comités de ética en los diferentes organismos prestadores, no se especifica. Tampoco se define la participación y responsabilidad de las sociedades científicas, del colegio médico, o de las escuelas de medicina. Aunque esta ley entraría en vigencia en Octubre 2012, ha sido objetada en medios legales vinculados a la defensa de médicos. Esta presentación pretende resumir los aspectos positivos y los lados controvertiales de este nuevo cuerpo legal.

**Aspectos controvertiales de la nueva ley de licencias médicas en Chile**

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El Gobierno y el Parlamento chilenos han aprobado recientemente un nuevo cuerpo legal orientado a evitar y sancionar la extensión fraudulenta de licencias médicas. Este nuevo cuerpo legal ha sido cuestionado por el Colegio Médico y algunos integrantes de su Consejo General, objetando su carácter punitivo, que incluye severas multas económicas a los médicos que sean sorprendidos extendiendo licencias (ausencia a trabajar temporalmente por razones de salud) de manera fraudulenta, aunque sin establecer con claridad organismos, condiciones, y requisitos de especialización deberán tener los contralores encargados de detectar y fundamentar estos ilícitos. Por más necesario que sea evitar la extensión fraudulenta de licencias con los costos que estas conllevan, los mecanismos a través de los cuales se pretende este resultado, no parecen considerar el conjunto de actores, su calificación profesional, o las instancias superiores de apelación o arbitraje, ni considera responsabilidades más allá del médico individualmente considerado. Este trabajo pretende contribuir a ampliar la perspectiva con que se ha considerado el problema.

**Ley de derechos y deberes de los pacientes, una visión desde la ética médica**

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La Ley de derechos y deberes de los pacientes dictada recientemente en Chile, busca mejorar la relación clínica, regulando particularmente la participación de los enfermos en la toma de decisiones sobre la base del respeto del principio de autonomía. Incluye derechos consagrados para las personas que contiene un componente ético relevante. El ejercicio de estos derechos por otra parte impone a los profesionales médicos un quehacer médico basado en la ética. En consecuencia la conducta deseable sería posibilitar y bregar porque esos derechos sean ejercidos en plenitud. Es entonces un imperativo moral establecer y delimitar las condiciones en donde se deban ejercer estos derechos. Las normas relativas a aceptar o rechazar tratamientos, la protección a las personas con discapacidad física e intelectual, el secreto profesional asociado y la hospitalización involuntaria tratadas en la norma, pueden tensar la relación médico paciente, y entrar en conflicto con los parámetros éticos de cada profesional. Quedaron afuera de esta Ley elementos importantes como el “menor maduro,” las directivas anticipadas y la limitación de esfuerzo terapéutico. Todo lo anterior y dada las condiciones generales del ejercicio médico en Chile, permite válidamente preguntarse si los imperativos éticos que impone el ejercicio de la medicina y las normas en ella basadas y consagradas en la ley de derechos y deberes podrán ser aplicadas en nuestro país.

*Ley de derechos y deberes de los pacientes, una visión legal*

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En el contexto de una hiper-regulación de la actividad médica se dicta en Chile la Ley de derechos y deberes de las personas en Salud, en cuya virtud se pretendió otorgar mayor autonomía al paciente y propender a la positivización del consentimiento informado, la ficha clínica y especialmente de la protocolización de la actividad médica en su fase sanitaria. Se regulan los eventos adversos, la medicina con pertinencia cultural y específicamente la atención de pacientes con discapacidad física o intelectual. En estas normas no obstante y atendida la realidad legislativa del país, aparecen ciertas grietas fácticas dables de destacar a fin de no hacer del texto legal letra muerta. La autonomía del paciente es reconocida pero a la vez restringida en la misma ley, la notificación de eventos adversos podría contravenir los postulados esenciales del derecho penal chileno, y las normas sobre resguardo y privacidad de la ficha clínica dificultan el ejercicio de la medicina, dada su redacción poco feliz. En cuanto a la psiquiatría, las normas consagradas en la ley de derechos y deberes resultan contradictorias en su enunciación y permiten interpretaciones contra-fácticas e incluso antagónicas. No obstante ello, la ley en cuestión es un avance en la determinación de los derechos de las personas y puede, de ser asumida en plenitud, convertirse en una herramienta que permita un ejercicio de la medicina y en especial de la psiquiatría más seguro en lo jurídico, pero lo que es más relevante, más certero en lo asistencial y con un alto grado de compromiso y cooperación entre los facultativos y sus pacientes, siempre y cuando en conjunto, ambos entes esenciales del acto médico, exijan al estado la posibilidad de cumplimiento que el propio estado ha impuesto mediante la ley, ello a través del mejoramiento de las condiciones materiales en que se desarrolla la actividad médica.

