

# Abstracts of the XXXIInd International Congress on Law and Mental Health

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*Résumés du XXXIle Congrès International  
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## 1. Strengthening the Case: Mental Health Examinations of Torture Survivors According to the Istanbul Protocol

### Istanbul Protocol Examinations for Court Proceedings: The Experience of the Forensic Expert Group

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International humanitarian law obliges States to investigate alleged crimes of torture and to bring perpetrators to justice. However, many cases of torture still go unpunished, partly owing to lack of skills and knowledge in the health and legal professions in the field of investigation and documentation of torture. The IRCT is engaged in a process to increase the provision and use of high quality forensic documentation in legal proceedings for alleged torture cases. A panel of experienced forensic experts, psychologists, and psychiatrists has been established to serve as a reference point, provide advice on technical issues, and participate in missions to examine torture survivors and assist with bringing cases to court. The group has developed a manual of procedures and standards to guide the conduct of medical investigation missions and expect to perform at least 15 such missions in the coming years. The experts will also continue to advocate for the increased use of medical evidence and contribute to the development of a body of knowledge on the subject of forensic documentation. The experiences derived from this project will be shared with the audience.

### Evaluation of Psychological Consequences of Torture

Mechthild Wenk-Ansohn, *The International Rehabilitation Council for Victims of Torture, Copenhagen, Denmark*  
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Physical and psychological torture methods are in most cases used together. In modern times torturers avoid leaving scars, so that it is more difficult to prove that torture has taken place. Psychological forms of systematic torture are also increasingly used. The long term sequelae of both physical and psychological torture methods are frequently on the psychological and psychosomatic level and take the form of posttraumatic stress disorder and comorbid psychological disorders. For asylum procedures, or for a process against a

torturer before local or international courts, the evaluation of the psychological impact on the survivor can be very useful. Psychological reports can give an indication that the survivor has been tortured. Standards for examination and reporting based on the Istanbul Protocol and discussions with lawyers and forensic psychologists will be presented, and experiences from Germany shared.

## Effectiveness of Forensic Psychiatry Reports in Court Cases of Victims of Torture in Georgia

Mariam Jishkariani, *Psycho-Rehabilitation Centre for Victims of Torture, Violence and Pronounced Stress Impact, Empatia, Tbilisi, Georgia*  
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The main goal of forensic psychiatry evaluation in cases of torture is to document the psychological outcomes of torture. The presentation shares the results of the research conducted by Empathy in Georgia. Based on observations for the period 2009 - 2010, acute aftereffects were identified in 348 cases (61%) out of a total of 573. Chronic effects among adults: From the 446 cases studied, a total number of 344 (77%) persons were diagnosed with mental health problems; and in a further 102 (23%) cases, various forms of psychological problems requiring psychological assistance or medical consultations were identified. Among children: From a total number of 127, the following observations were noted: Total number of clients with mental health problems amounted to 54 persons (43% of 127). Psychological problems were identified in a further 73 cases (57% of 127). The presentation will furthermore share observations on the shortfalls in the legal proceedings, which do not contain any mandatory articles on the necessity of forensic psychiatry/psychological evaluations in cases of torture. Finally the presentation shares conclusions and recommendations. Forensic psychiatry evaluation in court cases is essential to the pursuit of adequate legal redress and compensation. State authorities should incorporate specific articles in the criminal procedural legislation regarding the necessity of forensic psychiatry evaluation in court cases of torture.

## The Use of Medical Evidence and Expert Opinions in International and Regional Human Rights Tribunals

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Traditionally, the focus of torture prevention activities has evolved around the establishment and implementation of effective legal frameworks and monitoring mechanisms. These efforts have significantly increased the protection against torture through the emergence of national, regional and international legal standards, whose implementation is monitored by either judicial or independent expert bodies. However, there is still a significant implementation gap, which is partly caused by the inability of alleged victims to substantiate their allegations. The Istanbul Protocol provides an internationally recognised standard guiding health and legal professionals on how to most effectively document evidence of torture. This presentation examines how different international human rights tribunals utilise forensic medical evidence of torture in cases involving allegations of torture and ill-treatment and seeks to provide an overview of best practices and challenges faced by the different bodies in ensuring an effective evidence assessment. The presentation concludes that despite significant capacity constraints on their evidence assessment, the bodies under review generally do utilise forensic medical evidence of torture when available. This is especially prevalent in the European and Inter-American regional systems, which also have the most well developed criteria for evaluation of this evidence.

### The Role of the Interpreters in the Psychotherapy of Torture Survivors

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This presentation provides an example of how interpreters are being prepared for this special task at Cordelia Foundation and how they can be protected from vicarious trauma and burnout. The interpreters need a preliminary training before taking the role of translating seriously traumatic psychological material. They receive regular mental support after each working day spent with therapy. The importance of supervision sessions is something to be emphasized not only during case discussions but the team-building aspect is also inevitable. A special challenge is “the interpretation” of the non-verbal sessions or the non-verbal psychological material. The presentation deals with the transference-countertransference situation and the interpreter’s place and role in it.

## 2. Access to Justice: Positive and Negative Impact on the Mental

### Health of Torture Victims

## Justice Heals: The Relation between Combating Impunity and the Recovery of Survivors of Severe Human Rights Violations

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Case studies show that the persistence of impunity in their home countries severely impacts traumatized refugees who are survivors of serious human rights violations. The recovery of survivors of serious human rights violations is impeded by ongoing impunity, or absence of legal justice, exemplified by the legal protection of the perpetrators through impunity laws, incomplete truth finding, missing integral reparation and a lack of the acknowledgement by society of the wrongs done. According to several reports, a high percentage of survivors demonstrate an increased mental vulnerability due to impunity. Mental health problems resulting from traumatic experiences can persist or be reactivated by certain events. For example, family members of the forcibly disappeared are unable to properly mourn their loved ones due to their uncertain fate. In a climate of impunity, the ongoing search for the forcibly disappeared puts family members under a high risk of re-traumatisation. Studies from other continents also show that impunity severely affects the mental health of the survivor. Due to the global nature of impunity, evidence of the positive impact of justice on mental health is limited. Nevertheless, a few examples, in particular from Latin America, show that the combined implementation of memory, truth and justice programmes can have a healing impact on those suffering from trauma. These examples demonstrate that the fight against impunity fulfils a basic need for the sustainable recovery of survivors, as well as constituting a legitimate moral struggle for human rights.

## Psycho-Social Support of Torture Survivors Involved in Legal Proceedings

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In order to heal, torture victims need recognition of the wrong-doing by society, for the perpetrators to be held accountable, and guarantees of non-repetition. Justice is a human need that no person should be denied and satisfaction of that need can contribute to the restoration of the idea of “a just world” in the mind of the victim. These needs can be satisfied by testifying in front of the court, but they also might be disappointed in their

expectations. In many countries today torture victims face significant barriers and challenges on different levels in accessing and participating in legal proceedings, including lack of access and information, threats and reprisals, and re-traumatisation. While sharing their story may be empowering for some victims, it can also be highly traumatising. It is often difficult for survivors to share the specific things that were done to them with others, even friends and family. To disclose very personal information publicly can add even more stress to the torture victim and put their recovery at risk. The presentation will outline the need for victims for psycho-social support in legal proceedings before, during and after the trial and share experience from working with victims in the former Yugoslavia.

### Courts' Responses to the Needs of Victim Witnesses

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Under international law, states are obliged to prosecute alleged perpetrators of torture and provide reparations to the victims. Victims of torture may participate in the justice process in various ways; this includes providing evidence in the form of medical reports, appearing as witnesses in court, providing testimonies, or by following the proceedings as an observer or claimant. However, torture victims often face significant barriers and challenges on various levels in accessing justice and participating in legal proceedings. While sharing their story may be empowering for some victims, it can also be highly re-traumatising to provide testimony in court, be questioned by prosecution, judges and lawyers, and not least, face the perpetrator again. In practice the justice system and approach of the court and investigating personnel often does not fully take into consideration and respond to the needs and expectations of victims throughout the legal process. As prosecutors rely to a large extent on the account of eye witnesses and primary victims to substantiate their case, trials would benefit from increased efforts to provide adequate support and avoid re-traumatisation or disappointment of the witnesses not only for the well-being of the individual but also for the success of the proceedings. The presentation will address some of the core challenges and responses developed by courts.

### Experience of Supporting Victims in Torture Cases against El Salvador Generals in the U.S.

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To attain justice, a torture survivor must sometimes present testimony at a legal trial against his or her perpetrators. In this session, the psychological benefits and costs of such public testimony will be discussed. Comments will be based on the experience of a psychologist from Advocates for Survivors and Torture and Trauma (Baltimore and Washington D.C.) who provided psychological support to the plaintiffs in a civil “command responsibility” trial in the United States. The successful trial against Generals Jose Guillermo Garcia and General Vides Casanova was filed by the Center for Justice and Accountability in San Francisco, California, USA.

### 3. Human Rights and the Abuse of Psychiatry: A Historical and Cultural Context

#### The Legal Exclusion of Mental Patients from Public Baths in Modern Japan

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This report focuses on legal regulations of public baths from the Meiji Era to the Showa Era in Japan, with a special emphasis on the clause disqualifying mental patients. According to previous studies, the first time the disqualification clause appeared was the national Public Bath Law in 1948; those considered liable to inconvenience other bathers were prohibited from public baths, and included those suffering from infectious diseases and mental patients. However, in Tokyo, prior to the national Public Bath Law, the first disqualification clause in legal regulations of public baths appeared in a municipal legal regulation in 1920. It excluded sick people shunned by others as well as unsupervised elderly individuals and children from public baths. The disqualification clause next appeared in Tokyo in a municipal legal regulation in 1942; it extended the public bathing prohibitions to people with infectious disease and mental patients. It is clear, then, that a disqualification clause excluding mental patients from public baths existed in Japan well before World War II.

#### The Mental Hygiene Act 1950 in Japan and the Liberation of Home Custody Patients

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The Meiji Government enacted the first national law for mental patients, the Mental Patients' Custody Act (1900-1950). This law allowed those suffering from mental illness to be confined at home. At the time, the number of psychiatric beds was extremely limited in Japan, and home custody played a major role in treating mental patients. While detailed standards for confining patients at home were provided by the law, many prominent psychiatrists criticized the practice, claiming that many home custody patients lived a miserable life; they often expressed a strong belief that the law should be abolished. A new law enacted in 1950, the Mental Hygiene Act, stipulated that mental patients be admitted only to psychiatric institutions, and required that home custody patients be liberated from their confinement rooms. Psychiatrists were sent to patients' homes to conduct psychiatric tests and judge if there was a need for hospitalization. However, it remained difficult to liberate and hospitalize home custody patients as there were still not enough beds for mental patients, particularly in rural areas. In addition, patients and their family often felt very anxious about treatment in mental hospitals. As a result, illegal confinement at home was reported even in the 1960s and 1970s.

### Forensic Psychiatry and the Modernist Mind in Early Twentieth Century Japan

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Japan experienced a hectic and turbulent path to modernization in the early twentieth century. The establishment of forensic psychiatry during this period was important both for the psychiatric profession and for society in general. Leading psychiatrists such as Kure Shuzo and Miyake Koichi published collections of cases of forensic psychiatry and provided a public face for psychiatry. Their presentation of cases was mediated by societal forces, in which the arrival of mass media and the reorganization of the concept of the public and the private played major roles. The construction of the mind of "dangerous individuals" through forensic psychiatry provides a window to probe into the structure of modernization and modernism in Japan. This paper will present the social history of the making of a psychological society through the analysis of two sets of cases of forensic psychiatry published by two professors at the University of Tokyo: one by Kure Shuzo (1903-9) and the other by Miyake Koichi (1937).

### Psychiatry in National Socialist Germany: A Case Study from Wuerttemberg

Thomas Mueller, *University of Ulm*

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This presentation will offer a psychiatric historical contribution with a focus on patients who nowadays would be treated as forensic patients. I will consider the issue of psychiatry and psychotherapy in National Socialist Germany by sketching out some of the preconditions and circumstances which led to the darkest chapter of German psychiatry. I will then discuss the impact of Nazi ideology on this medical discipline from 1933-1945, as well as portray some of the crucial developments, political decisions, and central personalities in psychiatry during this era. Furthermore, I will examine the harsh impact of political decisions on medical development by demonstrating the devastating consequences of these decisions on psychiatric therapy and care. Lastly, I will connect the matters introduced with a case study of three Wuerttemberg asylums and the regional micro-history of euthanasia, staff, institutions, political administration, and last but not least, the patients involved.

### Forensic Psychiatry in Poland before 1939

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Forensic psychiatry was developed in order to aid the judiciary system, and in particular to facilitate assessment, using specialist psychiatric knowledge. Synonyms such as legal psychiatry and criminal psychiatry are sometimes used. Forensic psychiatry in Poland dates back to the early 19th century. Andrzej Janikowski's book "O wątpliwym stanie władz umysłowych" (On the Doubtful Condition of Mental Powers), published in 1845, was the first manual of forensic psychiatry in Poland. In 1904, a psychiatry, neuropathology, and forensic psychiatry division was opened at the Warsaw Medical Association. Issues related to forensic psychiatry played a very important role in the Polish Psychiatric Association, founded in 1920. Six out of the 18 meetings held in the interwar period centred on legal issues. The discussed problems included incapacitation of the mentally ill, alcohol abuse in civil and criminal law, criminal biology, diminished responsibility, organization of penitentiary psychiatric care, etc. Several mental hospitals had forensic departments, while 5 departments for observation and treatment of inmates with mental disorders were opened in prisons. The year 1939 and the outbreak of World War II impeded and delayed the development of forensic psychiatry in Poland.

### Forensic Medicine, Berlin (300 Years Charité; 200 Years University of Berlin)

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In a Cabinet order dated August 16<sup>th</sup>, 1810, Frederick William III, King of Prussia, allowed “[t]he Establishment of a University in Berlin” with links to the Academy of Sciences, Arts and other institutions as also being part of academic instruction. We may note the following fields for the study of medicine: Comparative and Pathological Anatomy, Osteology, Physiology, Practical Medicine, Surgery, Obstetrics and Materia Medica. Forensic Medicine was taught not only after the foundation of the University, but since 1724 in the Collegium Medico-Surgical, i.e. 14 years after the construction of the "House of Pestilence", which was later called "Charité". The start of Forensic Medicine as an academic discipline is linked with the name of Wagner, who proposed that a practical educational establishment for pharmacology be set up. Among his successors, we may note Fritz Strassmann, the co-founder with Fraenckel, both from Jewish families, who had examined the body of Rosa Luxemburg in 1919. A polemic arose around the body of Rosa Luxemburg in 2009 when the current Chair of the medical school claimed that the (headless) body of Rosa Luxemburg was in his museum, implying that Professors Strassmann and Fraenckel had participated in a fraud by burying someone else's remains in her place. These allegations remain to this day unproven. During the presentation, there will be a more detailed discussion of the facts and forensic medicine at different times of political upheaval (Empire, Republic of Weimar, Third Reich, Division of Germany, and Reunification).

#### 4. Human Rights Law and Mental Health in the UK and Australia

##### Article 8 of the Human Rights Act 1998: A Review of Case Law Related to Forensic Psychiatry and Prisoners in the United Kingdom

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The Human Rights Act 1998 incorporated most of the European Convention on Human Rights into United Kingdom domestic law. Article 8 of the HRA provides the right to respect for private and family life, home, and correspondence. It is a qualified right, underpinned by the core principle of proportionality and therefore can be dynamically interpreted. The forensic psychiatry and prison settings in the United Kingdom have produced numerous cases based on perceived infringements that may or may not have breached Article 8. Particular areas of importance that have emerged from case law include seclusion,

communication and correspondence, hospital transfers and physical integrity e.g. risk of acquiring sexually transmitted diseases and other infections associated with illicit drug use in prison; cross-dressing by patients in hospitals. These cases, when analyzed, demonstrate the diversity of situations in which Article 8 can apply and helps to both demonstrate how Article 8 may be breached in practice and also illustrate key Article 8 principles that can be used and implemented in practice to safeguard both clinicians and patients.

### Article 3 of the ECHR: Evolving Case Law – Implications for People Detained in Hospitals and Prisons

Lucy Bacon, *South Staffs and Shropshire NHS Trust, Stafford, UK*  
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The European Convention on Human Rights is playing an ever-increasing role in determining the standards of treatment of those detained by the state and hence is of particular importance for those in hospitals, prisons or similar institutions. The European Convention on Human Rights is a 'living instrument' such that judgments emanating from the European Court of Human Rights will continually build upon previous jurisprudence and evolve over time. As Article 3 case law has evolved, its interpretation has broadened to now include a thorough scrutiny of hospital and prison conditions and healthcare provision where people are kept in detention. This discussion elucidates evolving areas where Article 3 may be infringed in prison and healthcare facilities such as: the provision of requisite medical care, the effect of restrictive regimens, multiple complaints and violations within one Article 3 claim, procedural effectiveness, conditions of detention and the cumulative effects of conditions of detention. This review of evolving Article 3 case law describes developments which can be considered in practice.

### Almost a Revolution (Again): A Theoretically-Informed Ethnographic Study of Reforms to English Mental Health Legislation

Elizabeth Fistein, *University of Cambridge*  
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In England and Wales, the Mental Health Act 1983 regulates compulsory treatment of mental disorder. The criteria for detention under the Act were amended by the Mental Health Act 2007, the controversial product of a decade of debate. As yet, little is known about the impact of the new legislation on clinical practice. This paper describes a theoretically-informed ethnography of clinical assessment and decision-making during the

12 months following implementation of the amendments. The data are audio recordings of clinical teams deciding whether to detain a person they have assessed, supplemented by in-depth interviews with clinicians. Thematic analysis and discourse analysis were used to document: (i) themes discussed during decision-making; (ii) how these themes were made relevant to the decision, and (iii) how clinicians justify the decisions they have made. The results suggest that the Mental Health Act 2007 has had little impact on day-to-day practice. However, concepts from the Mental Capacity Act 2005 (best interests, assessment of capacity) are being discussed during Mental Health Act assessments and made relevant to decisions to detain. Vulnerability to exploitation, which is not one of the criteria for detention, is also regularly cited as a justification for detention of female patients.

### The Right to Liberty and the Deprivation Dilemma

Neil Allen, *University of Manchester*  
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Following the criticism of English law by the European Court of Human Rights (HL v United Kingdom), the former scarcity of procedural regulation surrounding the detention of compliant, incapacitated adults can now be contrasted with the sheer complexity of the Deprivation of Liberty Safeguards ('DoLS'). The scheme only applies to those "deprived" of their liberty and not to those whose liberty is merely "restricted". The boundary between the two is undergoing intense scrutiny as the judiciary seeks to incorporate the guiding European principles into domestic law. We shall consider the issues of principle regarding where this line should be drawn and their significance in the context of protecting those of unsound mind.

### Social Deprivation and use of Mental Health Legislation in New Zealand

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Low socioeconomic status has consistently been associated with poorer health outcomes. Few studies have used ecological analysis to explore relationships between area measures of deprivation and use of mental health legislation. We used an ecological design to explore associations between two area measures of relative deprivation and the two most commonly used sections of New Zealand mental health legislation. High levels of relative deprivation were positively correlated with use of both acute and long term community care provisions of mental health legislation with the correlation with long term care achieving significance ( $r = .518$ ;  $p = .016$ ). Low levels of relative deprivation showed negative correlations with use of both provisions. The correlation of  $-.493$  between low levels of relative deprivation and acute care provisions was significant at  $p=.023$ . In stepwise regression proportion of population 15-64 contributed to the model for section 11, but ethnicity contributed to neither model. Mental health legislation is used disproportionately in areas with high levels of relative deprivation. The results have implications for regional allocation of funding for mental health and social services to support community based care. Further research is needed to explore other factors which may account for the regional variation.

## 5. Recent Developments in Psychopathy

### Optimization of Standardized Risk Assessment in the Penal System of Lower Saxony

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In early 2008, the penal system of Lower Saxony established a specialized department responsible for risk assessment of all prison inmates of the state. The department performs an estimated 200 risk assessments a year, with the majority conducted to measure the inmates' aptitude for social therapy and readiness to be transferred to an open prison. The Institute for Forensic Psychiatry of Berlin - Charité plans to follow the work of this department for a minimum of two years by offering a scientific exchange and by reviewing random samples of the risk assessments and verifying the proper application of current standards. We are particularly interested in determining which topics are discussed with inmates during the risk assessment, whether or not standardized risk scales are applied, and in evaluating whether the conclusions drawn are based on information that could be taken from court and prison files. The results of the study will be presented at the Congress.

## The Importance of Aggressive Behavior for the Measurement of Psychopathy in Female Prison Inmates

Anja Lehmann, *Free University of Berlin*  
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Psychopathy in female German inmates (as measured by Psychopathy-Checklist-Revised, PCL-R) has remained largely overlooked in the past several years. This study sought to answer two questions: 1) Is the PCL-R reliable and valid when used with female German inmates, and 2) are there any differences between females with high scores (up to 30) and those whose forms of aggression/institutional misconduct result in lower scores during time of imprisonment? 60 female inmates were interviewed in order to gather data about the prevalence of antisocial personality disorder (ASPD), drug addiction, types of aggressive acts, institutional misconduct, socially acceptable behavior, and social desirability. Analyses reveal that the PCL-R provides high reliability (interrater-reliability, item statistics). Results on validity are mixed. Most of the analyses showed similarity to results obtained with male inmates: psychopathy is positively correlated with ASPD and drug addiction, negatively correlated with age, and there are consistently high and statistically significant scores of aggression in the high psychopathy-group. Other components of the validity analyses show considerable differences from the results found among male inmates. For example, only 10% of the women analysed obtained scores over 30. Additionally, female psychopaths and those who had smaller values on PCL-R did not differ in rates of institutional misconduct. Therefore, we call into question the use of the PCL-R as a valid tool for the prediction of institutional misconduct. Implications for forensic diagnosis are discussed.

## Aggression Profiles in Male Psychopaths

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Background: Most of the studies investigating psychopathic aggression examine the quantity of aggression rather than its quality. In this study we conduct an assessment of social, self-harming and physical aggression in a sample of male inmates suffering from comorbid Axis-II disorders. The question is based on the observation that aggression in psychopaths diverges distinctively from aggression shown by other violent criminals, and also the proposal that there is a high degree of overlap between alexithymia and psychopathy. Accordingly, the primary hypothesis postulates that Axis-II comorbidities are correlated with typical patterns



of aggression. Secondly, we will attempt to verify whether specific Axis-II disorders are correlated with an increased incidence of aggressive behaviour. Sampling and Methods: After exclusion of Axis-I disorders (to be assessed by M.I.N.I.), a sample size of N=150 male delinquents detained in the penitentiary Luckau-Duben and in other penitentiaries in Brandenburg will be examined by conducting a SKID-II interview. Subsequently the subjects will be examined with the TAS-26, followed by the PCL-R. First results will be presented at the IALMH Congress in July 2011.

### A Basic Research Approach to Forensic Patients with SUDs in Relation to Hares' Concept of Psychopathy

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Scientific research on patients with substance use disorders (SUD) within the context of forensic compulsory addiction treatment is seldom available. Especially rare are evidence-based findings focussing on the improvement of treatment programs, management and rehabilitation concerning the population of SUD patients in forensic mental hospital departments. The aim of this study is to enhance the understanding of SUDs in relation to Hare's concept of psychopathy and the PCL-R. Of particular interest is the possible connection between the score of the PCL-R and the prognosis of treatment outcome of SUD patients (N=120). Concerning the personality traits, the results of this study reflect the well-known picture of former findings among forensic SUD patients. As expected, the total PCL-R scores of the examined population were slightly lower in comparison to the North American studies. Just one patient presented a score over 30 and only three patients reached a score over 25. Taking into account the cut-off scores of 30 for the North American and 25 for the European cultural context, the valid prognostic benefit concerning criminal development and therapy management can be applied to only a few of the forensic SUD patients. Nevertheless, the study pointed out that patients who discontinued treatment showed significantly higher total PCL-R scores. Furthermore, the results show that the number of patients with a low factor 1 score is significantly higher than the amount of patients with a high factor 1 score. Finally, it can be concluded that the results of this study encourage the notion of the PCL-R two –factor model as a tool to gain further useful information about risk and treatment assessment.