Ítem aparte es el análisis de casos concretos en imputación penal por presunta negligencia médica de la especialidad.
El presente trabajo busca analizar la ley de derechos y deberes de las personas en salud, y desde una perspectiva gremial, colocar el correcto ejercicio de la medicina al centro de la discusión, a fin de volver a encauzar la relación médico-paciente, en el justo centro de la actividad profesional. De acuerdo a ello y en relación a las cifras con que cuenta FALMED, la judicialización de la medicina ha tenido un sostenido y no explosivo avance en la realidad nacional, no obstante los resultados en tribunales han estado de la mano de la inocencia de la gran mayoría de los médicos chilenos. A esta corriente no escapa la psiquiatría y por ello es que debe ponerse atención a lo regulado en la ley en comento. La visión del Colegio Médico, en cuanto a la ley tiene que ver que aunque es perfectible en ámbitos diversos, lo cierto en que además constituye una oportunidad para afianzar la relación médico paciente ante la creciente desconfianza promovida por la industria del juicio. Instancias como la mediación en salud, los comités de éticas y los procedimientos de reclamo previstos en la ley pueden generar una vía no jurisdiccional de solución de conflictos y a la vez re-encauzar correctamente la relación médico paciente. Se expondrá que la mayor y mejor comunicación entre médico y paciente, los mejores estándares de medios técnicos y humanos disponibles, el mayor tiempo entregado a cada enfermo son los ejes centrales de la humanización de la medicina y consecuentemente de la disminución de juicios. La ley en este sentido no innova respecto de lo ya prescrito por el Colegio Médico de Chile en su código de ética, sino que reitera dichos preceptos. La relevancia entonces se encuentra en que otorga una validez legal a los requerimientos de mejores condiciones hechas reiteradamente por los profesionales en favor de sus pacientes. Se hace imperativo entonces por una parte hacer efectiva la necesidad de mejores condiciones para la atención de nuestros pacientes y de contar con la tutición ética de los profesionales que ejercen la medicina.

209. Otros temas no encuadrados I

Problemática y tratamiento jurídico de los trastornos paranoide-querulantes ante los tribunales de justicia españoles

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Sin duda los trastornos paranoides incardinados en el clúster A, resultan ser los que presentan más incidencia en el ámbito jurídico-penal, especialmente aquellos sujetos que padecen este trastorno en su modalidad “querulante.” Casi todos los Juzgados y Tribunales se han encontrado a lo largo de los años con supuestos de esta tipología que, a nivel jurídico tiene un complicado abordaje, dado lo absurdo e inadecuado de sus pretensiones así como el comportamiento...
reiterativo del sujeto en relación a procedimientos casi siempre archivados o sobreseídos. En la práctica profesional de la que suscribe, se abordó un supuesto en el que en colaboración con el Médico Forense y el Psicólogo Forense, se ha conseguido articular una fórmula para impedir, desde un punto de vista legal, que dichas conductas se perpetúen. Para la misma, se contó con la pericial emitida por el Sr. Médico Forense al que, de oficio fue remitido por el Ministerio Fiscal al sujeto en cuestión, procediéndose a través de la pericia de los Psicólogos forenses a la administración de diferentes instrumentos de evaluación que dieron como fruto la incapacitación a efectos de realización de actos procesales.

Solicitud de autorización judicial para el ejercicio del derecho de sufragio activo por persona incapacitada judicialmente: estudio de un caso real

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En este artículo se va a analizar el caso de una mujer incapacitada judicialmente cuya familia solicita la reintegración parcial de la capacidad para ejercer el derecho al sufragio activo. La estructura de este trabajo será la siguiente: se comentará, en primer lugar, cómo se presentan en Derecho Español las figuras de protección jurídica de los incapaces (tutela, curatela, defensa judicial y guarda de hecho), centrándose el artículo en la tutela por cuanto es la figura que afecta al caso de estudio. Después, se analizará el art. 12 de la Convención de Naciones Unidas de Derechos de las personas con discapacidad, de 2006, y su aplicación y desarrollo en España: el interés central de este precepto reside en el cambio que supone en la institución de la tutela y del trato global al incapaz, abandonando modelos de sustitución de la capacidad, para adoptar un sistema de apoyos, en un marco de respeto a la dignidad del incapaz y a su desarrollo como persona. Por último, nos centraremos en el caso de estudio, con especial atención a la prueba pericial del Psiquiatra Forense, determinante en la resolución del procedimiento.

¿En qué época de la vida somos más felices? La psicología positiva o de la felicidad y logros en las distintas etapas evolutivas

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La Psicología Positiva o de la Felicidad señala que los factores que nos hacen felices cambian según la etapa evolutiva (Alarcón, 2003; Martínez, 2004, Ráez, 2003), que los rasgos de la personalidad ayudan a utilizar de manera más saludable o más negativa los eventos, y que la felicidad varía según la persona, la cultura y el país. Interesada en el tema, que investigo desde hace algunos años. (Ráez, 2003, 2006, 2007). en esta oportunidad el interés se centra en estudiar la relación entre el “ser feliz” y los rasgos más representativos en las distintas etapas evolutivas. El presente trabajo es un estudio empírico con una población limeña no paciente, constituida por 200 participantes, entre 18 y 65 años, divididos en 4 grupos etarios: 18-25, 26 a 39, 55, y 56-65
en adelante. Este grupo es representativo de la población peruana que es mayoritariamente joven. El 55% son mujeres y el 45% hombres, y todos provienen de diversos niveles socio culturales. Empleamos como instrumento el Rorschach, porque siendo una técnica desestructurada, se evita la interferencia de la deseabilidad social (Ráez, 2007). Se presentarán y se discutirán los resultados dentro del marco de la psicología positiva y de los datos proporcionados por la psicología del desarrollo, como representativos de las distintas etapas evolutivas.

**Las posibles injusticias que sufren los trabajadores ante la Justicia del Trabajo en los peritajes de casos de depresiones**

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Hay singularidades que contribuyen a una evaluación no satisfactoria. Entonces tenemos el riesgo de la injusticia. La depresión no es algo que necesariamente salta a los ojos (se hace evidente). Los trastornos depresivos no son siempre fácilmente visibles. A menudo se confunden con un mal momento con algo que SE PUEDE CAMBIAR SI la PERSONA SE ESFUERZA, ETC. Muchas veces hay diferencias en el diagnóstico de los sub tipos. Los peritajes son realizados en espacio de tiempo corto (no siempre suficiente para una correcta evaluación). En un rango de tiempo que suele ser de pocos minutos, el evaluador tiene que definir: 1 – si hay o no trastorno, 2 – si hay trastorno, lo mismo puede traer incapacidad para las demandas 3 – si hay relaciones con el trabajo 4 – si es permanente o puede tener mejor resultado con los tratamientos. Las depresiones, así como en la mayoría de los trastornos mentales no tiene un factor etiológico establecido: luego: problemas con el nexo de causalidad o influencia, debido a falta de pruebas concretas como las que existen para un hueso roto: rx; o diabetes; glicemia en sangre, etc. A lo anterior debe agregarse que muchos peritajes son realizados por peritos no conocedores del tema (psiquiatría).