## 6. The Relationship between Psychopathy and Instrumental Violence

### Instruments of Aggression: Impact of Psychopathy and Motivation on Youth Violence

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Although youth violence is an issue of growing concern, there is still a noticeable lack of empirical studies examining the characteristics and motivations behind youth-perpetrated aggression. The presentation will consider the results of two recent studies examining a large sample of youth homicide offenders ( $n = 105$ ), as well as a separate large sample of youth offenders ( $n = 100$ ) who committed at least one violent offence. Results suggest that the characteristics of youth violence contrast with adults in a number of important ways. For example, when compared to adults, youth were twice as likely to commit a homicide that involved more than one perpetrator. Further, it would appear that psychopathy also plays an important role when considering the level of violence that is being perpetrated by a youth. Specifically, results indicated that as the severity of crime increases, psychopaths will actively monitor their impulsive tendencies, employing less reactive violence when the consequences are highest (for example, when committing homicide). How these studies can facilitate both treatment and assessment issues will also be explored.

### The Evil That Men Do: A Comparison of Individual and Multi-Perpetrator Murders as a Function of Psychopathy

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Despite an increasing prevalence of homicides committed by more than one perpetrator, hardly any research has examined features of the crime, victim, or the perpetrators. Based on detailed file information and interviews with perpetrators, we investigated the features of the crime, victim, and perpetrator characteristics of 84 individual murders versus 40 multi-perpetrator murders in Canada. Psychopathic offenders were likely to act alone in committing sexual murders, but typically involved an accomplice in other types of murders. They almost always perpetrated instrumental murders, and they typically committed gratuitous violence against women regardless of whether they acted alone or with a co-perpetrator. Relative to multiple perpetrators, individual perpetrators were more likely to be older and to target female victims, and their murders were more likely to contain reactive, sexual, and sadistic elements. Multi-perpetrator murders tended to involve younger offenders, male victims, and instrumental motives. The findings indicate that individual and multi-perpetrator homicides have distinctive dynamics and can be differentiated during investigations. Our findings with adult killers will be compared with those concerning youth killers in another paper in this symposium.

### Aggressive Female Juvenile Offenders: An Examination of Psychopathy and Instrumental Aggression

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Aggression is a heterogeneous construct that stems from multiple causes and is theorized to consist of two primary subtypes: reactive and instrumental aggression. Reactive aggression is defined by failing to inhibit responses to apparent provocation or frustration, whereas instrumental aggression is defined by the presence of planning and a lack of affect. Thus, a

critical differentiation between reactive and instrumental aggression concerns the motive of aggression. The extant research has repeatedly shown a significant relationship between psychopathy and instrumental aggression; however, the vast majority of this research has focused on adult male offenders. Recently, research has begun to analyze the association between psychopathy and instrumental aggression in juvenile offenders. However, females have often been excluded from or underrepresented in these samples. Female juvenile offenders are an important population to target in research since the rate of female juvenile offending has increased over the past two decades, and adolescent females represent a significant and growing population within forensic contexts. Thus, the purpose of this study was to examine the relationship between psychopathy and instrumental aggression in female juvenile offenders with a history of violent offending. Results and implications will be discussed.

### Violence Perpetration: A Theoretical Overview of Variables Impacting the Level and Type of Violence Committed by Offenders

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A recent set of studies that will be presented during this symposium have been conducted with the intent of expanding our knowledge of how various factors, such as psychopathy and the motivation for violence, influence the type of violence that is committed by both youth and adult perpetrators. These include studies that have examined both the gender and age of the perpetrator, the number of perpetrators, the level of psychopathy, as well as the underlying motive for committing the violent act. The current talk will consider all of these studies and attempt to draw important insights and connections between the various topics. For example, it would appear that the level of instrumentality and planning that is evident in youth violence is different than what is found in adult violence, and that motivation will further be influenced depending on the number of perpetrators involved in these incidents. Other parallels and differences between these studies will be expanded upon with a specific focus on how this series of studies can lead to enhanced knowledge and treatment procedures in the legal system at both the adult and youth level.

## 7. Transcultural Psychiatry and Psychotherapy: Migration and Cultural Sensitivities

### The Treatment of Russian-Speaking Immigrants

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The current socio-demographic development of Germany as a society of immigration shows an ever-increasing number of requests for appropriate care and health promotion for people from different socio-cultural groups. The Russian-speaking immigrants in Germany are characterized by a common language and other similarities, and yet there remain significant cultural differences. For example, Soviet-Jewish immigration to Germany takes place in a specific context. Intercultural sensitivity remains a major variable in attending to the aforementioned categories of patients. In the Vivantes model, multidisciplinary teams attend to diverse needs in the context of what can be designated as a transcultural institution. Paradigmatic cases will be reviewed to explore the multidimensional aspects of the migrant patient phenomenon in the Berlin environment.

### Insult and Illness: About Risks and Side Effects of the Migration Process

Doron Kiesel, *Erfurt University of Applied Sciences*  
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As the demographic landscape of the Federal Republic of Germany has changed over the last fifty years due to the process of immigration, the focus begins to shift to look at the resulting psychological and psychosocial costs for the immigrants. The biographical narrative of many immigrants provides insight into their experience following the decision to go to a foreign country. Positive expectations and confidence are being pushed back more and more by diffuse anxiety, psychosomatic disorders, depression and a resigned attitude. Psychic trauma was associated with a lack of recognition and appreciation for their own individuality in the host society, which not uncommonly led to self-devaluation. The inability of the host society to recognize the loneliness, the hardships and needs of the immigrants can be seen as a collective empathy denial, and failing to deal with immigration has far-reaching consequences on development of the immigrants' personality – consequences that may endure even for the second and third generation. The willingness to turn their own ethnic-

cultural affiliation against the integration perspective, re-ethnicization tendencies, segregation requirements and the growth of fundamentalist religious orientations are being observed more and more. An analytical review of the recent history of immigration and integration is used for the reconstruction of hopes, crises and disappointments of marked interactions between natives and immigrants.

### Specific Aspects Relating to Medical Treatment of Patients with Migration Background

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In Germany, people of foreign origin have a number of language, religious, and cultural barriers that must be considered during medical treatment. These differences affect prophylactic, preventive, as well as diagnostic and therapeutic measures. The immigration process per se is neither pathogenic nor a cause of sickness yet. However, mental stress can be caused, depending on the circumstances and course of immigration. Practitioners who are culturally sensitive ensure that immigrants receive more competent care, and also reduce unnecessary costs. Theoretical models will be presented and practical experience in working with people from an immigrant background will be described. Efforts will be made to debate and discuss the opportunities and dead ends of cross-cultural work.

### Transcultural Psychotherapy with Traumatized Refugees in Nordrhein Westfalen/ Germany

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As an increasing proportion of our population is composed of immigrants, the professionals working in the health, social and education system are faced with various challenges. Different environments, family norms and values can lead to mutual alienation and frustration. Diversity characteristics (age, gender, sexual orientation, disability, religion, skin color and socio-cultural background) are always analyzed together in order to pinpoint the similarities and differences and to find the best approaches to take in the everyday life of our social and educational institutions. In addition to immigration, Germany is a host country for refugees. However, despite increasing numbers of refugees worldwide, fewer refugees are ending up in Germany; one consequence of the "Fortress Europe", the common strategy for refugee defense. How can treatment of traumatized refugees succeed

in Germany? What factors need to be considered and to what extent? How far must the psychotherapeutic point of view be extended in order to meet the reality of these patients? Based on significant experience working for the Psychosocial Centre for Refugees in Düsseldorf (PSZ), the Presenter puts single aspects (accommodation and therapy, disorders, transcultural settings) in focus of the disputations and examines the possibilities of effective treatment - which, owing to the diverse and constantly changing composition of this group of patients, has to be adjusted again and again to be successful.

### The Concept of Day Clinic Treatment at the Centre for Torture Victims in Berlin for Patients with Reactive Torture and Civil War Consequences

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In cooperation with the Department of Psychiatry and Psychotherapy of the University Hospital Charité Campus Mitte, the day clinic of the Berlin Treatment Center for Torture Victims (BZFO) treats refugees from all over the world. Due to their severe disease, outpatient treatment is not sufficient. The treatment offered is intercultural and supported by specially trained translators of the BZFO. The disease pattern usually presented is chronic and complex post traumatic stress disorder (PTSD), with comorbid psychiatric and general medical illnesses which were often previously unrecognized and therefore untreated. This demonstrates that, unfortunately, general practitioner and psychiatric health care is still insufficient for this group of people. In this respect, the outpatient clinic of the BZFO does its share not only on the specific sector of psychological trauma, but also on the psychiatric and general medical sector. Its contribution to the overall health service of immigrants in the Federal Republic of Germany is extremely important as it is the only facility of its kind nationwide. The day clinic is financed by the health insurance resp. social services. In the following presentation, an overview of the outpatient clinic will be given. With the help of a case vignette, the therapeutic work will be presented along with all the specific challenges brought about by the diverse cultural backgrounds and specific psychosocial needs of the patients.

## 8. The Forgotten Doctors of the Holocaust: Making Tragic Ethical Choices in the Midst of Terror

## The Forgotten Doctors of the Holocaust: Making Tragic Ethical Choices in the Midst of Terror

Tessa Chelouche, *Technion Medical School*  
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A discussion of physicians and ethics in the Nazi regime usually refers to the violation of medical ethics by the Nazi doctors who applied their professional training to facilitate the Nazi racist political programs of sterilization, so-called euthanasia, infamous pseudo-scientific experiments, and the ruthless way they selected millions of innocent people and sent them to their deaths. Indeed, the direct result of the Nuremberg medical trial in 1946 was the "Nuremberg Code" which forms the basis for all ethical principles for research on human beings up to today. What is less well known is that another group of doctors, the Jewish prisoner physicians in the ghettos and the camps, also tried to apply their professional training according to ethical principles as best as they could, despite being forced to work under the most appalling conditions. The circumstances in the camps and the ghettos were so horrendous that these prisoner doctors were faced with ethical and moral dilemmas that they had not encountered before. They found themselves having to make abnormal decisions in abnormal circumstances. This paper addresses some of the ethical dilemmas that these prisoner doctors had to cope with. If we, as medical professionals, can achieve something through these people's suffering and their dignity in making the choices they did, it is to pass on to the future generations the lessons that can be learned from these doctors. These are lessons that are relevant to the medical professionals of today.

## Health Care in the Łódź Ghetto: Care, Compliance, Conscience and Resistance

Geoffrey Brahmer, *Beth Israel Deaconess Medical Center, Boston, USA*  
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This presentation looks at health care in the Łódź Ghetto between 1939 and 1945. Utilizing history, images, and diaries, the talk reflects upon the ethical dilemmas and choices of health care workers. Health care workers in the ghetto were on the front lines in treating patients, controlling infectious diseases, addressing starvation, and counseling the psychologically traumatized. In the Łódź ghetto, this care was performed under the most horrendous circumstances, often leading to the most difficult ethical quandaries. Some physicians provided medical exams for selection. Other physicians, as part of a lottery selection, lost their lives treating gypsy patients with typhus. One doctor, Daniel Weiskopf, was a resistance leader. There were also nurses who hid patients during deportations, or



who acted like Rachel Herszenberg, a nurse-midwife who risked her life to help deliver a baby in a secret hiding place. Health care workers in the ghetto were at the front line in the struggle between life and death. Their lives and choices are important for us to remember. Through their examples, we can better understand the ongoing struggles in our own lives and work.

### **“You Can Kill Us but You Cannot Humiliate Us” – Remembering the Fecalists in the Ghetto of Łódź**

Harold Bursztajn, *Harvard University*  
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Fecalists were considered “untouchables” in the Łódź Ghetto during the Shoah (1939-1945). Being assigned to the fecalist brigade was usually a death sentence. Although they existed at the lowest level of the social hierarchy and worked in one of the most vile and dangerous of jobs, fecalists were vital to the public health of the ghetto. Without the fecalists, the ghetto as a whole was vulnerable to the spread of infectious diseases. After the war, fecalists were all but forgotten, their historical presence often buried beneath layers of shame as well as cultural and psychological denial. As one fecalist survivor once noted, *“I made myself a human horse so I could pull the wagon filled with shit to the latrine; soon no one will believe that it ever happened,”* This presentation will assess the role of the fecalists in the ghetto of Łódź. As part of this reflection, we will learn how resistance to humiliation and hopelessness, without a flight to identification with the aggressor or to denial, is possible against all odds.

### **The Doctor’s Role in the Ghetto**

Jacob Holzer, *Massachusetts Department of Mental Health, Boston, USA*  
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Jakob the Liar, a book written by Jurek Becker, will be discussed as one reference for examining the complex role of the Jewish prisoner physician in the ghettos during the Holocaust. Without access to most medicines and equipment, the Jewish prisoner physician maintained a professional responsibility to inhabitants of the ghetto, marked by ethical dilemmas in decisions involving care of the inhabitants and interactions with the Nazi occupation. This responsibility took form, in part, through social leadership, consolation, and humor, in the context of prisoners facing disease, starvation, and death.

## 9. Narcissism, Envy, and the Role of the German Medical Society in the Nazi Party

### Narcissism, Envy, and the Role of the German Medical Society in the Nazi Party

Harold Bursztajn, *Harvard University*  
(harold\_bursztajn@hms.harvard.edu)

50% of the physicians and 25% of the attorneys were early joiners of the Nazi party. This panel will explore the role of narcissism and envy as motivating factors in these phenomena. Questions regarding the role of the professions in contemporary genocides and in genocide prevention via therapeutic jurisprudence will be a central focus.

### Envy and Destructive Narcissism amidst Authoritarian Environments

Maxine K. Anderson, *University of Washington at Seattle*  
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While many aspects of the Nazi era remain nearly incomprehensible, observations and studies over the past 50 years may offer some clues as to what contributed to healthy, professional individuals descending into such atrocious behavior during that time. Several studies suggest that authoritarian movements initially have an exciting allure which appeals to the narcissistic appetite for strength, belonging and power. Stanley Milgram's 1960's studies on blind obedience and Phil Zimbardo's 1971 Stanford Prison Experiment illustrate the powerfully dehumanizing role which unconstrained authoritarian environments can have on healthy individuals: without empathic guidance they seem to lose contact with their individual capacities for thought and moral restraint, instead becoming defined by the dehumanized roles etched by power, sadism and contempt for human qualities which characterize the authoritarian structure. The doctors and lawyers in the midst of the Nazi movement may have been caught up in a similar situation, captured by the allure and then abandoning thoughtful ethical behavior to indulge in previously restrained prejudices, sadistic curiosities and contemptuous disregard for human concerns. Such a descent triggers an inner collapse which then gives rise to envious attack upon those, such as former colleagues, who seem to have retained their integrity and humanity. Genocidal activities can easily escalate in these circumstances. Lessons, in terms of curbing tyranny and genocidal tendencies, include 1) vigilance about the rise of authoritarian movements and 2) care to

protect the atmosphere which fosters individual thought, discerning judgment and responsible action. We psychoanalysts can bring our accruing understandings about the fragility of our humanity to the community while our colleagues in the realm of law may inform and effect jurisprudence which can support wise, sturdy, transparent governance. Together, carefully, we may work toward the guidance and structure necessary for us to keep our feet on the ground, our identities intact, and our humanity at the forefront.

### Nazi Physicians' Crimes against Humanity: A Psychoanalytical Approach

Angela Mauss-Hanke, *Consulting Psychiatrist, Wolfratshausen, Germany*  
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After the First World War Germany's narcissism was deeply injured. In the Twenties the country of the losers desperately started to look for possible fields for revenge, people that could be blamed for its shameful situation, and strategies to 'heal' itself. Based on Darwin's social theory, Francis Galton's eugenics, and Binding/Hoche's ideas on 'the elimination of non-liveable life' (1920) German doctors helped to develop one of the main pillars of the national socialist ideology: the 'race hygiene'. Its goal was to heal the 'nation's body' ("Volkskörper") by freeing it from weak and evil influences. It is known that in 1933 45% of the German doctors were members of the German Nazi party (NSDAP) while 15 to 17% of the doctors were Jewish, around 8000 to 9000. Race hygiene became a compulsory subject at university. Instead of physiology, the German medical students had to learn subjects like eugenics and 'armed medicine' ("Wehrmedizin"). Five years later, in 1938, there were only 3000 Jewish doctors left in Germany and the German doctors started to engage largely in mass sterilization and/or the killing of the German psychiatric patients and handicapped. When this 'project', the 'elimination of the weakest' in Germany, was finished, the gas installations were sent to Eastern Europe in order to 'serve' for the Shoah. In the concentration camps German doctors then worked on inconceivable human experiments with Jewish people. This complete devaluation of all ethical principles among a very large number of German doctors in the Nazi era is being explored from a psychoanalytical perspective.

### Guilt and the German Judiciary in Responding to Victims of the Hitler Regime

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There is serious documentation to underline the fact that the German judiciary's fidelity to the Third Reich proceeded almost without exception. Therefore, the fact that these judges were entrusted to render judgments on restitution claims was inherently problematic, notwithstanding the fact that many of these jurists were burdened with predictable guilt in light of the fact that they were severely criticized by a global community. There were various psychological vehicles available to the German judicial community both at theoretical and practical levels. This is interesting from the point of view of judicial theory, for example the debate between legal positivism and fundamental/natural law values. In parallel with the theoretical debates were the actual outcomes of decisions. A tendency can be revealed within the German judiciary to place blame on the victims themselves. In fact this was identifiable in the early post-war years. Representative cases will be explored that indicate the difficulty that German judges experienced in disconnecting from the Nazi Regime. Two decisions of the supreme restitution court for Berlin - ORG/A/1329 and ORG/A/1540 dated July 13, and July 22, 1960 respectively - will be explored in detail. Further research is necessary to indicate actual patterns that evolved over time.

## 10. Immigration and Mental Health

### Immigration Detention and Removal in the United States: Persons with Mental Illness Fall Through the Cracks

Michael Churgin, *University of Texas School of Law*  
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During the last decade, United States immigration authorities have ratcheted up the detention of non-citizens in preparation for removal hearings. Persons with mental illness have suffered as a result of the increased enforcement because standards of detention have been low, especially for mental health care. Since there is no right to appointed counsel for the indigent in the immigration context, these persons lack advocates. I will describe the situation and suggest approaches to improve the situation.

### ICE Melting: Immigration Detainee Psychiatric Services in the United States

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Vasilis Pozios, *University Hospitals Case Medical Center, Cleveland, USA*

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U.S. Immigration and Customs Enforcement (ICE) is the primary law enforcement arm of the United States Department of Homeland Security (DHS). ICE operates detention centers throughout the United States that imprison illegal immigrants who are apprehended and placed into removal proceedings. Due process concerns and questions regarding detainee suicides have plagued ICE. In 2010, the Obama administration disclosed that more than 10% of ICE detainee deaths had been omitted from figures submitted to Congress the previous year. Documents obtained by the American Civil Liberties Union and the New York Times through Freedom of Information Act requests suggest that ICE officials covered up evidence of detainee abuse, and engaged in a campaign of disinformation in order to deflect scrutiny from the news media. Investigations into these allegations by U.S. House of Representatives Committee on the Judiciary are ongoing. A review of issues relevant to forensic psychiatry and immigration detention in the United States will be presented from the perspective of a psychiatrist working closely with senior counsel of the U.S. House Committee on the Judiciary. As well, the results of a Freedom of Information Act request made by the authors will be presented and contrasted with information made public by ICE.

## Intimate Partner Violence and Immigration Laws in Canada: How Far Have We Come?

Ramona Alaggia, *University of Toronto*  
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Immigrant women face numerous barriers to reporting and seeking services for intimate partner violence (IPV), which frequently results in them staying in abusive relationships, often with children, for prolonged periods of time. Over time, they can accrue serious negative mental health effects, including depression, post-traumatic stress symptoms and substance abuse. Obstacles they encounter when considering leaving can relate to immigration laws, policies, and legal processes due to their immigration status and sponsorship relationship. Data will be presented from a study conducted in a Canadian urban centre with one of the largest immigrant populations in the world. Qualitative interview data from helping professionals and women survivors reveal that in cases of sponsorship breakdown due to IPV, the criteria required for a viable immigration application are unrealistic, and in many cases impossible to meet. The data indicates that, despite claims to the contrary, laws and policies related to immigration have remained stable for over a decade, and these create systemic and structural barriers for abused women. Implications to inform policy and practice will be discussed.

## Clinical and Demographic Characteristics of Immigrants Seeking Psychiatric Care in Greece

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Introduction: Immigration during the 1990's was high. Some countries in Europe, including Greece, that were traditionally exporters of immigrants have shifted to become importers. The literature regarding mental health risk in immigrant groups in Europe mostly deals with: high rates of schizophrenia, suicide, alcohol and drug abuse, access to psychiatric facilities, and anxiety and depression. Materials and Methods: A study was performed at the Psychiatric Hospital of Attika in order to identify the demographic characteristics of foreign-born individuals in need of psychiatric care. 489 immigrants who visited the Emergency Unit during 2009 were included, and their Emergency Unit records were reviewed. Results: Participants were mostly male (68.3%), with a mean age of 36.22 years and over half lacked social security (66.5%). Most came from Albania (28%), Iraq (8.4%) and Georgia (8.4%). The

majority presented with substance use and schizophrenia (28.6 and 26.2% respectively). 32.3% of them were hospitalized. Conclusion: The need for mental health services for immigrants is evident. Better integration of immigrants into Greece's developed network of psychiatric care may be useful; this may be accomplished by taking into consideration their specific characteristics and special needs (e.g., use of interpreters, psychiatrists' transcultural training, and patients' socio-economic status).

## Welcome to a Strange and Dangerous Place: Immigration and the Fear of Crime

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Recent scholarship has encouraged an examination of the problems which crime and disorder present to immigrant populations. Most significant in this respect is the study of fear of crime. The research supports the view that glib generalizations about the relationship between immigrant status and fear are not warranted. To date, however, attempts to approach this question systematically are absent in the research literature. Using data from the 2002 Statistics Canada Ethnic Diversity Survey, we propose a model of the relationship between immigration experiences and fear of crime. It is argued that immigration may or may not be a risk factor for fear depending on a number of social and demographic conditions - most notably, the socio-demographic character of the immigrant group, the recency of immigration, visible minority status, and experience with other forms of discrimination. It is also hypothesized that the variable levels of social capital to which members of immigrant groups have access significantly mediates whatever negative effects immigration status might have upon feelings of safety from criminal danger. Using the results of our analysis we discuss a number of implications for social programming to facilitate urban adjustments for the members of recent immigrant groups.

## 11. Mental Health and the U.S. African American Population

### Exploring the History of African American and Their Rural History through Capital Mitigation Investigation

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An investigation of the Life Histories of men and women on Death Row in Louisiana invariably takes you to the plantations of the American South. These plantations are thought to be relics of another, more racist, time. Yet, a closer examination illustrates the depth of racism and sexism that continues to shape the lives of African Americans who currently live on these plantations. Through the life of one death row inmate, I began to uncover the powerfully magnetic role of slavery and its continued pull on both whites and blacks over a century after emancipation. The investigation into one man's life led me to a deeper understanding of the current role plantations play in the everyday lives of rural African Americans - lives of desperation, poverty, and submission. The cultural aspects of rural racism and its inevitable relationship to capital punishment will be discussed.

### An Analysis of Community Factors Associated with the Overrepresentation of Afrikan American Youth in the Juvenile Justice System

Huberta Jackson-Lowman, *Florida A&M University*  
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This presentation examines the role of community factors in the overrepresentation of Afrikan American youth in the juvenile justice system. Empirical and theoretical literature is reviewed from a variety of peer-reviewed journals and books in an effort to address three questions: In what ways do community/neighborhood factors directly and/or indirectly contribute to over-representation of minority youth (ORM)? What dimensions or characteristics of the community/neighborhood place Afrikan American youth at risk? What best practices are effective in eliminating those community/neighborhood factors that place Afrikan American youth at risk for delinquency or protecting them from these conditions?

Whether the relationship between contextual (e.g., neighborhood/community) factors and adolescent developmental trajectories is direct or indirect and/or mediated or moderated is debatable; however, theorists have long recognized the neighborhood/community's potential influence in shaping the socialization processes and outcomes of youth (Dalton et al., 2007). Explanations of the neighborhood/community's role in shaping the outcomes of youth, and in particular delinquency, are many. Structural characteristics of communities inclusive of high rates of poverty, unemployment, and under-education; under-resourced neighborhoods; poor housing stock characterized by features such as overcrowding and physical deterioration; and absence of surveillance are examples of community factors that have been implicated in higher rates of juvenile delinquency (Howell, 2003) within



neighborhoods. Other community factors that have been investigated are social disorganization depicted by high residential mobility, low socioeconomic status, and racial/ethnic heterogeneity (Sampson & Groves, 1989).