**Intoxicación en mujeres violentas que mataron a sus parejas**

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Antecedentes: El alcohol y las drogas suelen ser un elemento facilitador que en relación al contexto y determinadas variables de personalidad, puede tener incidencia significativa en las conductas violentas. Sin embargo, son pocas las investigaciones que han intentado estudiar la relación entre intoxicación de drogas y/o alcohol en mujeres que asesinan a sus parejas. Objetivos: El objetivo de este estudio fue describir y caracterizar a una muestra de mujeres que mataron a su pareja bajo efecto de alcohol y/o drogas, intentando establecer si existen
asociaciones en relación a variables sociodemográficas, experiencias tempranas, de la relación de pareja, criminógenas y psicopatológicas. Material y métodos Se realizó una revisión retrospectiva de los informes psiquiátricos incluidos en la base de datos del Servicio Médico Legal de Chile, que incluyó una muestra de 50 mujeres acusadas de matar a su pareja, peritadas entre los años 2000-2011. De ellas, 22 habían actuado bajo efecto de alcohol y/o drogas al momento de cometer el homicidio. Los autores evaluaron las características individuales de las mujeres señaladas, en relación con la edad, escolaridad, antecedentes de maltrato y abuso sexual en la infancia, antecedentes psiquiátricos previos, trastorno por abuso de alcohol y sustancias, y variables como el tipo de relación existente con la víctima, tipo de violencia utilizada, existencia de celos y conductas controladoras, amenazas y denuncias previas por violencia intrafamiliar. Resultados: De las mujeres que componen la muestra, 17 presentaban un trastorno de personalidad tipo clúster B, existiendo también una asociación significativa entre presencia de violencia física al interior de la relación de pareja e historia psiquiátrica previa de la imputada (que serían factores de riesgo). También se encontró que en la mayoría no existía historia delictual previa ni antecedentes de abuso de sustancias.

210. Otros temas no encuadrados II

Mundo interno y factor de riesgo en niños con vivencia de calle y niños de casa: Rorschach, sistema comprensivo

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Perú, país con economía expectante en términos de desarrollo -condición que le ha permitido soportar con cierta fortaleza la crisis económica mundial- aún no ha logrado disminuir los altos índices de precariedad e incluso de extrema pobreza existente, en ciertas zonas rurales y urbanomarginales, hecho que afecta fundamentalmente a los derechos del niño. Con el objeto de realizar un estudio comparativo sobre el mundo interno de dos grupos de niños, asociado al factor de riesgo, se ha trabajado con un diseño descriptivo-comparativo, en una muestra de 70 niños no-pacientes, varones, de 12 a 14 años de edad, de Lima Metropolitana. Los grupos de estudio están conformados por: A) Niños con vivencia de calle (34), que constituyen el grupo emblemático de riesgo. B) Niños de Casa (36), que viven con sus familiares, asisten a una escuela estatal; de bajo nivel socio-económico, que los ubica en una potencial situación de riesgo. El instrumento utilizado ha sido el Psicodiagnóstico de Rorschach, a través de tres perspectivas de evaluación: A) Agrupación de Afectividad y Variables Relacionadas (Sistema Comprensivo). B) Contenidos Rorschach, desde un enfoque cuantitativo (Sistema Comprensivo). C) Contenidos Rorschach, desde un enfoque cualitativo (autores rorschachianos de diferente orientación).