Overall, the reviewed studies indicate that the neighborhood setting exerts a potent but varied influence on overrepresentation of African American youth in the juvenile justice system. In some cases, it mediates the relationship through proximal variables such as parental monitoring, peer delinquency, or maternal self-esteem. In other cases, it may operate as a moderating variable or have a direct relationship to adolescent outcomes. In still other cases, no relationship between neighborhood context and adolescent outcomes was found. Along with differential responses to neighborhood/community factors based upon race/ethnicity, gender differences were also noted.

Three types of best practices are discussed. These include: 1) Practices with demonstrated effectiveness; 2) Promising practices; and 3) Evidence-based practices.

### Major Depressive Disorder in the African American Population: Meeting the Challenges of Stigma, Misdiagnosis, and Treatment Disparities

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This paper examines major depressive disorder (MDD) in the African American population. They often present with somatic symptoms that seem more severe and disabling compared to Caucasians. The enduring stigma that sees MDD as a “personal weakness” remains one of the biggest impediments to successful treatment of this debilitating disorder, and often leads to its misdiagnosis in blacks. Factors that contribute to this problem include religious beliefs, lack of trust in the medical profession, communication barriers, and the long history of suffering of the African American community. African Americans are more likely to receive health care in outpatient hospitals, with accompanying high rates of emergency care. The majority prefer to be treated by black clinicians. Treatment disparities emerge as they are likely uninsured and are nonresponsive to traditional pharmacological interventions for depression. African American and other ethnic group differ in the way they metabolize selective serotonin reuptake inhibitors; it is important for the clinicians to be aware of this 2D6 allele differences in order to understand how best to treat them. Educating the community about depression as well as educating physicians is essential. Greater participation of minorities in clinical research trials is necessary for the improvement of accurate diagnosis and treatment.

## Treating African American Men for Domestic Violence: Cultural Factors Limiting Cognitive Behavioral Therapy

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African American men, charged with domestic violence in the Atlanta, Georgia, USA domestic courts, have the option of entering a year-long diversion program. Cognitive Behavior Training is utilized to attempt to retrain the behaviors of these men. The question of retraining attitudes has yet to be determined. Often religious and cultural factors are raised as barriers to attitude change. I will discuss the barriers to treating African American men, the inherent racism that must be addressed before cognitive behavior therapy can effectuate change. Another limitation of cognitive behavioral change in treating African American men who have perpetuated violence is the dynamic of sexism that continue to pervade African American relationships.

## 12. Mental Health and Treatment in Afro-Caribbean Patients

### Mental Health and Compulsory Treatment in Black and Minority Ethnic Patients

Swaran Singh, *University of Warwick*  
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Black and minority ethnic (BME) patients in the UK have higher incidence of psychotic disorders than Whites, are more often detained under the Mental Health Act and experience adverse pathways into care. BME patients are said to be subjected to greater seclusion and restraint and given medication and ECT rather than psychological therapies. A long-standing explanation for such differences is that British psychiatry is institutionally racist (1). This lecture will present evidence showing that ethnic differences in incidence, care, and outcome of serious mental disorders are due to a complex causal chain of deprivation and disadvantage which operates in society rather than in psychiatric practice. A recent systematic review of ethnicity and detention also concluded that the higher detention rates in BME groups are due to socioeconomic and cultural reasons rather than flawed psychiatric care (2). Focussing on racism in psychiatry as the cause of ethnic differences rather than disadvantage in society is erroneous, misleading, and counterproductive, since it drives BME patients away from much needed care.

## Race and Ethnic Influences on Psychiatric and Substance Use Disorders: Caribbean Blacks and African Americans

James S. Jackson, *University of Michigan*  
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Prior studies of psychiatric and substance use disorders have generally grouped respondents of African American and Caribbean black ethnicities into one global category of “black” or African American. This aggregation may obscure important epidemiological and service use differences. We believe that failure to distinguish between individuals of African American and Caribbean black ethnicities and immigration and ancestry status may mask important differences in psychiatric conditions and substance use disorder patterns among these black sub-populations. In this paper we will examine in- and out-of country Caribbean blacks at the population and individual levels and how processes of immigrant protection may operate in lowering rates of psychiatric and substance use disorders in second generation Caribbean blacks, but have less affect on third and subsequent generations. Data and analyses are based upon national household probability samples of non-institutionalized African Americans and blacks from Caribbean countries living in the U.S., conducted between February 2001 and June 2003, with a slightly modified version of the World Mental Health version of the World Health Organization’s Composite International Diagnostic Interview. A total of 3570 African Americans and 1621 Caribbean blacks, aged 18 and over were interviewed in the United States and an additional 2,000 adults in Guyana and 1,800 in Jamaica. Overall, first generation Caribbean blacks are significantly less likely, but second generation more likely, than African Americans to meet criteria for overall substance use disorders. Psychiatric disorder and differences service use disorder differences show similar complexities based upon gender, nativity, and age.

## Ethnicity and Pre-Trial Reports in the Netherlands

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Objective: Black and ethnic minorities (BME) are disproportionally represented in Western prisons and forensic psychiatric facilities. The authors wished to determine whether patient-related or services-related factors account for this overrepresentation. This study examined the relationship among the assessments of psychological accountability for a crime, treatment recommendations, and ethnicity among persons accused of a crime and

suspected of having a mental disorder. Method: We examined all 21,857 pre-trial psychiatric reports requested by Dutch courts between 2000 and 2006. Ethnicity was classified as Dutch native (n=15004), Black and minority ethnic (BME) groups (n=6202), and Whites from other western countries (n=638). Accountability assessments and treatment recommendations were compared using chi-square tests and logistic regression models, adjusted for demographic, psychiatric, and judiciary characteristics. Results: Among BME and Whites from other western countries, accountability for the crimes committed was more often judged to be at the extreme ends of the spectrum, that is, “fully responsible” or “not responsible.” Compulsory admission to a psychiatric hospital was more frequently recommended for BME persons (OR: 1.38, 95% CI: 1.16-1.64) and whites from other western countries (OR: 1.54, 95% CI: 1.05-2.27), but not admission to a penitentiary hospital or use of medication. The compulsory admission findings are largely explained by a higher prevalence of psychotic disorders in BME persons (19.8%) and whites from other western countries (19.3%) as compared to Dutch natives (9.2%). Outpatient treatment was less often recommended for BME persons (OR: 0.81, 95% CI: 0.76-0.87) and Whites from other western countries (OR: 0.83, 95% CI: 0.70-0.99) than for Dutch natives. Conclusion: Both patient-related and services-related factors play a role in the increased admission of BME groups and Whites from other western countries to psychiatric hospitals.

### Police or Ambulance Referral of Afro-Canadians to Emergency Psychiatric Services

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Objective: This study tested the hypothesis that among patients admitted to a hospital with psychosis, Afro-Canadian patients would be more likely than Euro-Canadian or Asian-Canadian patients to be brought to emergency services by police or ambulance. Methods: Data on psychotic patients admitted to the psychiatry ward in 1999 were extracted from records of a general hospital in Montreal. Logistic regression models examined the relationship between being Afro-Canadian and being brought to the emergency service by police or ambulance, while controlling for age, gender, marital status, and number of psychotic symptoms. Results: Being Afro-Canadian was independently and positively associated with police or ambulance referral to emergency services. Conclusions: Afro-Canadians admitted to the hospital with psychosis are overrepresented in police and ambulance referrals to emergency psychiatric services. The social and historical implications of these findings will be discussed in addition to a comparison of research findings on this subject from the United States and Western Europe.

## Psychosocial and Intellectual Functioning of Juvenile Dutch Antillean Immigrants in Contact with the Law

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Background: compared to natives and other immigrant groups, Dutch Antillean immigrants are overrepresented in the Dutch juvenile justice system. Although there has been research on socioeconomic and cultural factors related to criminal behavior, there has been limited research on intrapersonal features of Dutch Antillean immigrants in the juvenile justice system. Therefore, this study will focus on psychosocial and intellectual functioning of juvenile Dutch Antillean immigrants in contact with the law, compared to natives and other immigrant groups. Method: several databases of juvenile delinquent populations have been re-analyzed, comparing Dutch Antillean immigrants to natives and the three largest other immigrant groups in the Netherlands: Turkish, Moroccan and Surinamese immigrants. Results: results on psychosocial functioning indicate that juvenile Dutch Antillean immigrants show significantly less ADHD and autism spectrum disorders and significantly more disruptive behavior disorder than natives. Compared to Moroccan immigrants, Dutch Antillean immigrants show significantly more drug abuse problems. Results on intellectual functioning indicate significantly lower IQ-scores for juvenile Dutch Antillean immigrants compared to natives as well as Moroccan immigrants. Conclusions: it appears that juvenile Dutch Antillean immigrants differ from natives, and in lesser extend to other immigrant groups, on psychosocial and intellectual functioning. This has potential impact on the interventions that need to be offered to these juvenile delinquents to prevent recidivism. However, more research directed specifically on these issues among Dutch Antillean immigrants in contact with the law is necessary to further state these results. In addition, more research is needed to determine the underlying mechanisms behind these results.

## Cultural Differences in Specificity of Autobiographical Memories: Implications for Asylum Decisions

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Current knowledge about cultural differences in the trauma memory is limited. Such a limitation reduces the body of empirical evidence that can be drawn upon to inform decisions about asylum. Research has shown that the more specifics and detail a memory has the more believable and credible the memory is seen to be. The objective of this study was to explore the impact of cultural differences in self-construal on the specificity of autobiographical memories. Research participants from individualistic and collectivistic cultures were asked to provide autobiographical memories of everyday events, trauma events, and self-defining memories. Those from individualistic cultures consistently provided more specific autobiographical memories than those from collectivistic cultures. The findings indicate that specificity has an essential role in enhancing the dominant self-focus and needs to be considered when deeming a memory as credible in the asylum process.

### 13. Juveniles and Mental Health: Part I

#### Predicting Juvenile Delinquency: The Nexus of Childhood Maltreatment, Depression, and Bipolar Disorder

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Background: Due to the deleterious effects of juvenile delinquency, it is important to identify and provide preventative interventions for youth who are most at-risk for offending behavior. The connection between youth and family risk factors, and later delinquency adjudication, is complicated. Hypothesis/Method: This study extends the literature in this area and examines the link between certain childhood risk factors and later delinquency adjudication in a random sample of youth from two Northeast Ohio counties in the United States (N = 555, four-year time frame – 2003 to 2006). Results: Logistic regression analysis identified a lifetime diagnosis of Depression and/or Bipolar Disorders to be predictive of later youth delinquency adjudication, but found that childhood maltreatment (or involvement with the child welfare system) made delinquency outcomes less likely. Implications: Study implications are discussed as they relate to professionals working in the fields of child welfare, social work, mental health, and juvenile justice.

## School Suspensions in U.S. Public Schools for Violent and Non-Violent Behavior: Are They Effective in Changing Behavior? An Empirical Study

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Violence in our schools: a national epidemic or a symptom of society-at-large? With zero-tolerance policies for student violence and misbehavior, have school officials gone too far in suspending school children for non-violent offenses? For students who habitually refuse to attend school, is suspension the answer when giving them a vacation is just what they wanted? Are schools reluctant to remove violent students for fear of receiving the embarrassing label of “persistently dangerous” from state officials? This presentation will explore the trends in school violence and the response by schools addressing the challenge. Teachers are becoming the victims of student violence, drugs and weapons are becoming commonplace in educational settings, and tardiness and absenteeism are constant challenges for an over-burdened school system. The adverse effects of suspending a student from school have far-reaching implications for that student’s future employment prospects and higher education aspirations. The duty of the school system to provide alternative education environments for suspended students and the responsibility of parents, through criminal sanctions, for the violent and delinquent actions of their children will be analyzed. Empirical data collected from U.S. school officials will be reported and analyzed. Recommendations for effectively addressing violent and non-violent offenses will be provided.

## A Review of the Position of the AIDS Orphaned Children Suffering from Mental Illness in the Criminal Justice System in Gauteng Province in the Republic of South Africa

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It is predicted that in the year 2020, there will be 2.3 million AIDS orphans in South Africa (Cluver & Gartner 2007). These authors stated that little research has been done to determine if AIDS orphans are more likely to suffer from a mental illness such as conduct disorder, behaviour problems, and other mental illnesses due to peer pressure and delinquency. If so, will these disorders increase their likelihood of committing a crime? If this is found to be the case, are our criminal justice and mental health care systems adequate to deal with these children and to ensure that their rights are protected? This study focused on the possibility of AIDS orphaned children becoming delinquent as a result of mental illnesses such as conduct disorder and other behavioural problems. This study considered the prevalence of children (particularly AIDS orphans) encountering the criminal justice system as a result of peer group problems such as teasing, stigmatization, bullying etc. This study also evaluated the current situation of these children in Gauteng, South Africa, and suggests a rehabilitative framework within which the affected group of children can be educated and empowered with coping mechanisms to avoid clashing with the law. Current relevant legislation was considered in the process of the review and in the structuring of the rehabilitative framework.

#### A CRITICAL VIEW OF PARENTAL ALIENATION SYNDROME (PAS)

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Approximately 50% of marriages in the largest cities in the world will end in divorce, affecting a great number of children around the world. One great part of these divorces will involve custody litigation. In order to understand why some children became emotionally involved with one genitor or with both it is necessary study their family's history and their dynamics, which is different from one family to another, with great amount of complexity. Although some mental health professionals and child custody evaluators, attorneys, and judges have been quick to accept and admit PAS as evidence in these disputes, there has been no consistent empirical or clinical evidence that PAS is a valid syndrome or that the called "alienator's" behavior is the actual cause of the alienated child's behavior towards the target parent (Walker et al, 2005). In fact, the majority of mental health and legal experts who have studied the issue consider PAS theory as one new field which demands more researches before consider the Richard Garner's ideas as scientific. Besides, Parental Alienation Syndrome gives strength to the fatal movement called "Backlash", one movement against children who were sexual offended by their own parents. It is important discuss the consequences of PAS in the children's life involved in a parental divorce.



## The Denial of Fraternity and Sorority Hazing: How this University Student Issue Has Been Explained via Course Lecture Transcending Law and our Perception(s) of Belonging

David R. Montague, *The University of Arkansas at Little Rock*  
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As a follow up to the journal article Hazing Typologies: Those Who Criminally Haze and Those Who Receive Criminal Hazing (2008), data from the article were used in a university classroom setting for several semesters in order to gather views about what criminal hazing means to students even after being exposed to the article in the construct of a course. Issues of stress, false-goals, and the future are explained.

## 14. Children, Psychology, and the Law

### Not Like Adults: The Need for a Developmental Understanding in Juvenile Justice Policy

Malik Edwards, *Charlotte School of Law*  
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Advocates for children are often forced to make two contradictory arguments in the juvenile justice context: “kids are just different” and “kids are like adults.” As identified by Poncz (2008), this conflict in “advocacy strategies mirrors the inconsistent legal treatment of youths” (p. 276). As a result there is no national policy in place to guide decision making involving youthful offenders, with the result being that “decisions involving children are haphazard at best and inequitable or even damaging to children at worst” (Walker, Brooks, & Wrightsman, 1999, pp. 12-13). My presentation will examine how to use developmental theory to create effective juvenile justice policy.

### The Agricultural Exception to Child Labor Laws in the United States and the Impact on Growing Brains

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In the course of investigating the lives of inmates on Florida's death row for mitigation, it became apparent that a number of them had come from farm-working families and that pesticide exposure may have caused brain damage. In Florida, the world of agriculture is hidden from the general population: children and adolescents labor in the fields, risking exposure to pesticides, physical injuries from dangerous equipment and repetitive movement, and heat exhaustion. Human Rights Watch has condemned the United States for the failure to protect child workers on its farms in violation of international laws and treaties. Research regarding the effect of pesticide exposure on brain development is inconclusive; yet it has become harder to deny the negative consequences of neurotoxins on children. The child laborers grow up and are later held to the same criminal code as everyone else. Given what we know about the growing brain, executive functioning, and impulsivity, the agricultural exceptions to the child labor laws in the U.S. must be eradicated.

### Psychological Impact on Children of the Death of a Parent(s) or Close Relative by the Police

John Burris, *National Police Accountability Project, Oakland, USA*  
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This presentation will focus on children as victims of police abuse in death cases where the child has lost a parent or a close relative. Children/adolescents suffer terribly and little if any attention is given to their emotional and psychological needs. Many children suffer long-term effects of Post Traumatic Stress Disorders and other debilitating disorders, but rarely do they receive immediate and timely intervention. As a reference, I will use cases that I have had over 25 years. I have followed a number of children for several years. I will draw upon that experience and will discuss the short and long terms effects of the death of the mental health on the children. I will also explore what effects this type of death had upon the child's development from childhood through adolescence and, in some cases, adulthood. I will explore what interventions have been successful. I will also explore the options available for child victims where death was deemed justified.

### Adult Children's Perceptions of Growing Up with Parental Mental Illness

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Adult Children's Perceptions of Growing up with Parental Mental Illness using grounded theory and photovoice, this qualitative study explores the lived experiences of adult children who have grown up with parental mental illness in order to assist families currently living in these circumstances. Few studies have investigated adult children's experiences as a source of authority and knowledge on outcomes of parental mental illness. To develop meaningful interventions for these families, their perspectives must be considered. Qualitative research has the capacity to humanize, destigmatize, and uncover the complexities of despair and resilience within this experience. While retrospective accounts may be considered of historical interest, key constructs influencing the phenomena remain constant: stigma towards mental illness, unclear etiology of mental illnesses; sporadic treatment access, and fragmented family services. Thus first person accounts of growing up with parental mental illness have significant potential to inform services. One in five Canadians will experience mental illness in their lifetime with estimates suggesting that 15 - 50% are parents. It is likely a considerable number are adult children of parental mental illness, given what is known about heredity, genetics, and risk factors. Preliminary results from this study inclusive of excerpts of photos will be discussed to promote a broader understanding of this experience and inform a more holistic approach to service delivery.

## The Health of Adolescent Incarcerated Males: Future Directions

Duncan MacLennan, *University of Alberta*  
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Adolescents within forensic settings are affected by illness more frequently than their non-incarcerated counterparts. This presentation reflects on the findings of a recent literature review examining health issues among incarcerated adolescent males. A brief overview of the primary disparities in health is provided and areas of further investigation are discussed. An emphasis is placed on describing implications for current practice and considerations for future directions to support health within this vulnerable population.

## 15. Criminality and Children

### Assessing the Influence of Neighbourhood Disadvantage on Violent Crime among Child Psychiatric Patients

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The aim of this study is to assess the effect of neighbourhood socioeconomic disadvantage on violent crime among a group of children and adolescents who attended Psychiatric Child and Youth Clinics in Stockholm, Sweden. Data is drawn from The Stockholm Child-psychiatric database, which consists of approximately 7600 children and adolescents who consulted the Psychiatric Child and Youth Clinics (PBU) in the county of Stockholm. The children were born in 1981-1989, and finished their contacts with the Psychiatric Child and Youth Clinics between 2003 and 2005. Using multilevel techniques, incidences of violent crime in police registers were related to characteristics of the neighbourhood where the children and adolescents lived. About 7 percent of the variance in violent crime incidents is found at the neighbourhood level. Controlling for individual characteristics reduces the between-neighbourhood variance, though a significant neighbourhood effect remains. When neighbourhood-level disadvantage is added to the model, the between-neighbourhood variance in incidence of violent crime is further reduced, but still significant. This implies that neighbourhood characteristics, in addition to individual characteristics, should be considered in the design and development of psychiatric care for children, and for the development of strategies to prevent future criminality.

### Children's Pathways to Psychiatric Child and Youth Clinics: Are Ethnicity and Neighbourhood of Residence Associated with Source of Referral?

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This study examines how child and adolescent referrals to psychiatric child and youth clinics are associated with ethnicity and neighbourhood of residence. Four sources of referrals are examined: family referrals, social/legal agency referrals, school referrals and health/mental health referrals. Referrals of 2054 children aged 11-19 from the Stockholm Child-Psychiatric Database were studied using multilevel logistic regression. Results indicate the importance of ethnicity for child and adolescent referrals to psychiatric child and youth clinics. Family referrals were more common among children and adolescents of Swedish background than among those of immigrant background. Referrals by social/legal agencies were more common among children and adolescents of African and Asian background, while children of Asian or South American background were more likely to have been referred by schools or by the health/mental health care sector. A significant neighbourhood effect was found only in relation to family referrals (i.e. it was more likely to be referred to psychiatric child and youth clinics by the family in some neighbourhoods than in other neighbourhoods). These

findings have significant implications for the design and evaluation of community mental health outreach programs and should be considered when developing strategies intended to help children and adolescents with mental health problems.

## Victimization and Violent Crime among Children and Adolescents

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The purpose of the study was to examine the relation between victimisation and violent crime among a group of children and adolescents who attended Psychiatric Child and Youth Clinics in Stockholm, Sweden. It also sought to compare victimised girls and boys in terms of their use of violence. Data is drawn from The Stockholm Child-psychiatric database which consists of approximately 7600 children and adolescents who consulted the Psychiatric Child and Youth Clinics (BUP) in the county of Stockholm. The children were born in 1981-1989, and finished their contacts with the Psychiatric Child and Youth Clinics between 2003 and 2005. The “victimization” variable was defined as neglected physical and/or mental health care. Data on violent crime was received from the Swedish crime statistics, and concerned those with police records of violent crime. The study showed that children and adolescents who had been victimised (N=354) were found guilty of violent crime significantly more often compared to those who have not been victimised, with the trend being more pronounced amongst the girls than the boys. Knowledge of possible violence risk factors may contribute to the development of violence risk assessment and management. The results from the study along with possible explanations for the findings will be discussed.

## Criminality among Former Child Psychiatric Patients and Matched Controls: Overall More Crimes but Strongly Linked with Type of Psychiatric Problems

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The present report analyzes differences in criminality among former child and adolescent psychiatric (CAP) patients in relation to cause of referral (problems suggestive of diagnoses), family context, exposure to stressors, and sex. The data for the CAP group (N approx. 7500) was compared with age-matched controls (2 for each CAP patient) with respect to frequency and patterning of criminality, year by year. CAP patients had twice as many registered crimes as the controls. Within the CAP group, problems with acting-out were strongly associated with criminality, regardless of sex. Family and other contextual problems were not generally

associated with a higher frequency of crimes. Among boys, victimization and poor parenting were specifically associated with violent crime. Detailed theory-driven analyses will most likely uncover other interactions between individual characteristics and contextual factors, and are of relevance for the design of crime-preventive interventions.

### Individual and Contextual Factors Associated with Criminality among Children Diagnosed with ADHD

Elina Martinez Olsson, *Malmö University*  
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The aim of this study was to examine how gender, family structure, foreign background, psycho-social stressors, and psychiatric co-morbidity are associated with criminality in a group of children and adolescents diagnosed with ADHD. Data was drawn from The Stockholm Child-psychiatric database which consists of approximately 7600 children and adolescents who consulted the Psychiatric Child and Youth Clinics (PBU) in the county of Stockholm. The children were born in 1981-1989, and finished their contacts with the Psychiatric Child and Youth Clinics between 2003 and 2005. Police records were associated with having a foreign background, living in a split family and being male. No significant associations were found between criminality and psycho-social stressors. About 50 percent of the children and adolescents diagnosed with ADHD had police records. Children with psychiatric co-morbidity were more likely to have police records than children diagnosed exclusively with ADHD. From a crime prevention standpoint, the results address the importance of observing children with comorbid ADHD and Oppositional Defiant Disorder and/or Conduct Disorder.

## 16. Improving Quality of Care in Juvenile Justice

### Framework of Correctional Managed Care Models: CMC Overview

Joseph Penn, *University of Texas Medical Branch at Galveston*  
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Texas, one of the largest states in the U.S., also has one of the largest correctional populations in the world. Given the large population and continual revolving door of offenders into the correctional system, how are health professionals able to meet all of the incarcerated offender's health needs, including those related to mental health? With the

ever changing population, how does a system best provide quality services with limited resources and regular budget restrictions? Over a decade and a half ago, a unique partnership came to fruition between two leading Texas universities and the state's juvenile and adult department of corrections in order to meet legislative mandates and establish communication and coordination of services. The University of Texas Medical Branch, through its Correctional Managed Care division, provides comprehensive health care services for approximately 80% of the offenders in adult corrections and for 100% of the youthful offenders committed to the state's juvenile correctional system. This presentation will discuss the key components of the health care delivery system, as well as the unique challenges faced when providing services for incarcerated offenders located in rural and very distant locations.

### Who Are They and Why Are They There? The Youth of Texas

Ohiana Torrealday, *University of Texas Medical Branch at Galveston*  
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Eighty-five percent had IQs below 100; 57% came from low-income homes; 37% had serious mental health problems; 47% were chemically dependent; and 71% came from "chaotic environments". These are not your typical youth that a parent might brag about during parent-teacher night at school. These are the statistics for youth entering the Texas Youth Commission during fiscal year 2009. The youth sent to Texas's statewide juvenile corrections agency are considered the most serious or chronically delinquent offenders. Although they may hail from far reaching areas of the state, they unfortunately have several commonalities. They are some of the most vulnerable of society's youth, including minorities; the economically disadvantaged; those separated from their family of origin; the mentally ill or retarded and those with a history of abuse. What have these youth done to require the most secure juvenile correctional settings and how long do they stay in the facility? Is there a difference between males and females? Would you be surprised if many were raised in a single mother household? This presentation intends to provide an overview of these youth and discuss the change in youth demographics with a reduction in total number.

### How Juveniles Translate into DSM/ICD Codes: Psychiatric Diagnosis and Comorbidity

Jacques G. Baillargeon, *University of Texas Medical Branch at Galveston*  
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While increased awareness of mental illness is viewed as positive societal growth, the increase in psychiatric diagnosis is not viewed from the same perspective. The recent increase of American youth diagnosed with psychiatric disorders is often misunderstood. However, what about the youth incarcerated in Texas? Have they experienced a similar increase in psychiatric diagnosis? Do they also keep up with fashionable trends and receive the current “hot” psychiatric diagnosis? Has the shift in population to only felony charges changed the psychiatric makeup or need of this population? This presentation follows the overview of incarcerated youth in the state of Texas and focuses on the mental health needs of this population. Here we present the data of psychiatric diagnosis given to these youth. The number of comorbid diagnoses is also explored further. We explore the possible variation between diagnostic practices and the difficulties encountered when defining a youth with a “code.”

### Can You Save Money and Get Better Care? True Stories of a Correctional Health Care System’s Formulary Development and Implementation

Sarghi Sharma, *University of Texas Medical Branch at Galveston*  
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Non-generic psychotropic medications in the United States can cost several dollars for a single pill. In part possibly due to direct to consumer advertising, many youths are switched to the newest, and most often more expensive, medication. Psychotropic medications accounted for a surprisingly large share of the overall pharmacy budget. The new age of health care requires cost containment in all areas and is not a unique challenge, but neither is the intent to improve services. However, many may view the two as incompatible goals. Does more expensive healthcare mean better? Could it be easier to provide better care with fewer resources? The presentation will describe the de novo psychotropic formulary development within a statewide youth correctional system. We will provide practical details and address the many challenges experienced. Some of the topics addressed include medications selection; logistical issues of implementing the changes statewide; and of course the physician response. The presentation will include preliminary description of quality of care and cost analysis.

### “TV Docs” the Wave of the Future: Telepsychiatry

Christopher Thomas, *University of Texas Medical Branch at Galveston*  
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*"Nurse, the TV is commanding me to take my antipsychotic medication daily and ensure I keep 'proper sleep hygiene.'"* It may sound unusual, but how can a correctional health system that spans 268,581 square miles or 695,621,596,662.15 square meters ensure treatment by child-trained psychiatrists when the youth are housed in locations several hundred miles away? Saying the services do not exist is not an acceptable answer. Fortunately, advances in technology have made this issue a thing of the past. Telepsychiatry may just be the answer! Does this mean, however, that if a patient sees the psychiatrist over a TV monitor, the quality of services would be inferior? Can a psychiatrist evaluate mental health symptoms just as effectively without interacting with the patient directly? How does the process actually work? Is the technology feasible, reliable, and cost effective? And what do the patients receiving services by this mechanism think about it? This presentation will address one system's initiative to implement a state-wide process to make quality psychiatric services available to all incarcerated youth in need, regardless of location.

## 17. Neuroimaging

### Mild Traumatic Brain Injury Essentials for Clinical and Forensic Practice: Epidemiology, Pathophysiology, and Phenomenology

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Traumatic brain injury (TBI) is a common occurrence and a major international public health challenge. Cognitive, emotional, behavioral, and physical sequelae of TBI may, in a significant minority of patients, persist into the late period following injury. The etiology of these symptoms in individuals with mild TBI is controversial, with hypotheses of postconcussive symptom formation variously ascribing greater or lesser weight to neural damage, pre- and/or post- injury psychological or psychiatric factors, somatization, malingering, or some combination of these. Some of these hypotheses reflect biases common to medicolegal or compensation- related contexts, in which it is often asserted that neuroimaging findings are non-specific and do not reliably index TBI or its sequelae. By contrast, neuroimaging and electrophysiology studies often suggest that many of the typical postconcussive symptoms are associated with neurobiological dysfunction in one or more areas of the central nervous system. In order to address the possible relevance of neuroimaging to the identification of mTBI and/or its sequelae, it is first necessary to review the epidemiology, pathophysiology, and phenomenology of these problems. This presentation will provide a review of these

issues and highlight neuroimaging approaches that may inform usefully on our understanding of persistent postconcussive symptoms.

### Forensic Applications and Single-Subject Use of Diffusion Tensor Imaging in Mild Traumatic Brain Injury: Current Status

Hal Wortzel, *University of Colorado at Denver*  
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Traumatic brain injury (TBI) is a substantial source of mortality and morbidity. Most such injuries are of mild severity, and accurate diagnosis and prognostication remain challenging. These problems are frequently exacerbated in medicolegal contexts, where plaintiffs seek a means for objective demonstration of TBI. Because diffusion tensor imaging (DTI) is a powerful research tool for investigating white matter integrity, and because TBI frequently involves white matter injury, DTI represents a conceptually appealing means for detecting white matter pathology in the wake of mTBI. However, alterations in white matter integrity are not specific to TBI, and their presence does not confirm a diagnosis of mTBI. Using rules of evidence shaped by *Daubert* to analyze the suitability of DTI for forensic purposes, we suggest that expert testimony regarding DTI findings will seldom be appropriate. If and when it such testimony is admitted, it should be carefully monitored to ensure proper deference to ethical requirements and scientific realities.

### Neuroimaging and Forensic Neuropsychiatry with Emphasis on Traumatic Brain Injury

Robert Granacher, *University of Kentucky College of Medicine*  
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Traumatic brain injury (TBI) is a worldwide source of disability that often affects younger people preferentially. For example, in the USA, 1.4 million are injured every year and approximately 5.3 million individuals currently suffer long-term neurocognitive deficits induced by TBI. The current use of neuroimaging in forensic neuropsychiatry is in evolution. Standards vary internationally for its introduction at trial. This presentation will discuss the forensic use of neuroimaging to enhance testimony regarding medical-legal issues of brain dysfunction, particularly TBI. The American College of Radiology (USA) standards will be discussed to demonstrate strengths and weaknesses of neuroimaging applications in a legal forum. Both structural and functional neuroimaging will be discussed. Analysis of issues regarding *Daubert v Merrell-Dow* (USA) will be demonstrated.

## The Rationale and Use of DTI (Diffusion Tensor Imaging) Scans to Corroborate Brain Injury in Legal Settings

Joseph C. Wu, *University of California at Irvine*  
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Diffusion Tensor Imaging (“DTI”) is an imaging technique which measures the integrity of the white matter connections in the brain. DTI is used in measuring and studying the random motion of hydrogen atoms within water molecules in biological tissue such as the axons in white matter tracts in the brain. The axon has a membrane sheath (myelin) which acts like a straw to constrain the diffusion of water. Brain injury damages the myelin resulting in less constrained diffusion. DTI procedures of the brain are routinely approved for payment by Blue Cross as part of a typical MRI scan. There are many published, peer-reviewed articles that show that DTI, is useful months, even years, after trauma to corroborate suspected brain damage. Data collected from studies reveal DTI corroborated impaired brain function detected by neuropsychological testing. Wu et al. 2010 discussed DTI scans as an additional corroborative brain imaging modality for mild traumatic brain injury which complemented PET scan findings. At least two courts have considered the use of DTI in brain injury cases and have ruled it properly admitted.

## 18. Neuroimaging in Court: A Problem for Criminal Procedure

### High Stakes Pictures

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In science and in law, claims about the truth are based on publicly available evidence that can be tested, contested and decided. I will use the story of an announced discovery that a long-extinct species of woodpecker had reappeared in its natural habitat, and the scientific testing of those claims, as an example of what can happen in legal cases in the digital visual age. Obviously, the discovery of a very special bird would seal the careers of the scientists involved; perfect timing also made it irresistible for the federal government to invest tax dollars to enhance the search for solid proof. The initial evidence proffered was a four second piece of amateur video made in 2004. Missing a clear specimen, researchers sought to bolster the video evidence by making more pictures to demonstrate clearly what was only

fleeting in motion. Other scientists countered the claims making visual arguments. It was high stakes visualization that took place between scientific journals and public fora using a variety of digital tools. This paper will explore how this visual debate illustrates current visual rhetorical practices that have obvious ramifications for the increasing use of pictures as proof in the law.

## Picturing Dangerousness: The Mask of Objectivity

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I present an analysis of the role of digital brain imaging in defining a legally significant concept of objective representation of neural processes. Specifically, I examine the functional MRI images of certain cognitive and affective components of what I call the "monstrous brain," my neologism for the brains of psychopaths. The problem I will discuss emerges from a conception of objectivity that has the potential for producing just the kind of evidentiary bias evidence rules are supposed to discourage. The problem is that the apparent objectivity and reliability of visual evidence often masks the conventions used to represent the "normal" or "target" brain, deviations from which are held to account for the emotional distance and deceptiveness of people who score very high on the Hare PCL-R. I argue that the concept of the moral monster is being linked to a new notion of objectivity-as-neural-imaging, providing the appearance that the psychopath has an inherent and monstrous flaw that can be visualized objectively. As a result, psychopathic conduct is being medicalized, following in the long tradition of regarding objectionable social conduct as caused by a harmful dysfunction or deviation from species-typical functioning. To the extent that psychopathic conduct is often criminal, criminal behavior is thereby being medicalized.

## The Use of Brain Images in Court

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Considerable debate exists as to whether or not we should incorporate brain images in court. What if brain scans could reliably discriminate between violent criminals that are at great risk of recidivating and those that are not? Should we use these images in court? If reliable, few would oppose their use. Keeping in mind the specific limitations related to brain imaging research and data today, several researchers argue that brain images can be used in court, albeit with caution. Indeed, if brain images show that a specific individual has severe

brain damage and/or severely impaired brain functioning, we need to acknowledge the possibility of internal coercion of one's behavior due to abnormal functioning of the brain. However, even if brain images point to severe brain damage and/or profound abnormal functioning with near certainty, we need to be aware of the possibility of fundamental attribution errors when admitting this kind of scientific data. Indeed, situational factors are an essential feature of an individual's behavior. Although our mind is generated by our brain, an individual's brain functioning is inseparably linked to their body and the external environment. An individual's behavior should therefore be understood within this tripartite of brain, body, and environment. Provided that brain images are given appropriate weight on a case by case basis, I argue that such images can be admitted as an additional source of information in court.

### Debunking the Yuck Factor: Disgust, Normative Ethics, and the Law

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I argue that the recent debate about the role disgust deserves in ethical thought and the law has been impoverished by an inadequate understanding of the emotion itself. After considering Kass and Nussbaum's respective positions in that debate, and the implausible views of the nature of disgust on which their arguments rest, I describe my own view, which makes sense of the wealth of recent, often puzzling, empirical work done on the emotion. This view sees disgust as being primarily responsible for protecting against toxins and infectious diseases, but as also having been recruited to play auxiliary roles in the cognition of social norms and group boundaries. I argue that this view provides new and more plausible foundations for skepticism about the idea that disgust deserves some kind of special epistemic credit or moral authority, that the emotion is a trustworthy guide to justifiable moral judgments, or that there is any deep wisdom in repugnance.

## 19. Neuroimaging and Expert Opinions on Legal Responsibility

### The Brain in Court: Cases from Legal Practice and their Neurobiological Evidence

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Over the last 30 years, the forensic use of brain scanning technology in court has increased considerably. In the U.S., about two-thirds of opinions involving PET/SPECT evidence are ruled admissible in court and often have a decisive impact on judges and juries. Undoubtedly, the impressive progress in modern functional imaging techniques has improved the differentiated knowledge on the neural basis of discrete aspects of crime-related cognition and behavior. However, there are several general issues which make it difficult to draw individual deductions concerning behavioral patterns from functional imaging results. These include the fact that complex functions are not simply localized in single brain areas, and that functional imaging findings generally comprise aggregate data and outcome measures which cannot simply be applied to a single individual. By analyzing current cases from the court room, the question will be addressed as to how far neuroimaging-based expert opinions are really supported by concrete findings in neurobiological research.

### Deviant Behaviour Caused either by Brain Disease or by Brain Therapy

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Deviant behaviour can be caused by certain brain diseases. This is illustrated by a case reported by Villano et al. (*Journal of Neurooncology* 2009): A man suffering from a malignant brain tumor developed paranoia, psychosis, and aggressiveness. He nearly killed his sleeping wife with a hammer. Sometimes, effective therapies “cure” the deviant behaviour caused by the disease. One example is reported by Burns and Swerdlow (*Archives of Neurology* 2003): A teacher became obsessed with child pornography and was found guilty by the court of molesting children. An MRI scan revealed a brain tumor in the frontal lobe, which had also infiltrated the hypothalamus. After tumor resection, the pedophilic drive completely vanished. On the other hand, some therapies for brain disorders (e.g. Deep Brain Stimulation – DBS - for Parkinsonism), may cause deviant or even criminal behaviour. Several DBS patients showed deviant behavior, including aggressiveness, kleptomania, exhibitionism, and pedophilia. These (rare) cases emphasize how much insight and intentional control depend on biological prerequisites which can be disturbed by brain diseases or brain therapies. They point to the importance of investigating possible neurological causes of criminal behaviour.

### Neuroimaging and the Disposition of Violent Behavior

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In the last few years, neuroscience and law have begun to interact much more frequently resulting in a new research field that has been called “neurolaw” by some. In particular, the possibility of measuring the structure and function of the human brain seems to deliver objective measures of mental function and behavioural dispositions, and these have started to enter the courtroom. For example, accumulating evidence has shown that the brains of violent offenders (e.g. of psychopaths) differ from non-violent subjects in a variety of ways. Moreover, the combination of neuroimaging and genetics allows us to measure effects of small genetic variations relevant to aggression on brain function (e.g. for the MAO-A-gene). In this presentation I will review recent neuroimaging findings relevant to the disposition for aggression and violent behaviour and discuss its potential relevance for questions of legal responsibility.

### Psychopathological Concepts of Legal Responsibility: How Can They Be Translated into Neurobiological Terms?

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This presentation deals with some psychopathological concepts of legal responsibility and how they can be translated into neurobiological terms. For example, “insight” into legal norms (“Einsichtsfähigkeit”), and the concepts of intentional action control and control capability, are related to the juridical topic of “Steuerungsfähigkeit”. “Insight” also deals with the unconscious cognitive and motivational foundation of behaviour. Symptoms and disorders that tend to disturb these abilities can be assessed by psychopathological methods, but in some cases may also be open to neurobiological research and neuroimaging.

## 20. Neuroimaging: Emerging Social and Legal Challenges

### The Marketing of Neuroimaging: Policy Challenges

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Rapid advances in neuroimaging technologies have facilitated the growth of a neuroimaging market. This growing market houses companies that offer lie detection services and evaluations of customer preference. The science behind these services remains questionable and their existence raises some policy and regulatory challenges. Indeed, there are concerns regarding premature implementation of an immature technology, misleading marketing, and potential social and personal consequences associated with the disclosure of neuroimaging results. This presentation will explore the scope and extent of this industry (e.g., how big is the industry and who are the customers?); the nature of the social issues; and the regulatory and policy issues and options. The nature and impact of non-medical uses of neuroimaging techniques on the reputation of the field will also be discussed.

### The Emergence of Neurolaw: The German Perspective

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Neuroscientific developments raise manifold questions with regards to normative, i.e. both ethical and legal standards. The fields of tension are circumscribed by keywords like “use of brain imaging and similar techniques by the courts”, “possible impacts of neurosciences on the concept of free will”, “individualism and determinism”, or “freedom of thoughts and human dignity”. Therefore neuroscience is considered not only to change the objects of the law but also the way our legal systems work. Most of these aspects relate to prospective applications or future problems or hazards, but there are also current legal implications of neuroscientific research, which illustrate the urgent need for a legal framework. Concerning the legal debate, the situation is still characterized by a lack of in-depth analysis. Therefore, the main target of this presentation is not only to scrutinize the manifold legal facets (in particular, with regard to incidental findings, questions emerging in the field of procedural law, the enhancement of brain functions through information maintained from neuroimaging, the concept of free will, “mindreading” and BCI technologies, brain death as a legal indicator), but also to discuss the necessity for a common approach, using a uniform set of standards and rules.

### Legal Issues Concerning the Researcher-Participant Relationship in Neuroimaging



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An essential condition for the clarification of fMRI related questions is the determination of the legal nature of the relationship between the researcher and his participant. Controversially discussed are the measures which have to be taken by the researcher in the case of incidental findings. Is he obliged to inform the participant about any brain abnormality? If yes, is he obliged to offer a diagnostic examination, e.g. to take medical advice from a neuroradiologist? These questions can only be answered if the underlying legal nature of the relationship is clarified. A contract between the researcher and his participant containing concrete obligations is – from the German and Canadian point of view – only concluded in a small number of cases. But this does not imply that the researcher can neglect to observe rules in research studies which are not stipulated by contract. According to the law of torts, the researcher may be held responsible for inaccurate handling with incidental findings. This becomes even more precarious in cases where clinically relevant findings may lead to disadvantages or rejection of insurance and employment applications. In the worst case, these (financial) damages could be shifted on the researcher and ruin him personally and professionally. Hence, how the researcher can protect himself from claims for damages must be illuminated with due consideration given to different researcher-participant relationships.

### Mapping the Coverage of Neuroimaging Research

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Interest in the field of neuroimaging has been steadily increasing both within the scientific community and in the media in recent decades. There is concern that the field is being sensationalized and that coverage of certain topics appears to generate criticism and

skepticism of the field. To map the coverage of neuroimaging research and the evolution of skepticism in this field, we examined the frequency and types of articles of fMRI research published in Science and Nature, as well as the tone of commentary articles regarding fMRI in these journals. We also examined the frequency and tone of the newspaper articles that reported the results of these research articles. There was a distinct trend in the level of interest in neuroimaging studies and the topics of research over time. The data also reflect a clear media preference for reporting on certain types of studies, including those related to higher-order cognition and mind-reading. The possible existence of a classic “hype cycle” raises important questions about public perceptions and the long-term integrity of the neuroimaging field.

## 21. Determinants of Violent Behavior

### Introduction to Research and Development in Forensic Psychiatric Center De Kijvelanden, Netherlands

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This presentation will provide an overview of the research and development policy at FPC de Kijvelanden. The activities of the Research and Development Department are concentrated on the following: (1) study of the biological, psychological, and social determinants of violent behavior, (2) development of new measurement instruments, and (3) evaluation of treatment programs. Research projects are executed in close cooperation with the psychiatry or psychology departments of several universities. At FPC De Kijvelanden, treatment programs are operational for (a) chronic psychotic patients, (b) personality disordered patients, and (c) patients who are convicted because of a sexual offense. The program for the personality disordered patients comprises two subprograms, namely “Aggression” and “Addiction”. Until a few years ago, research was mainly focused on the registration and management of aggressive incidents on (admission) wards of general or forensic psychiatric hospitals. Examples of current projects include a study on the affective startle modulation in personality disordered inpatients, the development of a new reliable and valid instrument for the measurement of dominance, and the evaluation of psychomotor therapy as part of the subprogram “Aggression”. In recently started research projects, special attention is given to the neurobiological and neuropsychological determinants of violent behavior. Treatment programs are not only evaluated with self-

report questionnaires and observation scales, but also by means of psychophysiological instruments and hormonal level assessments.

## Pitfalls and Challenges in Dutch Forensic Psychiatry

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In this paper we present our findings from a longitudinal study on aggression and recidivism risk in forensic psychiatric patients who were hospitalized in FPC de Kijvelanden. After admittance, each patient is assessed with the Psychopathy Checklist-Revised and with a Dutch risk assessment instrument. These assessments are regularly updated over the course of treatment. The aggressive and social behavior of all inpatients on the ward is also measured twice a year with an observation scale. The Dutch Ministry of Justice recently concluded that the average length of stay in Dutch forensic psychiatric hospitals has increased from more than five years in 1990 to more than seven years in 1999, and there are indications that it has continued to climb. To investigate the potential causes of this increase, we examined the aggressive and social behavior of our inpatients during their stay in de Kijvelanden. In addition, we analyzed length of stay in relation to psychopathy and recidivism risk, with these measures taken from the aforementioned assessment instruments. We differentiated between patients diagnosed with chronic psychotic disorders and patients with personality disorders. We conclude our presentation with recommendations about a new treatment policy for forensic psychiatric inpatients based on our findings.

## Neurobiological Research on Aggression and Violence

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After a summary of theories and models of aggression, this presentation will review current findings on several neurobiological factors of aggression. Until recently, there was no unifying theory or model which integrated the different biological concepts. New pathways for research seem to emerge when efforts are made to make a connection between these different domains. For example, from the neurobiological point of view, aggression can be studied at different levels of biological functioning (namely molecular level, cell functioning, neuronal circuits, neural networks, and brain regions). Mechanisms for initiation, execution and termination of aggressive acts are essential for controlling overt aggression. These

mechanisms are related to a complex interplay of brain regions, brain circuits, and neurotransmitters that work in conjunction with the psychological development and make-up of the individual. Furthermore, these mechanisms are triggered to function differently depending on the specific stimulus or social situation at hand. When these regulatory mechanisms fail, or become maladjusted, pathological, escalated aggression or violence will be exhibited. In modern research, more emphasis is given to differences between adaptive and assertive behavior and to pathological manifestations of aggression. However, these differences may be more dimensional than categorical.

### Blunted Affection: Similarities and Differences in Autism Spectrum Disorders and Child Molesters

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In this paper, we describe a qualitative study on child molesters and individuals with ASD that examined ASD symptoms, cognitively distorted thinking, emotion recognition and empathy. Child molesters often have difficulties with emotion recognition and empathy, deficits that are also seen among patients with Autism or Asperger's disorder. Other studies have found that some adolescents with Autism Spectrum Disorder (ASD) exhibit sexually deviant behavior. First, we investigated the relation between child molestation and traits of ASD (e.g., emotion recognition, empathy deficits, interpersonal skills, sexual experience and sexual fantasies). We then studied the relation between cognitively distorted thinking (e.g., outcome of measurement 'I want sex' versus 'the child wants sex' with the use of Single Category-Implicit Association Tasks) and deficits in emotion recognition and empathy (e.g., with the use of The Eyes Pictures Test). Some preliminary results will be analyzed and provisional conclusions will be provided. Based on these results, recommendations are made for adapting treatment to the specific needs of this population.

### New Instruments for the Evaluation of Psychomotor Therapy

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Recently, psychomotor therapy has been added to Aggression Control Therapy. During psychomotor therapy, patients learn how body sensations may eventually result in aggressive behavior, and how they can manage these signals. In order to measure the effectiveness of psychomotor therapy, Aggression Control Therapy together with

Psychomotor Therapy is compared with Aggression Control Therapy in combination with Sports. For the measurement of the body sensations, the Kijvelanden Body Sensations Self-Report Questionnaire (KLS) was developed. In this paper, the development process is described and the psychometric properties of the definitive version of the questionnaire are provided. We will provide preliminary results of our study and information about a possible additional effect of Psychomotor Therapy.