El consentimiento x asentimiento (assent) en la investigación con la participación de enfermos mentales: la validación moral de la decisión individual es posible?
En nombre de la ciencia muchas crueldades se cometeron en la investigación con seres humanos. Dispositivos éticos y legales fueron diseñados para evitar el sometimiento de la persona humana con condiciones inadecuadas en las pesquisas. Una herramienta importante fue el término de consentimiento libre e informado. El tiene un compromiso moral, ético, y tiene su importancia legal. Los menores de edad e incapaces (reconocidos por la justicia, como los interdictos y los pueblos indígenas no culturizados), no pueden firmar este término. Dependiendo de la autorización de un responsable. Se considera mientras la voluntad de estas personas e exige su aceptación. Tener el conocimiento necesario sobre la investigación, y por tanto es capaz de dar su “autorización.” Por tratarse de un incapaz o interdicto, este documento no tiene valor legal. Pero ella puede dar su aceptación (assent, aprobación en Inglés). Con los enfermos mentales sujetos de investigación surge un problema mayor. Algunos incluso siendo mayores de edad no tienen el discernimiento necesario. De este modo, los autores discuten cómo conseguir una aceptación – asentimiento - éticamente validada para esta población?

Perfil socio-demográficas de pacientes abusados sexualmente, que consultan por patología psiquiátrica general en una consulta privada, Osorno, Chile, Abril 2005 a Abril 2013

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El abuso sexual constituye uno de los temas dolorosos de los pacientes y que deja su marca, con una serie de cuadros psiquiátricos; en Chile se desconoce la magnitud del problema, porque no hay estudios de prevalencia ni de incidencia, sólo se dispone de investigaciones parciales. El Servicio Nacional de Menores (SENAME), en un corte transversal efectuado en el año 2001, encontró que de los 57.957 niños que tenía bajo su protección, 45,6% eran víctimas de maltrato y abuso sexual. De los pacientes consultantes por cuadros de Psiquiatría General, en una consulta privada, se pesquisa un 26%, que refieren haber sido abusados sexualmente, de un universo de 6000 pacientes. El objetivo es describir el perfil de las personas abusadas sexualmente, sus variables socio-demográficas, antecedentes clínicos y familiares. Se describe el motivo de consulta, síntomas y signos sugerentes de abuso sexual, que llevan a confesar y confirmar el diagnóstico.
**Acoso laboral, seguimiento de casos asociado a cambio de gobierno: mobbing político**

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Se presenta el seguimiento de directivos y profesionales calificados, afectados, desde el 2010 en su estabilidad laboral al ocurrir el cambio de gobierno, ya que se les vinculó políticamente al gobierno anterior. Los afectados, desempeñaban funciones de estado, no adscritas a los partidos políticos. Los evaluados tienen como factor común ser de demostrada competencia laboral y lealtad institucional, que entregan su inteligencia, creatividad, integridad, talento y dedicación, al bien superior del Servicio Público. Con la llegada de nuevas autoridades a las Instituciones del Estado, se les desvinculó con hostilidad y humillación, fueron denostados en su integridad moral; denigrados y marginados de sus cargos, con un afán antidemocrático y fundacionalista. Con el propósito de demostrar lo pernicioso de estas prácticas, tanto para las instituciones y sobre todo para las personas, presentamos las características clínicas y socio laborales, antes y dos años después de estos afectados, aplicando un instrumento de evaluación cualitativa en ambos controles de salud mental.

**Crímenes seriales en centros de salud. El primer caso constatado en América Latina**

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A propósito del primer caso constatado en América Latina. Se realiza una revisión histórica, a nivel mundial, de los antecedentes de homicidas seriales en salud, en vista a tener una perspectiva internacional comparativa con las muertes ocurridas en dos establecimientos de salud montevideanos, perpetrados por dos enfermeros de dichas instituciones, constatados en febrero de 2012, en la República Oriental del Uruguay. Se considera el alerta emitida por la *Joint Commission on Accreditation of Healthcare Organizations* (JCAHO), en al año 2010, en relación a la violencia que puede ser ejercida por el personal de la salud. Se identifican diferentes causas, en la etiología de dichos actos delictivos constatados en diversas regiones del mundo. Se estima que el número de los homicidios, dentro de los centros asistenciales, puede ser significativamente mayor. Se señala, a partir de los riesgos reconocidos, la necesidad de instrumentar medidas de control rigurosas. Medidas que deben implementarse, desde el más alto nivel, no sólo desde los mismos establecimientos sanitarios, necesarias para prevenir el daño.