## 22. Examining Criminal Conduct Individually and Programmatically

### The Importance of Correctional Program Characteristics and their Relationship to Offender Outcomes

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While most research on correctional effectiveness has focused on the offender, recent studies have turned their attention to the relationship between program characteristics and outcome. In a recent study of 64 residential correctional programs (44 halfway houses and 20 community-based correctional facilities) involving over 20,000 adult offenders, University of Cincinnati researchers found a great deal of variation in outcomes across the programs. While some of this variation was due to the risk principle (or who was placed in the program), this study also included an examination of key program elements including leadership and implementation, staff, offender assessment, treatment components and core correctional practices, and quality assurance. Data were gathered through site visits and involved structured interviews, material review, and direct observation of groups and offender/staff interactions. Each of these areas involved multiple indicators and measurements. Findings from this study indicated that some programs were effective in reducing recidivism while others were not, and that many program attributes were

significantly correlated with outcome. Among the areas with the strongest correlation with outcome were leadership and development, staff, and treatment. When added to the growing body of research on correctional program effectiveness, the results of this study can assist in designing more effective correctional programs.

### Cincinnati Initiative to Reduce Violence (CIRV)

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From 2001-2006 in Cincinnati Ohio, USA, homicides increased 300%, calls for service involving firearms increased 400%, and children treated for gunshot wounds increased 300%. Analyses of law enforcement intelligence demonstrated that three-fourths of homicides involved gang members. In 2007, city leaders established the Cincinnati Initiative to Reduce Violence (CIRV), a multi-agency, community collaboration designed to reduce gun violence perpetrated by violent groups/gangs. CIRV utilizes a focused deterrence approach with specific coordinated strategies implemented by street advocates, community engagement specialists, law enforcement officials, and service providers designed to: 1) change community norms regarding violence; 2) provide increased alternatives for at-risk populations; and 3) increase perceived risks of involvement in violence. The CIRV approach provides laser-focused precision for law enforcement consequences, along with social service opportunities and community engagement. The team also integrates principles of effective intervention from correctional rehabilitation research. Within two years, Cincinnati experienced a nearly 40% reduction in gang involved homicides and 15% reduction in all shootings. Recent work focuses on institutionalizing CIRV methods to achieve sustainability. The CIRV team has won international awards and serves as a model for violence reduction initiatives in the USA, England, Scotland, and Australia. The process and results of this ongoing and multi-faceted approach are described.

### A Prospective Approach to Identifying Risk, Need, and Responsivity Factors for Juveniles

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Support for the risk, need, and responsivity principles in juvenile justice has grown significantly in the past 10 years. Key to these principles is the identification of risk factors and criminogenic needs for this population. Typically, juvenile justice systems face several barriers to adopting risk assessments including cost, training, and staff time to conduct the assessments effectively. To circumvent these barriers, Ohio recently partnered with the University of Cincinnati to create a 4th generation risk assessment system for juvenile delinquents that will assist juvenile staff in designing effective interventions for the youth in their care. The Ohio Youth Assessment System (OYAS) was created using a prospective study design in which 2,500 juvenile delinquents were interviewed and outcomes tracked. The prospective study provided the ability to ask questions that have never been systematically collected on youth before. Based on the results of the study, five unique tools were developed to assist juvenile justice staff in assessing youth at each stage of the system (diversion, detention, disposition, residential intake, and residential reentry). This session will review the development of the OYAS tools and provide insight into the implementation of a risk/need assessment system across a large jurisdiction.

### Collateral Consequences of Conviction: Perceptions of Supervisory Personnel, Prosecutors, and Defense Attorneys

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Once convicted of a criminal offense, especially a felony offense, the offender experiences several negative effects. In addition to the sentence imposed for the crime, in most jurisdictions, the offender also suffers a number of other “collateral consequences.” Increasingly, collateral consequences of conviction have been recognized as impediments to offender re-entry, and as more attention has been given to re-entry issues, the issue of collateral consequences of conviction has gained prominence. Recently the American Bar Association Commission on Effective Criminal Sanctions called for increased efforts to ensure

that offenders are aware of the potential consequences of conviction prior to entering a plea or being convicted. The present study examines restrictions, disqualifications, and limitations imposed on those convicted of criminal offenses in Ohio. Using data collected through surveys of supervisors of probation/parole officers, defense attorneys, and prosecutors in Ohio, we identify those consequences that are perceived to be most frequently encountered and the level of difficulty they pose for successful re-entry. In addition, we examine the perceptions of courtroom actors concerning responsibility for notifying criminal defendants about various collateral consequences of conviction, and in assisting convicted offenders with efforts to remove or neutralize the collateral consequences of a criminal record. Finally the study discusses recommendations for policy responses to the problems posed by collateral consequences of conviction.

## 23. Epidemiological and Twin Studies on Mental Disorders and Criminality

### Basic Characteristics of the Subgroup Responsible for the Majority of Violent Crimes

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Persons born between 1958 and 1980 and living in Sweden on their 15<sup>th</sup> birthday (n = 2 401 424) are included in the present study based on a collaboration with the Karolinska Institute. Five groups were identified: a) persons responsible for the most violent crimes; b) the smallest subgroup responsible for the majority of all violent crimes (persons who have committed more than three violent crimes); c) the group responsible for all violent crimes (persons who have committed at least one violent crime); d) the group responsible for all other types of crimes, and e) the non-criminal population (controls, including sibling-controls to match for possible confounding factors). These groups were compared with regards to the following independent variables: age at onset, sex, socio-economic stratum (of parents and guardians), family history of criminality, birth complications, school grades, conscription results, and early death.

### Childhood-Onset vs. Adult Mental Disorders in Violent Offenders

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All early-onset behavioral disorders have been associated with adult psychiatric disorders and psychosocial maladaptation. Earlier studies of young offenders have found that at least 30% of all male offenders have a history of psychiatric inpatient care, and both childhood-onset and adult clinical disorders are reported to be overrepresented compared to controls. The current presentation compares mental health problems among offenders with childhood-onset neuropsychiatric disorders vs. those with adult-onset or no mental health problems. It tests the hypothesis that the former group is responsible for a disproportionately large number of violent crimes. A population-based cohort of young adult violent/sexual offenders (18-25 years of age) who served prison time in correctional facilities run by the Swedish Prison and Probation Service in the western part of Sweden are included in the early-onset behavior disorders across diagnostic categories 2.0 project (DIS-CAT 2.0), which also includes a longitudinal clinical psychiatric, psychological, and neurocognitive work-up as well as structured interviews with parents.

### Sexual Offending in Psychotic Patients

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Studies have found an elevated incidence of violent sexual offences in males with schizophrenia. A review of research in the etiology of sexual deviance in schizophrenia was conducted focusing on the role of early childhood experiences, deviant sexual preference, antisocial personality traits and psychiatric symptomatology. Studies have proposed that schizophrenic patients who engage in sexual offensive activities fall into the following four groups: i) those with a pre-existing paraphilia, ii) those whose deviant sexuality is the manifestation of an antisocial behavior, iii) those whose deviant sexuality arises in the context of illness, and iv) those with substance use. Treatment for sexual offenders with schizophrenia needs to be integrated, taking into account multiple elements such as delusions, antisocial personality traits, a past history of deviant sexual behaviors, and substance abuse. This approach necessitates specially structured and multicomponent long-term programs.

### Conduct Disorder and the Risk of Developing Neuropsychiatric Disorders

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Children with conduct disorder express anger inappropriately and engage in antisocial and destructive acts. These children have an increased risk for incarceration, injury, depression, substance abuse, psychoses, and death by homicide and suicide later in life. Conduct disorder (CD) is categorized as a childhood disruptive behavioral disorders in the DSM-IV system, together with oppositional defiant disorder (ODD) and attention deficit hyperactivity disorder (ADHD). Analyzing data from the Child and Adolescence Twin Study in Sweden (n=1722; 9 and 12 years old twin pairs), we found a group of 162 (0.9%) children with CD and 487 (2.8%) with ODD. 67% of these children also had ADHD, and the remaining 33% also differed significantly from normal in ratings of problems associated with neuropsychiatric disorders. Moreover, with increasing scores in questions defining CD, the probability of having ADHD increased (86% of children with 4 out of 5 CD items had ADHD, and all of those who had the maximal score had ADHD). As both ODD and CD were related to neuropsychiatric problems, the strongest risk factors were sought by multivariate logistic regression models. Deficient social interaction skills (one part of the autistic triad) and executive functions were identified as the strongest predictors, followed by hyperactivity and attention problems.

### Neurodevelopmental Disorders and Psychosocial Marginalization in Adolescence: Data from the DOGSS Study

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It is known that neuropsychiatric disorders may increase the risk for later negative outcomes. The aim of the DOGSS project (Developmental Outcome of Neurodevelopmental Problems – a genetic twin study in Sweden) is to study what factors are associated with psychosocial marginalization among twins with neuropsychiatric conditions such as AD/HD and autism spectrum disorders. Psychosocial marginalization in this study refers to problems with education or social relations, mental health problems, substance use/misuse, and antisocial development. Twins who screened positive for neuropsychiatric conditions at age 12 (assessed through a telephone interview with the parents) were invited to take part in a clinical examination at age 15. Those who participated were assessed for previous and current problems related to these psychosocial domains. This presentation provides data from the follow-up of the first 100 twin pairs of this longitudinal study.

### Validating Instruments for Neuropsychiatric Assessments

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Reliable, valid, and easy-to-administer instruments to identify possible cases and to provide proxies for clinical diagnoses are needed in epidemiological research on child and adolescent mental health. The A-TAC (The Autism – Tics, AD/HD and other Comorbidities) inventory is a freely available screening interview for evaluating psychiatric problems in children and adolescents. It was developed at the University of Gothenburg, is organized in theoretically defined modules (e.g., Flexibility, Social interaction, Language, Concentration and attention, Impulsiveness and activity) that cover autism spectrum disorders, AD/HD, tic disorders and other disorders known or assumed to be associated with these developmental conditions. The A-TAC has previously been validated (Hansson, 2005; Larson, 2010), and is unique in combining good screening properties (high sensitivity) with a high specificity in order to provide proxies for clinical diagnoses of the targeted conditions in large-scale epidemiological research. The aim of this study is to provide further validity data, and demonstrate its usefulness for neuropsychiatric assessments in several large-scale research projects. Although the A-TAC is principally intended for epidemiological research and general investigations, the instrument may be useful as a tool to collect information in clinical practice as well.

## 24. Dangerous Personality Disordered Offenders: The European Context

In this session presenters from five different European jurisdictions will elaborate on the way in which their legislation and policies have responded to dangerous and personality disordered offenders over the years. They seem to share a common ground. Traditionally, criminal law's response to a committed offence is punishment. Consequently, in the words of Judge Bazelon (*Durham v United States*, 1954), moral blame is attached. However, equally traditional in the Western world, this attachment of blame is problematic for mentally disordered offenders. A basic ambivalence in societies towards this group, its stigma of dangerousness, and humanitarian notions (of care) have brought about alternatives to imprisonment or acquittal, such as commitment to a psychiatric hospital. In the 19<sup>th</sup> century, all the jurisdictions at hand developed some system that differentiated between 'mad' and 'bad'. However, around the same time, the advancement of criminological inquiries into the 'causes' of crime and the behavioural sciences' sensitivity to conditions between normality and insanity rendered the choice between sanctioned alternatives became even more problematic for an in-between group, among whom were those later labelled as 'personality disordered'. The choice of either the Criminal Justice system or the (Forensic) Mental Health System depended on responses to another question: though most certainly dangerous, were these offenders mad, bad, both, or something in between? This session demonstrates how and why in the jurisdictions at hand these choices were made through legislation and policy-making. These choices not only expressed the dominant view of the time, they also set the framework for the ways in which the peculiarities of this group (dangerousness, low treatability, etc.) must be addressed to this day. These jurisdictions were selected because they have made different choices on this issue, while they are otherwise in a scope of comparableness with regards to criminal justice and forensic mental health. Each presenter will cover historical, current and potential future developments, and will try to develop a framework for evaluation. It may be concluded that each jurisdiction appears to have developed a system that suits its national character.

## The Netherlands

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In civil law tradition, criminal responsibility was already viewed as a dimensional concept. Personality disordered offenders were considered to be partly bad and partly mad: they had diminished responsibility, which meant that they were punished less severely, while they were also considered the most likely to reoffend. Therefore, in 1928, the Dutch enacted an in-between system for this in-between group. The TBS order ('Terbeschikkingstelling' translates as 'Entrustment') is imposed on dangerous diminished or non-responsible offenders and is still the only indeterminate sanction in the Dutch Criminal Code. It is executed in special high-security treatment facilities owned or paid for by the Ministry of Justice. It can be combined with a prison sentence, which is to be served first. Though the TBS has always combined a security and treatment philosophy, there have been fluctuations in emphasis over the years. Recent developments include the birth of an official long-stay status within the TBS system.

## Germany

Jörg Kinzig, *University of Tübingen*  
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Like their Western neighbours, the Germans view personality disordered offenders as diminished in responsibility. However, they have not created a separate system for this group. They may combine placement in a psychiatric hospital with a prison sentence, although the combination may not surpass the overall length of the prison sentence. Since 1933, there has been a measure for indeterminate detention within the criminal justice system, and treatment has also entered the prisons for certain types of offenders. Recent developments include the possibility of imposing indeterminate detention at the end of the prison sentence and the rise of long-stay facilities in the forensic mental health system.

## Sweden

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The Swedish history of personality disordered offenders is quite comparable to that of the Dutch, although its present is quite different. In 1927, Sweden created an order for the 'halvabnorma', a term that beautifully expresses the view that personality disordered offenders are partly bad and partly mad. While the Dutch created high-security treatment facilities, in Sweden the order was carried out in special prison wards. That this regime was

similar to prison was one of the reasons that, after abolishing the responsibility doctrine in 1965 due to a rise of neoclassicism, in 1981 this special order was abolished as well; the benefits of the order did not outweigh the costs and hardships of indeterminate sentencing. What remained was a 'sentence to care': since 1992, the only criterion is that the offender suffers from a severe mental disorder. A few personality disordered offenders are therefore found in the mental health system. Other than life imprisonment, there are no indeterminate sanctions in the criminal justice system. This means that many offenders, including sex offenders, will return to society after their sentence. However, they will usually have undergone some treatment as many programs are available in prison. The Swedish example shows that traditions are not inviolable.

## England and Wales

Adrian Grounds, *University of Cambridge*  
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In the common law tradition, a personality disordered offender had to be viewed as either mad or bad, as a choice had to be made between the criminal justice system and the mental health system. While the number of personality disordered placed in the mental health system has fluctuated over the years – as in legislation the definitions of disorder and treatability have fluctuated – the mental health system, with its tradition of indeterminate detention, was sometimes used to address dangerousness. Recent developments have broken with this tradition as a – seldom used – hybrid order was enacted, a special (treatment) program for Dangerous and Severe Personality Disordered was started, and *inter alia* Imprisonment for Public Protection has made it possible to address dangerousness extensively within the criminal justice system.

## Scotland

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Stemming from the same common law tradition as England and Wales, the Scottish have been more reluctant to admit dangerous and personality disordered offenders to the mental health system; this has been especially true since a dramatic escape resulted in a triple homicide in 1976. While recent developments also include changes in the Mental Health Act, the enactment of a hybrid order and indeterminate detention within the criminal justice

system, the Scots have kept to the tradition of doing things differently than their English neighbours.

## 25. Origins of Violence and Delinquency

### Description, Prevalence, and Identification of Sexual Behaviours in a Sample of Preschoolers

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Theoretical and clinical models of sexual violence have not been able to fully benefit from the findings of recent longitudinal studies on the development of aggression and violence. One of the main reasons can be explained by the fact that these studies have not examined the sexual development of children over time. Hence, the distinction between age-normative and atypical sexual manifestations remains somewhat unclear. Consequently, the developmental course of sexual deviance and sexual violence remains largely unclear. The current study attempts to fill this gap by describing the sexual behaviors of a sample of preschoolers while attempting to identify patterns of sexual behaviors at its earliest developmental stages. The study is based on the first 210 at-risk children recruited as part of the KD-BEAR project. The sample includes a clinical sample of children (e.g., referred for any externalizing spectrum disorder), a community sample of children recruited in at-risk neighborhoods, and a comparison sample of children recruited in low-risk neighbourhood. Semi-structured interviews were conducted with the primary caregiver and the child. Measures of onset and frequency of various sexual behaviors were presented and analyzed. Latent class analyses were used to identify patterns of sexual behaviors. The findings will be discussed in the light of the developmental models of sexual deviance and sexual violence.

### Searching for the Origins of Sexual Violence: Examining the Co-occurrence between Sexual Behaviors and Physical Aggression in a Sample of Preschoolers

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Jay Healey, *Simon Fraser University*  
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While developmental perspectives on sexual violence have gained much interest in recent years, few empirical studies have been conducted to better understand its origins. This study attempts to fill this gap by examining the onset of physical aggression and sexual behaviors in preschoolers. This study is based on a sample of at-risk children (n=210) recruited as part of the KD-BEAR project, an on-going longitudinal study conducted in Vancouver, British Columbia, Canada. Semi-structured interviews were completed with the primary caregiver and the child. The structural model examined showed a significant and important latent correlation between physical aggression and sexual behaviors across models tested, after controlling for child and familial characteristics. Furthermore, findings showed that male preschoolers coming from low income families having been referred for assessment and/or treatment for an externalizing spectrum disorder showed higher levels of both aggression and sexual behaviors. The implications of these findings are discussed in light of developmental models of sexual violence, and the secondary prevention of sexual violence at its earliest stages.

### Multi-Systems Approaches to Meeting the Needs of "Crossover Youth" – Juveniles Known to Both the Child Protection and Juvenile Justice Systems

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We know that youth follow multiple pathways into the juvenile justice system. We also know that from an ecological perspective, they face risks and are provided protection in multiple domains: family, peer, school, community, and self. This requires a multi-system response, particularly when that pathway begins with child abuse and neglect and flows into delinquent behavior. This presentation will explore this pathway in terms of prevalence and the covariates associated with this population of "Crossover Youth." It will also present practice and system responses that help to improve their short and long term outcomes.

### Pre/Perinatal Risk Factors of Physical Aggression and Sexual Behaviors in Early Childhood

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The influence of pre/perinatal factors on brain development and antisocial behavior is inconsistent in the scientific literature. Developmental models suggest that children most impacted by pre/perinatal factors are those whose antisocial and aggressive behavior begins early and remains relatively stable throughout childhood and adolescence. The current study, therefore, aims to clarify the role of the pre/perinatal factors on the initial level of aggression in early childhood. Based on the first 210 at-risk children recruited for the KD-BEAR project (British Columbia, Canada), this study examined the pre/perinatal factors and their relationship with high levels of aggression among preschool children. The sample includes: children referred for externalizing disorders at the BC Children's Hospital; families recruited in daycares from at-risk neighbourhoods (i.e., high concentration of low socio-economic status). Semi-structured interviews using a computerized questionnaire were conducted with the primary caregiver and the child. Information was collected on several risk/protective developmental factors. Using structural equation modeling, this study examined the role and importance of pre/perinatal factors (e.g., maternal drug, alcohol, tobacco use, maternal depression, and maternal health problems during pregnancy) on the initial level of physical aggression. Results will be discussed in light of developmental models of antisocial and aggressive behaviors.

## 26. Sexual Offenders: Part I

### Of Men and Monsters: The Discursive Construction of Sex and Sexual Offending in High-Security Psychiatric Care

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Background: A modernisation agenda in England and Wales, incorporating high-secure provision within generic mental health services, has been accompanied by a discourse of

therapeutic engagement. Access to commercial pornography is one example of a tension between service-user rights and treatment goals. Aim: The study critically explored the language of forensic nurses, and detained patients, in relation to the clinical management of sexual media in the care and treatment of sexual offenders. Method: A discourse analytic design informed data collection and analysis. In-depth semi-structured interviews with staff (n=18) and patients (n=9) were used to co-construct accounts of sexual offending, treatment, and risk within the institutional context of one high-security hospital. Findings: Collective male talk textured the treatment environment and promoted institutional sexism which marginalised female staff and contradicted rehabilitative goals. The shared masculine discourse that positioned male staff, and patients, in relation to each other as men, was also deployed to maintain distance through the construction of otherness. This paper explores how accounts of male sexuality, and sexual offending, formed a discursive repertoire where risk was ascribed to the dangerous sexuality of women and the deviant sexuality of the paedophile.

### **Dangerous Pictures and Dangerous Men: Female Nursing Discourse about Working in a Treatment Environment for Sexual Offenders**

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David Mercer, *University of Liverpool*  
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Aim: The study adopted a discourse analytical approach to understanding the clinical management of sexual media in the care and treatment of sexual offenders diagnosed with personality disorder. This paper focuses on the way in which female staff positioned themselves in relation to pornography, sex offenders, and male colleagues. Methods: In-depth semi-structured interviews were conducted with nursing staff (n=18) and patients (n=9). Findings: The women who participated in the study contributed unique insights into the experience of working in an exclusively male environment, and of caring for men detained because of their sexually violent crimes. The accounts of female nurses articulated the experience of surviving in a culture of exaggerated masculinity. Their accounts were those of outsiders and pornography was understood and spoken about as something 'other'. While the male staff drew upon their knowledge of pornography in relation to being male, the women spoke about it strictly in terms of the hospital and the detained men. This paper explores how the women positioned themselves in relation to talk about pornography which

was largely understood as a discourse about male sexuality. Their accounts highlighted the challenge of working with detained sex offenders in a highly macho organizational culture.

## Juvenile Sex Offenders - Misguided Public Policy in the United States

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Sexual abuse has received increasing recognition and attention in recent decades as a significant problem. Studies show that adult sex offenders often begin their sexual offending as adolescents. However, only 0.5 percent of all adolescents are ever arrested for violent crimes, of which sexual assault represents only a small subset. The reality is that juveniles who commit sexual offenses are less likely to recidivate sexually than adult sex offenders. Therefore one of the major reasons cited for singling out sexual crimes from among all other violent crimes – the premise that sex offenders have a far higher recidivism rate than other criminals – is not supported, especially with respect to juvenile sex offenders. When sex-offender notification involves forms of public notification, the likelihood that the juvenile offenders' peers and community will discover the offense is very high with the potential fallout being public ridicule, ostracism, vigilantism, loss of employment, and eviction. Job opportunities are severely limited for these youth. There is no empirical support for the efficacy of such practices. This presentation will discuss the evolution of public policy toward juvenile sex offenders in the U.S., the ramifications of such policies, and suggestions for a balanced approach that enhances public safety.

## Forensic Themes in Child Sexual Abuse

Jairo Werner, *Federal Fluminense University*  
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The validity of forensic evaluations depends on the quality of the protocols used and the training of the forensic mental health practitioners involved. Confirmation of child sexual abuse still rests primarily on the child's allegation of abuse, as anogenital examination yields minimal medical evidence of sexual abuse. The relationship between child sexual abuse and victims' mental health is increasingly validated, underlining the importance of correct clinical and forensic diagnosis of abuse to guide preventive, therapeutic and legal measures. Sexual offences committed via the internet provide new challenges. Forensic child and adolescent practitioners must be highly trained, as evaluation of sexually-abused children and adolescents must be accurate to ensure legal validity, and must be performed with diligence

so that alleged victims do not experience any recurrence. Practitioners' actions must be supported by the appropriate instruments, and they must be prepared for the ethical and forensic dilemmas that arise in this field.

## Paedophiles in Prison and Co-Morbid Mental Disorders

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**Objective:** To study the prevalence of co-existing mental disorders in incarcerated paedophiles. **Method:** Sex offender inmates meeting DSM-IV criteria for paedophilia were administered the Millon Clinical Multiaxial Inventory-III Corrections Report (MCMI-III CR) to determine mental disorder co-morbidity. Completed MCMI-III CR reports were scored, and bi-variate associations assessed using Spearman's Rank Correlation and Chi Squared tests. Results of MCMI-III CR were analyzed utilizing SPSS v11. This study was ethically approved. **Results:** Amongst 70 of 152 potential subjects participated. There was a trend towards significance regarding years of education amongst responders ( $p = 0.09$ ). From 70 subjects that completed testing, 67% had co-morbid Axis I diagnoses (37% displayed more than one Axis I disorder). Most prevalent Axis I disorders were Alcohol Abuse (29.9%) and Generalized Anxiety Disorder (26.9%). Co-morbid Axis II disorders occurred in 42% (13% displayed more than one Axis II disorder). The most prevalent Axis II disorders were Avoidant Personality Disorder (14.9%) and Passive-Aggressive Personality Disorder (14.9%). 73% displayed co-morbidity for Axis I & II disorders or a combination of both. **Conclusion:** Paedophiles in prison displayed high co-morbidity for other mental disorders. This prevalence warrants a need for appropriate mental healthcare provision, which will potentially impact child sex offender rehabilitation.