**211. Psicología y psiquiatría forense: evaluación e instrumentos**

*Afrontamiento al estrés: adaptación del COPE 60 en Lima*
El inventario de estimación del afrontamiento COPE (Carver, Scheier & Weintraub, 1989) evalúa diversos modos de responder al estrés; este instrumento goza de reconocimiento mundial y cuenta con estudios psicométricos en distintos contextos (Casuso, 1996; Costa & Gouveia, 2008; Ficková, 2005; Huang, Wen, Chen & Yu, 2010). Está conformado por 52 enunciados que representan trece estrategias de afrontamiento, las cuales pueden organizarse en tres grandes estilos. En el Perú, el COPE ha sido estudiado y utilizado en diversas investigaciones (Alcalde, 1998; Cassaretto, Chau, Oblitas & Valdez, 2003; Cassaretto, 2011; Chau, Morales & Wetzell, 2002; Chau, 2004); sin embargo, estos señalan dificultades para la reproducción de la estructura trifactorial planteada originalmente por los autores, existencia de estrategias con índices de consistencia interna baja y algunos ítems con pobre capacidad discriminativa. En vista de ello, se plantea un estudio para superar dichas debilidades que permita incorporar las 2 últimas escalas creadas para el inventario. Para ello, se aplicó el COPE de 60 ítems a 300 estudiantes de una universidad privada de Lima, entre los 16 y 25 años (M=18,17 y D.E.=1,39), obteniéndose una muestra con distribución homogénea de acuerdo al sexo (50,7% hombres y 49,3% mujeres). La primera fase de análisis halló buenos indicadores de consistencia interna y estructura factorial para la mayoría de las áreas; no obstante, detectó problemas con varios ítems. Tras un proceso de depuración, se determinó neutralizar 3 ítems (ítem 1, 15 y 25). Se realizó un análisis factorial exploratorio por componentes principales (rotación oblicua) obteniéndose doce factores que explicaban el 61,17% de la varianza total de la prueba, dos de dichos factores agrupaban otras escalas de forma teóricamente coherente (afrontamiento activo, planificación y reinterpretación positiva por un lado, y buscar soporte social instrumental con buscar soporte social emocional, por otro). En términos de confiabilidad, 13 escalas superaron el valor recomendado para los índices de consistencia interna de alfa Cronbach, mientras que las otras 2 escalas presentaron alfas de 0,53 (desentendimiento mental) y 0,55 (restricción del afrontamiento). Finalmente, se hizo un análisis factorial de segundo orden emergiendo una estructura de 3 factores que explicaban el 55,65% de la varianza, la organización hallada es compatible a la propuesta planteada originalmente. Se concluye entonces, que la versión de 60 ítems del COPE resulta un instrumento válido y confiable, el cual presenta cualidades psicométricas superiores a la versión de 52 ítems existente en el Perú.

**Patrón de rendimiento en el WAIS para la detección de test de simulación en población forense Chilena**

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(VDS) ha sido utilizada como indicador para la evaluación de simulación neurocognitiva en ámbitos forenses. El objetivo de este estudio consiste en probar que estos instrumentos pueden ser de utilidad en población forense chilena.

**Método:** Para el estudio se utilizó un diseño con grupos conocidos, en el que se comparó el rendimiento en el VDS en una muestra de pacientes psiquiátricos forenses identificados como simuladores (n=23), que cumplen con los criterios diagnósticos de simulación neurocognitiva probable y un grupo de pacientes psiquiátricos forenses en los que se descartó la existencia de indicadores que permitan sospechar la presencia de simulación (n=14). Para realizar esta investigación ambos grupos completaron el test de WAIS, junto con una batería de test neuropsicológicos.

**Resultados:** Los datos muestran que el indicador VDS permite establecer diferencias entre ambas muestras. Sin embargo, la capacidad para identificar correctamente minimizando los falsos positivos, es modesta. Ahora bien, se encontró que la puntuación estándar para la prueba de dígitos y las puntuaciones directas en la modalidad directa e inversa permiten un mejor nivel de diferenciación entre ambos grupos.

**Conclusión:** el VDS aporta información para la utilización de esta herramienta en ámbitos clínico-forenses chilenos. Sin embargo, su utilización debe ser realizada con precaución, a fin de evitar la posibilidad de cometer errores diagnósticos.

**Utilización del Test of Memory Malingering para la detección de simulación neurocognitiva en población forense Chilena**

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**Introducción:** La simulación, la exageración y el bajo esfuerzo son aspectos que pueden interferir en los resultados de la evaluación pericial. La prevalencia de este fenómeno se estima entre 13-66%, siendo el déficit de la memoria el trastorno más simulado. Unos de los test mas utilizados y que cuenta con mayor respaldo científico, es el Test of Memory Malingering (TOMM). El propósito de esta investigación, es probar si este instrumento puede ser de utilidad en población forense chilena.

**Método:** Para esto se realizó un estudio de diseño mixto con grupos conocidos y simuladores análogos. Para este propósito se trabajó con cuatro grupo que contestaron el TOMM bajo distintas condiciones, el grupo 1 estuvo compuesto por pacientes forenses con el diagnóstico de simulación posible (39), el grupo 2 estuvo constituido por pacientes forenses que no cumplieron con criterios para la sospecha de simulación (14). El grupo 3 estuvo compuesto por universitarios con la instrucción de responder honestamente al instrumento (20), y el grupo 4, fueron universitarios con la instrucción de fingir una patología neurológica (20).
Resultados: Los resultados muestran que el TOMM permite discriminar entre los distintos grupos estudiados tanto en función del número de aciertos como del tiempo utilizado para responderlo. Por otro lado, las puntuaciones del TOMM se muestran poco afectadas por variables como la edad y escolaridad. Finalmente, la capacidad para identificar sujetos que intentan simular déficit de memoria muestra equivalencia con la versión original.

Conclusión: el TOMM puede ser utilizado como una herramienta para la evaluación de simulación neurocognitiva en el contexto forense chileno.

Sobre el desafío pericial en los casos de abuso sexual infantil (ASI)

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El problema del Abuso Sexual Infantil como acto agresivo/delictivo que vulnera los derechos básicos de todo infante que es expuesto a alguna forma de práctica victimizante sexualmente, viene ocupando en nuestras sociedades un lugar preponderante, no solo por la denuncia pública cada vez más frecuente, sino también porque a partir de ese reconocimiento social, nos exige como individuo y como sociedad, adoptar una posición frente al fenómeno. En éste trabajo nos ocuparemos del rol que cumple una persona, que en calidad de perito experto aportará un elemento crucial, “el informe,” a un proceso socio-judicial, que se ocupará del tema. De hecho se generará una influencia decisiva ya que será parte activa del diseño de un resultado final mediante el que se considerará por ejemplo la existencia o no del daño, y a partir de allí la necesidad o no de aplicar una sanción penal al acusado y una medida reparatoria a la víctima. Rol que para cumplirse deberá enfrentar cada día más exigencias, producto de la participación a veces involuntaria, de un proceso macro, de “escalada simétrica,” en el que ambos lados aparentemente enfrentados, conforman la escalada, aumentado en forma simétrica el grado de complejidad. Frente a ésta ineludible realidad proponemos al perito no solo contar con los debidos conocimientos en su materia, sino con las habilidades correspondientes para exponer sus conclusiones y defenderlas al momento en que se le exijan argumentos sólidos que ilustren al juez en la etapa de valorar los hechos. En este sentido venimos planteando que el perito debe estar consciente de ser parte de ese proceso simétrico, de que mientras más se especialice más exigencias se le aplicarán, esto tiene que ver con las responsabilidades de una materia que no muchos deciden desempeñar y menos aún en estos temas tan complejos, como los casos en los que un informe psíquico forense termina siendo si se quiere la prueba más sustancial a la hora de comprobar la existencia del hecho victimizante.