## 27. Addiction and Criminality

Alcoholism and Homicide with Respect to the Classification Systems of Lesch and Cloninger

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**Aims:** Worldwide criminal statistics show a disproportionately high incidence of violent offences committed under the influence of alcohol. A psychopathological subtyping of alcohol dependence in offenders who committed homicide has mainly been related to impulsive and dissocial personalities up to now. **Methods:** In an investigation of 48 alcohol-dependent offenders who committed homicide, a subtyping according to the multidimensional classification systems of Lesch and Cloninger has now been conducted for the first time. **Results:** In Lesch's classification, there was a high incidence of homicides committed by type II and type III subjects with the comorbidity anxiety and cyclothymia. While type III offenders were more often repeat offenders, there was a remarkably high rate of first offenders among type II subjects (Chi-squared test;  $\chi^2 = 30.0$ ,  $df = 3$ ,  $P < 0.001$ ). With respect to Lesch's typology, the blood alcohol concentrations did differ significantly in the group of offenders (Kruskal-Wallis,  $\chi^2 = 18.3$ ,  $df = 3$ ,  $P < 0.001$ ), whereas the blood alcohol concentration of type II offenders at the time of offence was significantly lower than in type III offenders (Mann-Whitney-U,  $Z = -3.47$ ;  $P = 0.001$ ). Regarding to the Cloninger's typology, no significant differences in the aforementioned parameters could be found. **Discussion:** An excessive noradrenergic reaction of anxiety offenders with initial withdrawal is discussed as a possible explanatory model.

### Cut-Off Points in Alcohol Dependence and Forensic Questions

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Cut-off points for different types of alcoholism were determined for the first time in 1994 under the direction of Professor O.M. Lesch. These cut-off points of Types I to IV provide a fast prognostic and therapeutic relevant classification, where the basis for court decisions in relation to a possible hospitalization in a detoxification unit of a detention center has been established. To this day the cut-off points in practice have proved to be valid. In particular, their prognostic relevance could be assigned so that, with hospitalization in a forensic treatment center after therapy, patients of Type II have best prospects to remain in a state of abstinence for a certain period, as required by the Guidelines of the Second Senate of the Federal Constitutional Court. Type II is characterized by the use of alcohol as a sedative. It is used against fears and conflicts with the environment, leisure activities of those affected are low with significant psychodynamic abnormalities in the relationship with parents and

partners, suicidal tendencies and suicide attempts may occur under alcohol intake, and sedatives and other agents are often combined with alcohol. During environmental changes (e.g. vacations), alcohol consumption remains in the background. Relevant for criminal-legal evaluation are changes of personality: a hitherto completely unobtrusive, passive, and customized patient has a tendency towards aggression breakthroughs under the influence of alcohol. A key feature is that in contrast to Type IV, severe physical secondary disorders or withdrawal syndromes, such as alcoholic delirium and withdrawal seizures, have not yet occurred.

### Lesch Typology: What Do We Learn from Forensic Examinations

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Alcohol dependence, as defined in DSM-IV as well as in ICD-10, is viewed as a brain disease with a long term relapsing course. It is often caused by different underlying psychiatric disturbances and/or different personality disorders. In most countries alcoholism treatment is still offered through homogeneous programs that include neither evidence-based options nor individualized treatment, though the heterogeneity of this disease is by now undoubted. It is accepted throughout the world that we need four subgroups of alcohol dependence to recommend how to treat these patients. Especially for forensic assessments an objective assessment procedure has to be available. Using the computerized program ([www.Lat-online.at](http://www.Lat-online.at)) it is possible to define the main dimensions important for forensic decisions. Family date, onset of the disease, criminality, and typology and alcohol related disabilities are important to predict the future course. Internationally published investigations according to frontal lobe disturbances, to different temperaments and to disturbances in Alexithymie made clear that different psychotherapeutic approaches are necessary. In prospective studies it has been shown that the correct anticraving medication together with a specific psychotherapeutic approach significantly increases the long term (2 to 3 years) outcome. The summary of this research will present the instrument. It will show that it is available in most European languages, and using it in forensic cases would make it very easy to compare the procedures of many different countries.

## 28. Addiction and Temperaments: An Important Area for Course and Forensic Questions

## Temperaments and Alcohol Addicts - How Important Is It for Forensic Questions?

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Introduction: Subthreshold bipolarity (i.e. the weaker and weakest forms of manic-depressive illness) has been largely studied since the 1880s particularly in the psychiatric schools of Kahlbaum and Kraepelin. The handbook of forensic psychiatry of Hoche (2nd edition, Berlin 1909) broadly acknowledges the importance of subthreshold bipolar disorders in forensic questions. Unfortunately, in the decades after 1950, the concepts of temperament, cyclothymia, and hypomania have been somehow neglected by clinical psychiatry including forensic psychiatry. Methods: In our study we wanted to evaluate the burden of hypomania and of cyclothymic temperament in 116 patients with alcoholism. The hypomania checklist of Angst et al. as well as the brief TEMPS-M developed by Akiskal and coworkers were used. Results: Alcoholics who had experienced hypomania (78 out of 116) had a significantly higher record of criminality (31/78) than those alcoholics without history of hypomania (7/38). Cyclothymic temperament was overrepresented in patients with type IV alcoholism according to the Lesch typology and was associated with early onset of alcoholism, injuries under the influence of alcohol, loss of control and suicide attempts. Discussion: Our data show that a careful assessment of subthreshold bipolarity gives important information for the clinical and forensic evaluation of patients with alcoholism.

## Affective Psychosis-Temperament in Opiate Addicts - How Important Is It for Forensic Questions?

A limiting factor in understanding the relationship between addiction and associated psychopathology is that the majority of studies on psychiatric comorbidity have explored this relationship in terms of formal categorical diagnosis, excluding subthreshold symptomatology. In the field of heroin addiction, the assessment of psychiatric disorders by means of a categorical approach is complicated: the effects of substances of abuse and addictive processes on psychic functions and behaviour are easily expressed by symptoms that do not comply with the diagnostic aggregations of psychiatric nosography. Moving from a diagnostic to a subdiagnostic level, the frequency of symptoms other than those included in DSM criteria for abuse/dependence is expected to be much higher. Consistently, research on affective conditions belonging to the "soft" bipolar spectrum in alcohol and opioid-related disorders has underlined the high frequency particularly of bipolar-II and hyperthymic, depressive and cyclothymic temperaments. Concomitant Axis I diagnoses or temperamental characteristics like cyclothymia may affect the freedom and capacity to decide of heroin addicts. The decision to continue using a drug is very often a voluntary act, motivated by the pleasure experienced in the first use. Only in the presence of continued abuse and only if the subject becomes an "addict" does drug intake becomes automatic, impulsive, and discontrolled. From the clinical point of view, the natural history of heroin addiction leads the patients to pass from the initial euphoria to a specific deficit of reward syndrome. Similarly, in terms of psychopathology, the initial free will (habit) becomes voluntarily unhandled (disease). The study of craving and its assessment may help to discriminate when drug use is a habit and when it is a disease.

### Psychotherapy and Opiate Addicts - A Prospective Approach

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Introduction: The heterogeneity of addiction is undoubted. In tobacco and alcohol addiction research defined different subgroups showing different long-term courses and that they need different treatment approaches. In opiate addiction clinical studies showed a lot of different basic and treatment results. Therefore we tried to define subgroups in opiate addiction (van den Brink W et al. 2006). Hypothesis: Using the Lesch Alcoholism Typology adapted to opiate addicts as the assessment procedure, we can define subgroups in opiate dependence and using these subgroups we can define different psychopathological symptom patterns leading to different treatment approaches. Methods: We investigated



937 opiate addicts in a retrospective approach. 697 (74.4%) males and 240 (25.6%) female patients were included. The mean age was 28.9 years (16.9 years to 59.7 years). These patients were assessed according to their intake behaviour (drug and alcohol use, urine tests). Each patient was assessed by the Lesch typology procedure and by different psychopathological instruments (e.g., SCL-90 symptom checklist). Results: In this lecture the problems using the Lesch decision tree will be described (e.g., withdrawal severity degrees, interaction with benzodiazepines). It was not possible to distinguish between Lesch type I and type II. It was no problem to assess Lesch type III and type IV and to define type I and type II as one group. Therefore we will present 3 types and we will show differences in gender, SCL-90 symptom checklist, and differences in the used maintenance therapy. Significant differences could be found also in urine tests. Outlook of research: The differentiation into subgroups according the modified Lesch typology showed in many items significant differences. Type II differs strongly, while type III and IV show less difference in the description items. To define these subgroups with this new assessment tool developed out of the Lesch typology ([www.lat-online.at](http://www.lat-online.at)) could bring serious and considerable input to research and treatment approaches. Evaluations of treatment outcomes show that it is necessary to evaluate in subgroups to get reasonable results.

## 29. Issues in Sexual Sadism and Sexual Murder

### Studies of the Diagnosis of Sexual Sadism

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This presentation will describe three studies addressing the criteria for the diagnosis of sexual sadism and the reliability of the diagnosis. The first study was a review of the literature revealing the inconsistency of diagnostic criteria across available studies. The second study examined the differences between sexual offenders diagnosed as sadists and those the diagnosticians concluded were not sadists. The third study extracted detailed and extensive information (offense and crime-scene details, offenders' histories, psychological test results, and phallometric test results ) from the files of 12 offenders from the second study (6 who had been diagnosed as sadists and 6 who had been declared nonsadists). This detailed information was provided to 15 acknowledged international experts on sexual sadism who were asked to provide a diagnosis. These experts were also asked to rate the importance of several features for the diagnosis of sexual sadism. The results will be described along with suggestions for improving diagnostic reliability.

## The Development of a Reliable and Valid Sexual Sadism Scale

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The literature on the prevalence and reliability of sexual sadism contains conflicting data. A comparison of current and earlier studies reveals that prevalence estimates of sexual sadism differ widely, causing some authors doubt the reliability of the diagnosis over time. To diagnose severe sexual sadism according to DSM-IV and ICD-10 criteria, it is necessary to rely on the verbal accounts of the defendant; this could be one reason for the poor reliability of the diagnosis. The inclusion of actual crime-scene behaviour should improve reliability. Marshall and Hucker (2006) put forward a list of 17 criteria for sexual sadism which has not yet been evaluated. In a content analysis of case files, we applied Marshall and Hucker's list to the index offences of  $N = 100$  male forensic patients. All patients had been committed by court order to a German high-security psychiatric treatment facility. Of these 100 patients, 50 had been diagnosed as sexual sadists. The remaining 50 participants were chosen at random from the general sex offender group of the high-security hospital. Out of Marshall and Hucker's list of 17 criteria (plus the additional item of inserting objects into the victim's body orifices), 11 items conform to a cumulative scale. More specifically, this scale comprises all five core criteria that Marshall and Hucker deemed particularly relevant. The resulting 11-item scale of sexual sadism is highly reliable ( $r_{tt} = .93$ ) and represents a strong scale ( $H = .83$ ) of Guttman type (coefficient of reproducibility = .97). The 11-item scale distinguishes perfectly between sexual sadists and non-sadistic sex offenders. A diagnostic algorithm that is aimed at increasing accuracy with respect to the diagnosis of forensically relevant forms of sexual sadism will be presented.

## Pathways in the Offending Processes of Sexual Murderers and of Sexual Aggressors of Women

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Pathways in the offending process of sexual murderers and sexual aggressors of women (rapists) have been investigated, with the results showing that rapists and sexual murderers

of women have several characteristics in common. Three types of aggressors have previously been identified: sadistic, angry, and opportunistic. These types differ in their modus operandi and implicit theories of motivation (i.e., dangerous world, male sex drive is uncontrollable). The aim of this study was to extend the results of previous studies by investigating pre-crime (life events that occurred during the year prior to the index offence), and lifestyle (sexual, nonsexual) factors associated with the sadistic, angry, and opportunistic offending processes. A total of 180 sexual aggressors of women (63 sexual murderers, 117 non-homicidal sexual aggressors) participated in this study. The salient features of *sadistic aggressors* during the year preceding the index offence were overwhelming deviant sexual fantasies, idleness, low self-esteem, and general conflict with women. Their sexual lifestyle was characterized by compulsive masturbation and the consumption of pornography. More generally, their lifestyle was characterized by daydreaming, reckless behaviour, and social isolation. The central pre-crime characteristics of *angry aggressors* were anger and generalized conflict with women. The sexual lifestyle of these aggressors involved the consumption of pornography and sexual contact with prostitutes. Their general lifestyle was characterized by alcohol and drug consumption. The only salient pre-crime factor among *sexually opportunistic* aggressors was general conflict with society (i.e., victim stance, entitlement). In addition, opportunistic aggressors had a large number of sexual partners. Their general lifestyle involved alcohol and drug consumption. The theoretical implications of the results will be discussed.

### Investigating the Implicit Theories of Rape Prone Men Using an Interpretative Bias Task

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Ward (2000) proposed that information processing theory might shed some light on the confused concept of offender's "cognitive distortions". Ward suggested that schemata (termed implicit theories; ITs) should be considered as causal theories that interact with personal experiences to form coherent structures that help to both explain and predict our own and other's behaviour. This study uses a memory recall task to examine the ITs thought to be held in rapists in a sample of rape prone men. The task is an adaptation of a memory recognition task that has been used previous in clinical and forensic populations (Copello & Tata, 1990; Eysenck, Mogg, May, Richards & Matthews, 1991; Gannon & Rose, 2009). The main assumption of this paradigm is that ambiguous stimuli will be interpreted and therefore subsequently recognised in a manner consistent with schema. Thus ambiguous stimuli will be interpreted by rape prone men in an IT consistent manner. In the task

participants are presented with ambiguous sentences and are asked to remember these sentences. Each sentence has two derivatives, one of these derivatives is an IT consistent interpretation of the original sentence, and one is a non IT consistent interpretation of the original sentence. Participants are then presented with one of the two derivatives and are asked whether they recognise this sentence or not. The sentence derivatives represent three of the five ITs identified by Ward and Polaschek plus two additional rape supportive schemata that we discovered were endorsed by rape prone men in our previous research (Blake & Gannon, 2010). Although there have been several studies that have examined ITs in rapists using self report measures (e.g. Gannon & Polaschek, 2004), there has been little attempt to investigate the presence of these ITs using implicit, cognitive experimental methodology. These cognitive methods may be preferable to the self report measures as they are not open to social desirability biases.

## Crime Scene Actions and Personality Characteristics of Sexual Offenders: An Empirical Study

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Based on a sample of 87 male sexual offenders (child molesters, rapists, and sexual murderers) the crime scene behavior was coded through binary items, pertaining to victim selection, mode of approach, sexual acts, communication, and violence. Scales of crime scene behavior were derived using non-metric item response theory. Three of these scales (criminal exploitation, pseudo-intimacy, and sexual sadism) were significantly correlated with personality characteristics of the offenders in a multivariate way. Causal modelling tends to indicate that particular personality traits are precursors to corresponding offending styles. The results are discussed in terms of offender profiling and specific treatment programs for different kinds of sexual offenders.

## 30. Sexual Sadism

### Processing of Emotionally Relevant Stimuli in Sexual Sadism

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Sexual sadism occurs when there is a reversal of the valence of a stimulus from negative and repellent to positive and appealing. Healthy individuals rate depictions of aggressive, humiliating, or violating content as both highly arousing and highly negative, and show valence-specific physiological responding. The same depictions may capture the fantasies of a sexual sadist, and may therefore be viewed positively by this sub-group of the population. However, it is unclear if this reversal can be seen in the subjective ratings of patients, and it is also equally unclear if this reversal can be measured on a psychophysiological level. Based on these hypotheses, a model of emotional processing in sexual sadism has been developed. A series of studies testing this model will be presented, each containing rating procedures as well as physiological recordings.

### The Role of Psychopathy in Sexual Violence, with Particular Reference to Sexually Sadistic Offences

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The personality disorder of psychopathy is considered to be a risk factor for sexual violence. Data from male community samples as well as from prison inmates substantiate this view. More specifically, psychopathy seems to be involved in severe sexual sadism, a particularly violent form of sexual offending. This presentation will highlight the empirical and conceptual links between severe sexual sadism and psychopathy. Furthermore, hypotheses on the function of detecting intense fear in others among sexual sadists will be discussed: one hypothesis assumes emotional numbness, while the other posits that there is a paradoxical emotional reaction of gratification. The implications of both hypotheses for future research into the nature of sexual sadism will be considered.

### Sexual Sadism and Psychopathy: Are there Differences Regarding Empathy?

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Even though the relationship between sexual sadism and psychopathy has been discussed theoretically, very few studies examined this phenomenon. According to Kirsch & Becker 2007, it is presently unclear whether the deficiencies in emotional processing that predispose psychopaths and sexual sadists toward instrumental violence are cognitive, affective or both. Commensurate with a study by Mokros et al., 2010, sexual sadism and psychopathy appear to be different constructs; however, the trait of empathy seems to have influence on both diagnoses. The question remains: does a deficit in empathy represent a lack of understanding or a lack of feeling? The aim of our study was to clarify whether there are differences between sexual sadists and psychopaths with regards to the cognitive and the emotional components of empathy. We compared a group of patients suffering from sexual sadism to a group of psychopaths without sadistic traits. Besides a self-report questionnaire, we applied a pictorial rating task derived from testing autistic patients for deficits in empathy. The results of our study will be presented and discussed, along with possible therapeutic consequences.

## 31. Female Sexual Offenders

### Review of Female Sexual Offenders: Findings on Profile and Personality

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Introduction: Although in the past sexual abuse was perceived as an issue connected only with males, the contemporary literature is placing increasing emphasis on the role of female sexual perpetrators. There is still disagreement about the definition of sexual abuse, the frequency with which it occurs, and the characteristics of the women that are sexual abusers. Methods: Use of the main databases (Medline, Embase, Psycinfo) and web search engines such as Google for case reviews and observational studies, restricted to European

and North American literature due to perceived culture differences. Results: Making a distinction between 'sexual offence' and 'sexual abuse' results in differences found in the characteristics of the perpetrators. Perpetrators are generally young (up to 36 years old), friends or relatives of the victim, use more persuasion and psychological coercion, and are legally charged to a lesser extent compared with male abusers. Conclusion: A conclusive view of female sexual abuse is difficult to achieve. Often it is underreported, unrecognised, or considered ethically more acceptable than male abuse. Female sexual abuse is also connected with unidentified increased self-reports of history of abuse for the perpetrators. A typology of female sexual abusers should be developed. Treatments focusing on different psychological interventions along with prevention and public awareness could be a powerful tool in the reduction of female sexual abuse.

### Theories Proposed for Sexual Offending

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Some studies have found an elevated incidence of violent sexual offenses in patients with psychotic disorders. This presentation reviews the research on the etiology of sexual deviance in schizophrenia, focusing on the role of early childhood experiences, deviant sexual preference, antisocial personality traits and psychiatric symptomatology. Some studies have proposed that schizophrenic patients who engage in sexual offensive activities fall into the following four groups: 1) those with a pre-existing paraphilia, 2) those whose deviant sexuality is the manifestation of an antisocial behavior, 3) those whose deviant sexuality arises in the context of illness, and 4) those with substance use. Treatment for sexual offenders with schizophrenia needs to be integrated, taking into account multiple elements such as delusions, antisocial personality traits, past history of deviant sexual behaviors, and substance abuse. This approach necessitates structured long-term programs.

### Child Sexual Abuse by Female Perpetrators: Consequences for the Victims

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The short- and long-term consequences of child sexual abuse have been investigated, although most of the research has focused on victims of male perpetrators. Recent studies have revealed that the general public and professionals working in the area of child protection (i.e. social workers and police officers) perceive sexual abuse by women as being

less serious and less harmless than sexual abuse by men. Such professional assumption potentially has deleterious implications for victims, since it prevents or delays statutory intervention aiming at protecting the child from further abuse. In order to clarify whether victim's perception of sexual abuse by female perpetrator is in accordance with the common perception that is less harmless and inconsequential, a literature search was conducted to identify empirical studies exploring the nature and experience of sexual abuse by women, and its short and long-term effects on the victim. The few studies addressing these issues (mainly case studies and studies with small samples employing qualitative approach to data collection and analysis) have suggested similar problems in long-term functioning of victims. As with victims of sexual abuse by men, the evidence so far suggests that victims of sexual abuse by women may show disturbed attitudes towards sexuality. Substance abuse, anxiety, self-injury, depression, suicidal ideation, and PTSD are common. Unique to those sexually abused by women are confusion surrounding their self-concept and identity, intense rage that is often directed at women in fantasy and in reality, and an ongoing struggle in daily relationships with women. The complex experience of being sexually abused by a woman, and in particular by one's mother will be analyzed within the developmental and attachment theory context. Building on the existing evidence, the need to develop appropriate intervention strategies for victims of female sex offenders and professional training to facilitate an effective and efficient response to this traumatic experience will be considered.

### Relapse Prevention Programme for Sex Offenders in Greek Prisons: Thoughts and Reflections

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The Hellenic Prison System provides two prisons for sex offenders. The first is located in Tripoli, and hosts 165 prisoners all on charges related to sex offenses. The second is located in Grevena, and hosts 578 prisoners of whom 80 are detained for sexual offenses in a special unit. Given the gravity of the consequences of the offense on the victim and the increasing number of incidents of prisoners getting out on leave and reoffending, the need for action became imperative. In May 2010, the first relapse prevention programme started running in Grevena, under the supervision of the prison psychologist. Starting the programme has not been an easy task. The first step was to form a team that would scientifically and



emotionally support the therapist in charge, but the hardest task of all was to persuade prisoners to participate in the programme for their own benefit and for society's benefit as well. Since this is the first time such a programme is running in Greek prisons, it has the form of a pilot programme. The tools for assessing risk that will be implemented (Static 99) are also used for the first time in that context. The ultimate goal is to run the relapse prevention programme on a regular basis and not just in Grevena, but also in Tripoli where most sex offenders are kept. Thoughts and reflections regarding the procedure, the expected outcomes, and the difficulties we faced will be discussed and presented.

## Long Term Sequences in Adult Brain Neurobiology due to Trauma

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**Introduction:** Contrary to the general feeling of safety and stability in contemporary western society, traumatic events commonly arise due to natural disasters, terrorism, and criminal acts. People affected by such events have altered brain development at a young age, resulting in differentiated structure and function of several areas in the adult brain. **Methods:** We performed a thorough search of main medical databases and the web for relevant studies. We scrutinized key words before reaching a conclusion on the appropriateness of the study for inclusion. **Results:** There are important and complex alterations in the neurobiological networks that form different aspects of posttraumatic stress disorder and are responsible for triggering the involved defensive reactions of the autonomic, immune, and endocrine systems. Critical brain areas are the thalamus, amygdala, hippocampus, neocortex, and corpus callosum; different neurotransmitter systems are accordingly implicated. **Conclusion:** The symptomatology of mental disorder is the aftermath of the individual trying to cope with extraordinary events that fundamentally alter the vision and interpretation of its existence in an environment where the unexpected is the rule and not the exception. Traumatic events put our secluded way of living in danger, and have as a consequence the development of different neurobiological responses on various brain circuits leading to the appearance and establishment of mental disorders.

## 32. Sexual Offenders and Substance Abuse

Self-Reported HIV Infection among Incarcerated Sexual Offenders: Evaluating Backgrounds, Impulsiveness and Drug Misuse

Danilo Baltieri, *University of São Paulo*  
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**Introduction:** In Brazil, almost 630,000 individuals between the ages of 15 and 49 are infected with HIV/AIDS, and the prevalence of HIV in the population at large has remained stable at around 0.6% since 2004. Researchers have shown that the prevalence of HIV infection among prisoners is about six times higher than the general population rate. However, statistics are not yet available on the rates of HIV transmission during rape and other sex offenses, in part because the prevalence of HIV among sexual offenders is unknown. **Aims:** To compare self-reported HIV/AIDS positive incarcerated sexual offenders with incarcerated sexual offenders who do not report having HIV/AIDS in terms of alcohol and drug misuse, impulsiveness levels, and risk of sexual crime recidivism. **Methods:** This research involved 218 male convicts over the age of 18, sentenced only for sexual crimes (against children, adolescents or adults), who were recruited and interviewed in the Penitentiary of Sorocaba, São Paulo, Brazil. **Results:** Eight (3.7%) sexual offenders self-reported being HIV positive. These inmates showed a higher degree of sexual impulsiveness, more problems with drug misuse, and were at a higher risk for recidivism (measured by the Static-99) than their counterparts. Although the sample may seem small, the total sample achieved a power of 93% and 87% to detect distinctions in sexual addiction levels and problems with drug misuse (respectively) between both groups. **Discussion:** Unfortunately, many sexual offenders do not receive any type of medical or psychological treatment inside or outside jail to improve their quality of life and decrease the risk for recidivism. This is in disagreement with recent public health policies. As the self-reported HIV-positive sexual offenders reveal more serious problems related to sexual impulsiveness and drug misuse, new and more effective management strategies must be implemented.

### Sexual Abuse of Boys: Dysfunctions and Sexual Disturbances in Adolescence

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In light of the lack of research on sexual abuse of boys in Brazil and the seriousness of possible psychosexual damage incurred as a result of that abuse, systemized studies on the psychosexual profile of adolescents who have a history of childhood abuse is essential. This was a retrospective and sectional study conducted at the Psychiatric Institute of the University of São Paulo and the Fundação Casa, a correctional system for underage boys and girls who are serving a prison sentence. The findings of the qualitative analysis showed that 50% of the adolescents, regardless of whether they had been convicted of a crime or not,

admitted to having sex with one (or more) children. The level of intrafamilial violence experienced and length of time the adolescents were themselves abused were the two most critical factors in determining the aggressor's behavior.

### Substance Abuse and HIV Infection among Females Convicted of Homicide or Robbery

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HIV infection among prison inmates shows high prevalence rates, reaching as high as 13% among female inmates in Brazil. This situation is linked to lower income, lack of high school diplomas, poor family support, drug use, and unprotected sexual activity with multiple partners. Some research has dealt with the prevalence of HIV infection among female inmates, but less is known about HIV infection, substance abuse and criminal offending. The aim of this study was to evaluate the role of drug consumption and HIV infection among females convicted of homicide or robbery. It was a retrospective and cross-sectional study carried out inside a women's penitentiary in São Paulo and developed by the Ambulatory for the Treatment of Sexual Disorders of ABC Medical School (ABSex). 150 inmates convicted only of homicide and 150 convicted only of robbery were evaluated with regard to substance use, impulsivity, depressive symptoms, and HIV infection. Female inmates convicted only of robbery showed significantly more problems with drug consumption than women serving a sentence only for homicide. Substance use is one of the factors distinguishing the female inmates in both groups.

### The Västra Götaland Sexual Child Abuse Studies Follow-Up

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We have investigated factors associated with recidivism in 197 men convicted of sexual assault, all of whom had participated in a previous study of all sexual child abusers convicted between 1993 and 1997 in the Västra Götaland region of Sweden. Little is known about risk factors for this kind of recidivism, and earlier research has mostly been based on small, selected samples and presented heterogenous results. Data on recidivism was collected over eight years (1997-2005), and included circumstances pertaining to the reconvictions. Thirty-two of the 197 sexual offenders had committed new crimes during the defined period. The recidivists were described with regards to age, earlier sanctions, mental health,

and socioeconomic factors. The index crime and sanctions were compared with new sexual and/or violent crimes. The predictive ability of the studied variables and their applicability in the prevention and development of treatments for sexual recidivism is described.

### 33. Pornography

#### Pornography, Erotica, and Behavior: A Critical Review of Research

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This presentation will consider four decades of research concerning the effects of exposure to sexually explicit materials on anti-woman attitudes and anti-woman acts. Discussion will contrast common wisdom and research claims in this area with a review and critique of the research literature which offers little support for widely endorsed views of the impact of sexually explicit materials.

#### Internet Child Porn and Sex Crimes

J. Paul Fedoroff, *University of Ottawa*  
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The incidence of sex-related crimes has been dropping since the 1990's. The one exception is Internet-related crimes. Charges for Internet-related sex crimes are of particular concern. The Office of Juvenile Justice and Delinquency Prevention and U.S. Department of Justice funded a multi-center survey of convicted sex offenders in North America. Method: The U.S. Department consisted of a self-report survey of 466 sex offenders. Of these, 175 were Internet offenders and 291 were not. The Canadian sample consisted of referrals to the Sexual Behaviors Clinic due to a concern about criminal misuse of the Internet, who consented to having their data used in subsequent research (n= 117). Results: The U.S. study sample was divided into men who were charged with possession of child pornography only (CP group, n=30) and those who either met or attempted to meet their victims (Lure group, n=22). Compared to the CP group, the Lure group was more likely to have a prior hands-on sexual offense (41% vs. 17%, respectively). The Lure group was also more likely to have had a previous Internet offense (27% vs. 7%, respectively). The CP group was more likely to report a history of sex abuse (43% vs. 24%). The Internet Offenders (IO) use of child pornography peaked between the ages of 31-45. The IO group showed higher levels of

anxiety, distress and anxiety of the Social Avoidance and Distress scale than the non-Internet Offenders (non-IO). However, there were no significant differences between the two groups in terms of abuse histories. The two groups also did not differ in terms of their self-reported history of ever using pornography. Other results and conclusions will be presented.

## Pornography and Sex Crimes in the Czech Republic

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During the period of communist control of Czechoslovakia, sexually explicit materials (SEM) of all sorts were strictly prohibited. Following the 1989 social revolution and turn to democracy, all sorts of pornography became readily available. This study compares the periods before and after the regime shift in regard to changes in sex crimes reported, as any changes could possibly be related to the relatively new exposure to SEM. Particular focus was on the incidence of reported cases of rape and child sex abuse, as these crimes are generally considered to be significantly related to pornography. As comparative measures we investigated the incidence of murders, robbery, and assaults associated with sex-related motives and those without such motives. Basic findings were that the reported number of child sex abuse cases decreased significantly following the advent of legally available SEM, while the reported number of rapes remained about the same. Lesser sex-related crimes (e.g. indecent exposure) also decreased significantly. In comparison, measures of non-sex related murders and other social crimes increased significantly, while those crimes potentially associated with sex did not. The ready availability of SEM in the Czech Republic was not correlated with any significant increase in sex-related crimes. Significantly, readily available SEM was associated with a decrease in child sex abuse even while the possession of child pornography was not illegal. It is suggested that masturbation or other legitimate outlets associated with the available porn has provided a readily available substitute for sexual crimes.

## Ethical and Legal Evaluation of Pornography

Tommi Paalanen, *University of Helsinki*  
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Pornography is often claimed to be unethical in public discussion. Laws that aim to ban or restrict pornographic materials are usually based on the same assumption. However, claims of this kind are seldom based on thorough ethical evaluation. Instead they use vague and biased concepts like “obscenity” and “extremity” to assert that porn is harmful and it has to be legally controlled. The objective of this paper is to clarify the process of ethical evaluation when it is applied to pornography. Method: 1) analysis of ethically relevant elements in the pornographic product; 2) applying liberal sexual ethics to these elements. Analysis: Evaluation whether any act essentially linked to porn is harmful to other persons. The concept of harm includes considerations about valid consent and rights of all individuals involved in production and use of any kind of pornographic product. Results: almost all ethically relevant elements are related to the production of porn. A porn product has a neutral ethical status if all individuals participating in its production are consenting and treated fairly. It does not matter if others regard the contents of product as disgusting or brutal. Ethical responsibility moves to the user, not the product. Typical legal restrictions targeted at porn seem to have no direct connection to fair production or proper use. Instead, they are fixated on pornographic contents that have no ethical relevance, because they are mainly fictional. These kinds of laws, like prohibition of obscenity, are motivated by beliefs of proper sexual behavior, and cannot be ethically justifiable, because they violate the basic rights of autonomy and expression based on arbitrary judgment.

### Pedophilic and Paraphilic Users of Child Abusive and Pornographic Images

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Little is known about factors that distinguish men who act upon their sexual interest in prepubescent or pubescent children by only using child abusive or pornographic images from those who sexually abuse children. In this study, a sample of 152 offenders was recruited from the community. All participants met DSM-IV-TR criteria for pedophilia (or paraphilia not otherwise specified for those who were sexually attracted to pubescent children). About half had never been reported to police. Several sets of group comparisons

were conducted by offense type, detection status, sexual preference and compulsive behavior. Groups were compared on socio-demographic variables and measures of dynamic (i.e., changeable) risk factors, including sexual preoccupations, self-regulation and attitudes supportive of sexual offending. By following the taxonomy introduced by Taylor, Holland, and Quayle (2001), this study focused on one facet of sexual preoccupation by exploring the quality and quantity of sexually non-explicit and explicit images recently used for sexual purposes, and the link to self-reported paraphilia associated sexual arousal patterns (PASAP). Implications for community-based treatment programs and risk appraisal will be discussed.

## 34. Internet Sex Offenses

### Typologies and Trajectories of Child Pornography Viewers: Explaining the Pathology

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The criminalization of viewing child pornography has resulted in the case-finding and labeling of persons who have no prior contact with the psychiatric system. Because pedophilia is both a crime and a psychiatric disorder, there is an assumption that viewers of child pornography are uniform in their underlying personalities and motivations and are at once criminals and sick. Indeed, the intensity of outrage and fear around child pornography in itself and as a marker of risk of future sexual harm against children leads to the elevation of any sex crime as the seminal definition of the defendant. The science and understanding of the attraction to child pornography lags behind the outrage. Explanations for the behavior and any related pathology include pathology of arousal, sadism, and symptomatology of other psychotic or mood disorders. Using the population of defendants whom we have examined for the courts, we propose a typology of viewers of child pornography related to personality configurations, functional and psychiatric history, and criminal histories. We discuss how behavioral and psychiatric theory explains the different trajectories related to the typology and describe areas for further investigation.

### Treatment of Child Pornography Viewers

Reena Kapoor, *Yale University School of Medicine*  
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Many assume that all people who view child pornography suffer from pedophilia, but the viewing of pornography is a complex behavior that can arise from many different diagnoses. Although treatments for internet child-pornography viewing are largely in experimental stages, the underlying diagnostic formulation should guide treatment decisions, even with limited treatment options. For patients who describe the viewing of child pornography as part of an underlying pattern of hypersexuality and “addiction” to pornography, 12-step models, cognitive-behavioral therapy, and craving-reduction medications such as naltrexone have all demonstrated some efficacy in case reports and small studies. For those who suffer from serious mental illness, treatment is focused on reducing symptoms of the mental disorder (e.g., psychosis, depression, anxiety, etc.) while also addressing the problematic sexual behavior. With concomitant substance abuse or dependence, reducing substance use is an essential goal. Finally, for those patients who meet diagnostic criteria for pedophilia, a number of treatment modalities have demonstrated efficacy in reducing recidivism with sex offenses: cognitive-behavioral group therapy, SSRI’s, hormonal agents, and antiandrogens. We discuss the potential of each of these treatment options to reduce non-contact offenses such as child pornography viewing.

### Does the Punishment Fit the Crime? Sentencing in Child-Pornography Viewing

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Society’s response to child pornography viewing on the internet reflects disgust, outrage, and fear. The lack of scientific investigations to enlighten and either confirm or refute the connection between viewing of pornography and action taken, as well as the lack of defined treatment leads to draconian and reactive prosecution and sentencing. Psychiatry so far has offered little to dispel the response of the public and the courts. Although psychiatric contributions in developing effective treatment for sexual deviance are growing, one area in particular should be addressed: the effects of harsh sentences arbitrarily administered, which do little to protect the public or deter the behavior. Examples of the variation in sentencing demonstrate the capricious reaction to a poorly understood behavior and the contribution of modern technology that has spectacularly altered the context in which pornography can be viewed. The role of the internet and its semblance of privacy have been largely ignored in the administration of justice around these crimes. Certainly, the internet has had a spectacular impact on the incidence of child-pornography viewers. To the extent that internet viewing has altered the profiles of those involved in child pornography,



psychiatry's role in the assessment of those defendants has become increasingly more complicated.

## United States Federal Law and Child Pornography on the Internet

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In the United States, federal guidelines for defining and sentencing child pornography users have become increasingly complicated. In turn, states have followed the federal guidelines. Task forces of the Federal Bureau of Investigation target internet users and include sting operations designed to identify those involved in child pornography. All possession of child pornography is illegal and a history of internet viewing is easily determined with the use of sophisticated technology in investigations. Federal policy and case law show a trend toward more stringent sentencing as well as more conservative definitions of possession and distribution. For federal defenders, the role of psychologists and psychiatrists is invaluable in allowing judges to justify a liberal variation in sentencing. A recent interpretation of sentencing guidelines in the federal system has restored a degree of judicial discretion. Therefore, the role of experts in the sentencing phase is a strategic one for the defense. The role of the expert is to present the context of the pornography use and to frame risk in terms of what is known about sexual deviance. This presentation will review the legal theory and practice behind sentencing in internet pornography cases.

## 35. Metaphor, Framing, and the Response to Sex Offenses

### (Mis)educating the Public about Sex Offenders: The Government as Myth Maker

Tamara Rice Lave, *University of Miami School of Law*  
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Americans believe that sex offenders are monsters who will never change. Such fear and loathing is not surprising given what they are told by official government sources. This presentation will tell the story of two large scale government miseducation campaigns. It will then offer a theoretical account as to why these miseducation campaigns have occurred.

## One of Our Own: Demonization and Exclusion in the University Setting

Chrysanthi Leon, *University of Delaware*  
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Throughout the twentieth century, the monolithic image of the sexual bogeyman, whether called a “sex fiend,” “sexual psychopath” or a “sexually violent predator,” has justified control strategies which have brought individuals into the net who are quite different from that monstrous construction. In addition, we expect punishment to achieve multiple and often contradictory goals. Too often, scholars, advocates, and even community members focus on one punishment goal and ignore the others. Proposed reforms to sex offender policies that focus on just one of these tend to misunderstand the motivations of those who oppose the reforms. While commenting on these tensions and drawing on a long-term historical comparison of U.S. responses to sex crime in media, law and policy, this presentation uses the case of a sex crime panic on the author's own campus to reflect on national and historical trends. I argue that examples of the kind of irrational and purely legalistic application of sex offender exclusion policies as evidenced in this case ultimately will force the public into familiarity with its objects, and that this may paradoxically offer hope for reversal and reform.

## Containing the Monster

Joan D. Van Pelt, *New Jersey Department of the Public Advocate, Trenton, USA*  
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Over 20 jurisdictions in the United States have laws which permit the government to civilly commit convicted sex offenders after their prison terms both to provide them with treatment and to protect society. The offenders (mostly male) are termed sexual predators or sexually dangerous by the state. They are afforded limited rights at the time of the initial proceedings to defend against this potential life sentence. This paper examines the manner in which the state, once it has nominated the person a predator or dangerous, and hence a monster, further dehumanizes them and limits their access to the processes in the legal system necessary to gain release from custody.

## Deviance and Due Process: Admission of Prior Sex Crimes

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In a significant break with traditional evidence rules and policies, Federal Rules of Evidence 413 and 414 (concerning rape and child abuse, respectively) allow jurors to use the accused's prior sexual misconduct as evidence of character and propensity. These rules construct an image of a sexual predator that significantly influenced their passage. Courts have rejected due process challenges to the new rules, relying on the legislative history of the new rules and announcing a presumption of admissibility, courts have forsaken the traditional operation of rules against using prior bad acts to convict an accused. The presentation will discuss why these relatively new laws are bad for evidence law, the accused, and even the victims.

## 36. Politics and Policy Making in Community Corrections

### Hawaii's Project HOPE: Hope for the Hopeless or a Return to Past?

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Project HOPE in Hawaii has gained momentum recently among policymakers, corrections professionals, and some academics as model approach to community corrections. HOPE is based on administering swift and certain sanctions for those high-risk offenders who violate conditions of probation. However, this program relies on little theory, and has not been subject to rigorous evaluation. In addition, this theoretical approach to community supervision runs contrary to the central tenants, and body of research known as *evidence-based corrections*. HOPE has the potential to become adopted by the rest of the United States with the introduction of a federal legislative proposal (H.R. 4055) Honest Opportunity Probation with Enforcement (HOPE) Initiative Act of 2009. This bill, currently in Congress would authorize a National HOPE Program by grants to jurisdictions employing swift, predictable, and graduated sanctions for noncompliance with conditions of probation. This paper will critically examine the growing support, and trend in correctional circles for this *boutique program* that relies on deterrence based solutions to community corrections, and the implications of such programs for the United States prison release crisis, and community corrections.

### Engaging New Horizons in Community Corrections

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Volumes have been written on the various approaches to manage community corrections agencies and community corrections programs. Community Corrections agencies must be aware of leading trends as well as what the public expects. There are many correct approaches that must be coordinated for a community corrections agency to be effective. At hand is the body of research called "what works" that has evolved into "Evidenced Based Practices". There is also the Broken Windows theory that includes dynamic leadership, accountability, and neighborhood based supervision strategies. Many of the strategies are assessment driven weighing both dynamic and static factors. To make clients successful one must also address housing, employment, community integration, family relationships, and treatment issues. Treatment and accountability must work in unison. A modern community corrections agency must understand what the community expects, what the offender needs, and what approaches work. There needs to be a discussion of how the agency interacts with its' community to develop successful collaborations via Advisory Boards. Additionally the agency needs to manage organizational changes that provide a blueprint for managers, supervisors, and staff to pull together; can be measured via evidenced-based intermediate outcomes; and provides accountability for public safety.

### How to Navigate the Community Corrections System?

Andrzej Jachimczyk, *New York City Department of Probation, New York, USA*  
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The institutions in charge of supervising probationers in the communities are measuring their performance efficiency, through presence or absence of probationers' criminal behavior with one simple indicator: the re-arrests of the probationers during their term of probation. This simple model necessitates two assumptions; first, by focusing on criminal behavior and rates of re-arrests as the indicators of failure, the practitioners acting on assumption, that all probationers may, or may not commit a crime during their probation and therefore, labeling and treating them as the potential criminals. This common approach to the probation supervision is contradictory to the premise of condition of probation as a gesture of trust, postulation of harmlessness and fulfillment of basic needs. Second, the probation institutions excuse themselves from assisting probationers with their immediate needs, instead referring them to highly specialized treatment programs, which are usually claiming perfect success rates in curing criminality. In the politically saturated environment of probation practices, I suggest a different approach. The probation practitioners should

change their professional premise, from labeling probationers as potential criminals to accepting probationers as their clients and, instead of relying exclusively on referrals, they should focus on the practical and accessible solutions; they should focus on providing skills, how to understand and navigate the ever-complex systems of modern societies.

## Delivering Valued Outcomes: Organizational and Profession Competency

Mario Paparozzi, *University of North Carolina at Pembroke*  
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Phrases like “best practices” or “evidence-based practices” have become commonplace in community corrections circles over the past two or three decades. What standards are used to determine whether such practices are deserving of such a professional imprimatur? Which individuals or professional associations are vested with the authority to confer the “evidence-based” practice moniker on policies, programs, and practices? Indeed, is there a responsibility to do so? These are some of the central questions that will be addressed in this presentation. The importance of political, organization, and human capital will be discussed as they relate to the ability to apply the now well-know “what works” agenda for offender rehabilitation. Attention will also be given to identifying a results-driven management model for community corrections. A focus on results offers a sustainable structure for guiding policymakers and practitioners towards the development of policies and practices that assure organizational and staff competency. Such a model will also increase the chances that policies, programs and practices will be supported by empirical research and credible criminological theories of crime and criminal behavior.

## 37. Secure Units and Mentally Disordered Offenders: A Canadian Experience

### An Overview of the Secure Treatment Unit for Mentally Disordered Offenders

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In October 2003, the Integrated Forensic Program of the Royal Ottawa Health Care Group joined in partnership with the Ministry of Community Safety & Correctional Services of Ontario in the creation of a unique hybrid model 100 bed facility blending the features of a

Mental Health Centre with that of a Correctional Centre. The mandate of the STU is to provide hospital level care to adult male sentenced provincial offenders with serious mental illness from the 31 Correctional facilities from across the province of Ontario. This presentation will review some of the background leading to the establishment of this facility, and describe the working partnership between the Royal Ottawa Hospital and the Correctional Services. The four separate sub-units will be described, and an overview will be provided of the referral process, admission criteria, and overall outcome data collected to date.

### The Role of Nursing and Allied Health

Wendy Stewart, *St. Lawrence Valley Correctional and Treatment Centre, Brockville, Canada*  
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The role of nursing at the STU will be described, including the administration of medications, the implementation of a rewards program, maintaining good order on the units, operating nursing treatment groups, and in ensuring the completion of ward assessments. Allied health includes psychologists, social workers, recreational and vocational therapists. The tasks of each of these groups of allied health will be described. The overall administration and supervision of these staff units will be reported, including their relationships with correctional staff.

### Treatment Groups and Evaluation at the STU

Liam Marshall, *Rockwood Psychology Services, Kingston, Canada*  
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This presentation will describe each of the Core Groups (Self-regulation for Sexual Offenders, Anger-management, Domestic Violence, Substance Abuse, and Prosocial Attitudes and Lifestyle), and will outline the result of several studies of the effectiveness of the groups and an overall evaluation of the STU. Problems in conducting these evaluations will be outlined and solutions will be offered.

### The Sexual Offender Unit at the STU

Brad Booth, *St. Lawrence Valley Correctional and Treatment Centre, Brockville, Canada*  
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Transinstitutionalization 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.

## Effectiveness of Sexual Offender Treatment

William L. Marshall, *Queen's University*  
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This presentation will discuss the problems associated with evaluating the effectiveness of sexual offender treatment, and particularly the difficulties in implementing a Random Controlled Trial. Despite these problems, there are now sufficient numbers of satisfactory outcome studies that indicate treatment can be successful. An 8.5 year follow-up study of 534 sexual offenders will be described, with the results indicating a marked reduction in recidivism for both sexual and nonsexual offenses.

## 38. Therapeutic Pathways for Schizophrenic Offenders in Special Security Hospitals

### The Main Problems Related to Long-Term Hospital Treatment of Schizophrenic Offenders in German Special Hospitals

Frank Wendt, *Charité Universitätsmedizin Berlin*  
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The number of schizophrenic offenders sentenced to imprisonment has risen in Germany over the past few years. One reason may be found in general psychiatry, which has been focussing mainly on ambulant structures of care as of late. However, this approach will reach its limits as soon as it must deal with comorbid aggression or incidences of non-compliance. Retention time in penal institutions will lengthen considerably, as re-integrating

imprisoned patients into general psychiatric care has failed for several reasons. It is through the development of optimized procedures for the treatment of schizophrenic offenders in penal institutions in cooperation with forensic hospitals that standards will be developed that help to shoulder the burden of care.

### **“Privileges” in the Course of Long-Term Treatment in Special Security Hospitals**

Steffen Lau, *Psychiatric University Hospital, Zürich, Switzerland*  
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It is a misunderstanding that privileges granted during detention reward a forensic patient's cooperation. The easing of restrictions must be guided by risk assessment procedures which take into account the treatment process results. If the main risk factors had been adequately addressed by competent forensic therapy, privileges serve to test the stability of an assumed risk reduction. This can only be controlled if the relaxation of restrictions is accompanied by extensive feedback mechanisms. The paper will give suggestions as to how these feedback mechanisms could be organized.

### **Risk Assessment in the Course of Long-Term Hospital Treatment**

Eberhardt Heering, *Charité Universitätsmedizin Berlin*  
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Risk assessments are important milestones on the therapeutical pathway of schizophrenic offenders in special security hospitals. But how do risk assessments interact with the course of therapy? What are the key findings related to external risk assessments, and what difficulties do they present for therapy? Which problems can be resolved? This presentation will attempt to provide answers to these questions.

### **Good Clinical Practice in Pharmacological Treatment of Schizophrenic Offenders**

Marion Lautenschlager, *Charité Universitätsmedizin Berlin*  
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This presentation will present different types of psychopharmacological treatment for schizophrenic offenders, depending on factors such as psychopathological state, actual



symptomatology, comorbid substance abuse, negative symptoms, problems of internal and general illness, and compliance.

## The Transition from Hospital to Outpatient Treatment

Jacqueline Boultonwood, *Martin Gropius Hospital, Eberswalde, Germany*  
(jboultonwood@web.de)

At the Martin Gropius Hospital in Eberswalde (Brandenburg), patients with hospital treatment orders are already under the supervision of the forensic after-care-team during the phase of unattended privileges. This procedure assures continuity in the therapeutic relationship and minimizes transitional losses both for the patient and the network of providing treatment. In addition, it provides for better compliance with conditions of release, a broad base of information about the patient from which to build a valid foundation for the updating of danger prognosis, and when necessary, risk-management.

## 39. Vulnerability, Civil Justice and Mental Health

### Rights of Psychiatrists and General Practitioners to Authorise Detention and Rights of Patients to Challenge Detention

Andrew Alston, *Flinders University of South Australia*  
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The South Australian Mental Health Act 2009 replaces the Mental Health Act 1993. Under both the old and the new legislation, psychiatrists and general practitioners have the power to authorise detention of patients. Sometimes they must act in haste and do not have time to make considered decisions. There may be issues as to whether they have (1) complied with statutory requirements, (2) wrongfully imprisoned patients or (3) failed to detain patients who should be detained thereby putting the patients and, possibly, other persons at risk. What are the rights of patients in these circumstances? Can they challenge their detention? Can they sue for false imprisonment or negligence? What are the rights of psychiatrists and general practitioners? If they have attempted to comply with statutory requirements and have acted in good faith, are they protected from liability? Are the practices of psychiatrists and general practitioners best practices and, if not, what can be done to make them best practices?

## Reducing Variation in Imposing Involuntary Treatment

John Brayley, *Office of the Public Advocate, Collinswood, Australia*  
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This is a report on a collaborative research project funded by Rotary Australia to evaluate the practices of health professionals in making orders for involuntary treatment under the South Australian *Mental Health Act 1993* and to guide health professionals in their practices under the *Mental Health Act 2009* (SA). There are three key strands to the project:

- Evaluate current practice by reviewing community treatment applications and detention orders;
- Interview consumers about their involuntary care and the circumstances under which they might have accepted voluntary treatment as an alternative;
- Conduct a review of legislation and case law on the threshold for detention and on the rights of both consumers and health professionals who make orders for involuntary treatment.

The importance of this research is underlined by recognition of the vulnerability of mental health consumers and the difficulties they face in asserting any rights that they may have.

## Paternalism, Contract, Choice: Judicial Approaches to Care Part I

Caroline Hunter, *University of York*  
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Helen Carr, *University of Kent*  
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The unmet needs of the elderly were a prime driver of the changes that led to the formation of the welfare state. However, the way in which the state now conceptualises its responsibilities towards the elderly and other vulnerable adults in need of on-going care is radically different. These changes have been driven not only by demographic shifts but also by reassessment of the role of the state, political disenchantment with the welfare paradigm, a rejection of institutionalisation and the rise of neo-liberalism. A concept of care based on paternalism has, to a certain extent, been replaced by a concept whereby those in need of care make choices about their own care. The legal framework for care in the UK is complex and still rooted in the original National Assistance Act 1948. This may appear to depoliticise and technicalise legal issues. However, legal disputes about care, and particularly care homes, can throw into relief the nature and extent of the changes effected

by reform of the welfare state structures of care for the elderly. Indeed litigation surrounding the closure of residential homes demonstrates the political and emotional potency of the role of the state in providing long-term care.

### **‘Nobody Chooses to Live Like That - Do They?’**

Michele Slatter, *Flinders University of South Australia*  
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In a well-turned phrase, Galligan identified the interpretative character of the legal enterprise as one in which discretionary behaviour is compelled by ‘the vagaries of language, the diversity of circumstances and the indeterminacy of official purposes’. An architecture of discretion has arisen around Australian (and British) attempts to regulate and manage citizens whose domestic spaces are ‘untidy’, ‘unsightly’, ‘not tenantable and clean’, ‘unsanitary’, ‘a nuisance’, sites of ‘problem hoarding’, or ‘squalor’. Combining language that eludes objective definition with an almost infinite variety of individual circumstance, numerous interested agencies and an absence of agreed priorities, the area is a quagmire of uncertainty. Are these matters for therapeutic intervention, punitive response or protective action? Who decides? On what criteria? Whatever choice is made, the implications may be grave: the imposition of mandatory cleaning; engagement of support services; removal of children; disposal of domestic animals; eviction; compulsory treatment; institutionalisation. How is the client’s voice heard in these cases? Professionals and policy makers are now seeking to rebalance the competing interests, duties and policy imperatives around mess, squalor, and problem hoarding. The paper explores this evolving landscape. In particular it examines the limits of legal protection for the client’s autonomy and choice.

## **40. Treatment Refusal and Advance Directives: Civil and Common Law Perspectives**

### **Canadian and Australian Involuntary Treatment Refusal Laws Compared**

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In the eight Australian jurisdictions an involuntarily admitted patient cannot refuse the treatment needed to facilitate their discharge from detention. Advance directives refusing treatment for involuntary patients are not legislatively sanctioned in Australia. Three provinces in Canada, like Australia, do not allow treatment refusal by involuntary patients. However, the other 10 Canadian jurisdictions allow treatment refusal in some circumstances. Some provinces exclude capable people from involuntary admission so they cannot refuse. This right of refusal is absolute in some provinces but can be overturned by a tribunal in others. In most provinces substitute decision makers, acting for an incapable involuntary patient must follow any advance directive to refuse treatment. However, some provinces require the substitute decision maker to make the decision in the patient's best interests if following their wish would seriously harm them or others. The advance directive (wish) refusing treatment in Ontario does not have to be written or witnessed or informed. Capacity to make the directive is assumed. The consequences of treatment refusal include loss of liberty rights (some Ontario patients detained for over 20 years), continued suffering, assaults on nurses, and unnecessary costs. Most people who refuse are eventually treated. The comparative advantages of regimes that do and do not impose treatment on involuntary patients will be discussed.

## The Future of Psychiatric Advance Directives

Penelope Weller, *Monash University*  
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Psychiatric Advance Directives (PADS) are closely associated with the refusal of psychiatric treatment, although PADS are generally embedded within wider legal structures that enable clinicians to override them in certain circumstances. Refusal of medical treatment in mental health care poses complex legal and ethical dilemmas. However, studies that examine the content of PADS, show that few people use them to refuse all treatment. The vast majority express treatment preferences that are compatible with good standards of clinical care. Honouring these directives should pose few problems for clinicians, although various practical and attitudinal barriers remain. This paper explores the emerging argument that the social model of disability, and recovery based approaches to mental illness require a further re-conceptualisation of PADS. This expanded vision of PADS sees them as vehicles

for directing care, documenting and communicating the experience of mental illness, identifying factors that may trigger illness, evaluating treatment and the side effects of medication, documenting the psychosocial context in which illness and recovery occurs, managing the interface between community based and hospitalised care and providing an evidence base for the development of mental health systems. The practical, legal, ethical, and fiscal implications of current and future PADS models are discussed.

### Clinical and Liberty Outcomes When the Courts in Ontario Support a Right to Refuse Treatment

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**Objective:** To determine the how often Ontario courts overturn a review board's decision to uphold a patient's right to refuse treatment and to determine what happens to these patients after the court ruling. **Method:** We used LexisNexis Quicklaw to identify all cases where a psychiatric patient's treatment capacity or prior capable wishes were addressed by an Ontario court. We then used information available in the public domain to determine if the patient was discharged from hospital. **Results:** We identified six cases during the 15-year study period from 1990 to 2005. The courts overturned a confirmation of treatment incapacity in two cases. In four cases the court held that the person could not be treated because, while capable, they had expressed a wish not to be treated. Despite the court decision four patients were eventually treated over their objections but only after many years of detention. Following treatment all were well enough to be discharged. Only one patient was discharged from hospital without treatment and one patient remains in hospital untreated for over 25 years. **Conclusions:** In its current form, the Ontario legislation fails to protect the liberty and health interests of involuntary hospitalized psychiatric patients.

### On Capacity and Consent: Perspective from Ontario, Canada

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Issues related to the capacity and consent of an individual are complex and often the source of disagreement between the healthcare team, patients, and their families. In Ontario, an independent organization, the Capacity and Consent Board, was established in 1995 to assist in decision making for these challenging situations. The purpose of this content analysis is to better understand the Board's role on issues of capacity and consent among individuals whose cases have been reviewed under the Mental Health Act. Since 2003, Board's reasons for decisions have been published on the Canadian Legal Information Institute website. The database was accessed and decisions affecting people with mental illness were used as primary data for this content analysis. The number of cases reviewed by the board, their geographical distribution, and challenges to existing law are discussed. The overall role of the Ontario Capacity and Consent Board with respect to individuals with mental illness is provided.

## Treatment Refusal and Advance Directives in German Law

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Like many other countries, Germany incorporates legislation that authorises involuntary psychiatric treatment. From the perspective of a country that operates within the civil law tradition, this paper provides a brief overview of the requirements of involuntary psychiatric treatment in German law. It then analyses the safeguards German law places on protecting the decision-making of people in psychiatric care and in what ways German law accepts psychiatric treatment refusal and psychiatric advance directives. Limitations to the requirement of informed consent to medical treatment are subject to close scrutiny in German law – in general health care as well as in psychiatric care. The Federal Constitutional Court decided that the question whether a person in psychiatric care is capable of giving informed consent to treatment is subject to the principle of proportionality, and it left some scope for a person in involuntary psychiatric care to choose to be ill. The implications of that decision and subsequent developments will be discussed. Also, Germany has incorporated new legislation on advance directives as of September 2009. The model of advance directives it adopted will be outlined, as will its uses and challenges for psychiatric settings.

## 41. Legal and Psychiatric Frameworks for Managing Antisocial and Suicidal Behaviors

## On the Law for Suicide Prevention

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The large number of suicides in Japan (exceeded 30,000 per year in 1998) has caused suicide to become a serious subject for the Japanese government. The Ministry of Health, Labor and Welfare started an action program to diminish the number of suicides in 2003, and legislated a new law for suicide prevention in 2006 (Basic Act on Suicide Countermeasures). However, the number of suicides has not significantly decreased. Suicide rates in Japan are still very high, at 25.9 per 100,000 (male: 37.7, female: 14.7/100,000) as of 2008. The high proportion of suicides in Japan seems to represent the conflicting social background, part of which was dependant on the ex-government's policies based on Neo-liberalism. The traditional employment system has almost collapsed and the social support system has been broken. People are often isolated in the community. Some case particulars will be presented, and further details will be discussed.

## A Study on the Cases of Extended-Suicide in Japan's New Forensic Psychiatric Service under the Medical Treatment and Supervision Act

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In Japan, the new forensic psychiatric service started under the Medical Treatment and Supervision Act has been in place since 2005. This service is used only for serious criminals (e.g., murderers or rapists) who have no or diminished criminal responsibility due to severe psychiatric illness. Our hospital has a special unit and specifically designed therapeutic programs for their rehabilitation. 17% of the inpatients of the ward are female, and almost half of the female inpatients have attempted extended-suicides as they adapt to the conditions of this rehabilitative service. We had considered the possibility that the reason for extended-suicides was depression, but we have found many kinds of psychosis (e.g., schizophrenia and delusional disorders) in this subgroup of criminal females. We will present the findings from a study conducted to learn more about the relationship between the psychopathologies of each psychosis and extended-suicides.

## The Interface between Criminal Justice and Mental Health: Legal Problems Related to the Medical Treatment and Supervision Act in Japan

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In Japan the 'Act for the Medical Treatment and Supervision of Insane and Quasi-insane Persons who Caused Serious Harm' was enacted in July 2003, and has been in effect since July 2005. The Act established a new judicial system that enables courts to decide on appropriate treatment for persons who commit murder, arson, rape, indecent assault, robbery, and bodily injury in a state of insanity or quasi-insanity, and sets out provisions to promote appropriate and continuous treatment for them. Several recent cases have thrown the legal problems with the Act into sharp relief. They will be considered in this presentation.

### Management Systems for Mentally Disordered Offenders: From a Comparative Legal Point of View

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The Act for the Medical Treatment and Supervision of Insane Persons who Caused Serious Harm, Japan's first legislation for mentally disordered offenders, went into effect in July 2005. The government will start working on amendments in the near future. The Act was intended to create a system where the human rights of offenders with mental illness would be promoted. First, the offenders treated in inpatient facilities are able to appeal for a change to the Social Security Council. Second, the inpatient facilities are required to establish an ethics committee where the merits of restraint and seclusion as well as compulsory treatment are discussed. However, once patients are moved into outpatient facilities they are not protected by such a system. Moreover, there are no provisions for patients undergoing psychiatric examinations. It is expected that the government will consider revisions to the Act to ensure the broader protection of human rights.

### The Compulsory Outpatient Treatment for Mentally Disordered Offenders in Japan

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‘The Act for the Medical Treatment and Supervision of Insane Persons Who Caused Serious Harm’ was enacted in July 2003 in Japan. As of December 2009, 1,326 cases were petitioned by prosecutors to the district court. 60% of the offenders were ordered by the board of the district court to inpatient treatment in designated hospitals, and 19% were ordered to outpatient treatment. 450 patients were followed to a designated hospital for outpatient care. There are 320 hospitals designated for outpatient care in Japan. These hospitals have poor community care functions (e.g., a small number of visiting nurses and social workers). According to the guidelines for community care, an “individual implementation plan” should be drawn up at the care conference, and should involve the rehabilitative coordination officer from the probation office. In 4.5 years, only 4 patients were re-admitted in the inpatient care after being discharged to outpatient care.

### Present Circumstances of Prison Psychiatry in Japan

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This paper will describe the present status of psychiatric treatment in the Japanese penal system, focusing on its relationship with general psychiatry and the newly implemented forensic mental health service under the Medical Treatment and Supervision Act. Recent statistics show a significant increase in the number of sentenced prisoners with mental illnesses (including severe psychoses). This trend is imposing a heavy burden on correctional institutions that are generally understaffed and ill-equipped to deal with such prisoners. One of the issues with regards to prison psychiatry is that legal safeguards for managing the practice of general psychiatry are not applicable in a prison setting. Furthermore, the continuity of mental health care after release from prison is not required by law, while the number of ex-prisoners with mental illness is growing. Giving attention to the inconsistency between prison psychiatry, general psychiatry, and specialist forensic psychiatry, the author will discuss the substantial role prison psychiatry plays in the treatment of mentally disordered offenders. The necessity of establishing an integrated system for forensic mental health service and providing proper ethical standards for prison psychiatry will be discussed as well.

## 42. Medical Treatment of Patients Unable to Consent to Treatment in Comparative Perspective

## Medical Treatment of Adults Unable to Provide Valid Consent Who Are Admitted neither as Involuntary Patients nor under Guardianship

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It is a general principle of law that patients have both the right to be free of any unwanted bodily contacts and the right to decide whether or not to undergo medical treatment. Therefore to be lawful, medical treatment needs to be administered only once a competent patient has provided a valid consent or, if the patient is unable to consent, there exists a lawful authority to treat (under emergency; where the patient has been declared/committed as an involuntary patient under a relevant statutory provision; consent has been provided by his or her guardian, by another person with the authority to give consent; by an agent with enduring medical powers of attorney; and alike). The paper will discuss treatment of patients who are not necessarily mentally ill in the sense of a specific diagnosis, and are not under guardianship, yet who have impaired decision-making capacity because of an affective disorder, Alzheimer's Disease, a learning disability, confusional state due to infection or other problems. The discussion will involve analysis of clinical scenarios (and touch upon proposed changes to the Guardianship and Administration Act 1986 (Vic) relating to treatment of persons 'under disability').

## Psychiatric Advance Directives: Opportunities and Challenges

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Psychiatric advance directives (PAD's) are relatively new tools that enable a person to express preferences about future mental health treatment and appoint a substitute decision maker during periods of symptom remission. Because of the waxing and waning course of persistent mental illness, an affected individual may experience times in which he or she is not able to make and communicate informed decisions interspersed with times in which these abilities are intact. Though PAD's are favored by a majority of people seeking mental health care, attitudes among mental health professionals, legal scholars, and ethicists have been mixed. For example, in a recent study, only half of mental health professionals thought that PAD's would be beneficial, while the remaining half believed that they could be detrimental. Though the majority of states in the U.S. have formulated policies or statutes regarding PAD's, they have not gained substantial traction in clinical use in the U.S. and have not been thoroughly tested in the courts. In this paper, I shall discuss some of the medical,

legal, and sociopolitical factors to be considered when implementing these tools in clinical care. I shall then review some of the existing legislation and available outcome studies involving PAD's.

### Patients with Mental Health Problems in the Emergency Ward

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Consent to treatment is a key issue in emergency medical practice, and the legal avenues for gaining valid consent are not always easily applicable in the time-limited setting of emergency wards. Certain patients treated in emergency wards may not have capacity to provide either a valid consent to, or a refusal of, treatment. Some are unconscious, others suffer from incapacitating medical or psychiatric conditions (or a combination of both) that may be transient or permanent; there are also patients who need to be treated for the life-threatening consequences of their alcohol and/or drug abuse. Whilst persons with these presentations comprise a relatively small subset of casualty patients, they present profound ethical and legal dilemmas for physicians striving to provide appropriate care.

It is relatively easy to determine who needs an immediate life-saving intervention, and, in the case of patients who refuse such treatment, whether they understand the consequences of that refusal (though even such patients can also be difficult to assess out of hours, when even major hospitals have limited access to medical files and social work assessments). However, there are many patients who vacillate between consent and refusal, others who while accepting life-saving measures, refuse to consent to or comply with life-prolonging measures (dialysis, administration of antibiotics, etc). Given that these interventions are necessary in a time critical way - revisiting issues of consent over the course of 1-2 hours - can actually interfere with the effectiveness of this treatment. This paper will present scenarios taken from clinical practice, which pose particularly difficult dilemmas regarding administration of medical treatment in emergency wards.

### Liability for Negligently Inflicted Mental Harm (Psychiatric Injury in Australia, Canada and the UK/Emotional Distress in the United States) in the 21<sup>st</sup> Century: International Perspectives

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In this presentation, the repercussions of Australia's tort reforms are explored in respect of negligently caused mental harm. Recent developments in relation to causation are analysed with a view to establishing their relevance for "psychiatric injury litigation". In addition, the decision of Australia's High Court in *Wicks v State Rail Authority of New South Wales*; *Sheehan v State Rail Authority of New South Wales* [2010] HCA 22 is scrutinised in relation to the apparent extension of the law in respect of defendants' liability to rescuers. The absence of a coherent approach to mental harm cases is lamented and suggestions are made to introduce greater certainty into the law, balancing fairness for defendants with the need to ensure that plaintiffs with psychiatric injuries are not placed in a second class position by comparison with plaintiffs with somatic injuries.

### Trends in the Use of Welfare Guardianship under the Adults with Incapacity Act 2000 (Scotland)

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The Adults with Incapacity Act 2000 (Scotland) was one of the first pieces of social welfare legislation passed by the newly formed Scottish Parliament. It modernised and improved existing legislation, pulling various strands into one statute whose aim was to safeguard the interests of people who lacked capacity to make decisions or take action essential to their welfare and financial security. The Act sought to provide a legal framework by which private citizens could obtain legal authority to take necessary actions and decisions to safeguard the welfare and financial interests of a family member who was no longer able to do so for themselves. It also placed a duty on local authorities to assume the responsibility to safeguard individuals lacking capacity when no-one else was able or willing to do so. The trends in the use of the Act have seen a shift from largely state initiated applications to the majority now being private applications. Local authority social work departments have a statutory duty to supervise guardians and the increased use of the Act is placing strains on the capacity of local authorities to carry out their duties. Another concerning trend is the increased granting of guardianship orders on an indefinite basis, raising questions as to whether the legislation is compliant with human rights legislation. The talk will outline some key recommendations for legislative reform made by the MWC to the Scottish Government and how these have been responded to.

### A Guide for the Assessment of Capacity to Consent to Treatment in Youth

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The Health Care Consent Act (HCC) (1996) in Ontario Canada states that treatment cannot be administered until valid consent is obtained from a capable patient by the health care practitioner offering the treatment. The intended purpose of the HCC is to promote the autonomy of capable patients to make his/her own health care decisions irrespective of their age. Age alone is not a factor determining capacity nor is the presence of a neurological or psychiatric disorder. We describe the process associated with the development of a simple guide to be used by health care practitioners to aid their assessment of capacity to consent to treatment in youth.

## 43. Risk Assessment: Part I

### Neuronal Control of Reactive Aggression in Violent Offenders with Psychopathy

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Aggression constitutes an important part of human behavior. The generation of aggressive impulses as well as their control and adaptation to a given social situation are of paramount importance for the social integration of a person. The neurophysiological underpinnings of the generation and control of aggression are the subject of current studies. Neuronal signatures of the feeling of being provoked and of retaliation have been identified using the techniques of event related potentials as well as the analysis of neuronal oscillations. Perpetrators that display signs of psychopathy show recklessness in their behaviour and no remorse. Furthermore, they are not capable of empathy and have the inclination to commit violent crimes. Up to now, the extent of the changes of the neuronal indicators of aggressive impulses and their control has not been examined. In this study we recorded the EEG of 20 violent perpetrators from a forensic mental health institution that fulfilled the criteria for psychopathy according to the psychopathy checklist (PCL-R) and 20 healthy nonviolent controls, matched for age and education, in an aggression paradigm. In perpetrators with psychopathy we found an altered pattern of neuronal activity underlying reaction to provocation and control of aggressive behavioural impulses, indicating an altered prefrontal function in these patients. Our results support the hypothesis that prefrontal cortical dysfunction is of critical importance in the pathophysiology of psychopathy.

### Structural Brain Damage in Violent Perpetrators

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The control of aggressive behaviour relies heavily on intact neuronal circuitry involving frontal and temporal brain structures. Hitherto, it has not been carefully assessed to what extent perpetrators that have been condemned due to violent crimes display a higher prevalence of structural brain pathology. This study was aimed at exploring whether structural brain pathology might be a factor that considerably contributes to the predisposition to commit violent crimes. Furthermore, we wanted to assess whether brain pathology is a predictor of violence that is independent of other factors such as childhood trauma, ADHD, and personality traits. Methods: Cranial CT and MRT scans of about 300 violent and non-violent perpetrators were blindly screened for structural damage and compared to non-criminal controls. Additionally, in a subset childhood trauma, ADHD, personality traits and general psychopathology were assessed and data was submitted to a factor analysis. Results: Violent perpetrators had significantly more severe signs of structural brain pathology as compared to non-violent perpetrators and controls. Non-violent perpetrators did not significantly differ from controls. Factor analysis revealed that brain pathology, childhood trauma, and ADHD constituted independent factors contributing to the disposition to commit violent crimes. Conclusions: The results suggest that structural brain pathology has to be regarded as a factor of the utmost importance in the etiology of violent crime that is independent of other known predictors usually surveyed using psychometric and anamnestic instruments. These findings lay a cornerstone for a careful neuropsychiatric assessment of violent perpetrators.

### Alternative Treatment Strategy in Forensic Psychiatry: First Experiences

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In the past years, we have faced a dramatically increased number of patients treated in forensic psychiatry in Germany. This increase was even more intensive in the area of former eastern Germany, where facilities for the treatment of forensic psychiatric patients began to

be established only after reunion of the country in 1990. In Saxony-Anhalt in 2006, 210 beds for patients (chapter 63 German penal law) were available, whereas more than 320 had been sentenced to treatment in forensic psychiatry. In order to cope with the dramatic situation, we established a new special facility for 80 patients near Magdeburg where an alternative treatment concept was offered to those patients who obviously did not benefit from conventional treatment strategies in forensic psychiatry over a minimum 3 year period. The treatment program was mainly based on suggestions made by occupational therapists who intended to strengthen self-assurance of patients by partly rendering the guidance and planning of different projects to them. While the area was protected by highly advanced technical means to avoid any danger to the general population due to patients escaping from this facility, the hospital was designed to be a forensic village, embedded in the rural landscape. The task of patients was to establish and maintain a farm of 10,000 square meters under the supervision of therapists. Additionally, psychological and psychiatric treatment was performed as usual. Thus, cultivating a farm and executing all work related to daily life was an additional task voluntarily done by patients (e. g., cleaning the houses, washing and ironing all clothes, assisting in preparing all meals). There was no general restriction regarding diagnosis, delinquency, or age; however, the group of patients treated consisted of patients who usually can be found in long-stay facilities in forensic psychiatry.

The diagnoses found included organic psychoses (9.2%), addiction (27.3%), schizophrenia (26.9%), personality disorder (26.0%), and oligophrenia (10.6%). The patients (N=127) had been pre-treated unsuccessfully on average for 1,364 days ( $SD \pm 1.279$  d) and 89.9% decided to cooperate in the alternative treatment. After an average additional treatment time of 595 days, 39.2% (40 out of 102 patients) were classified as successful by usual forensic psychiatric risk assessment tools and could be sent back to the main hospital to continue the rehabilitation process. Schizophrenic patients showed the best results of all diagnostic groups ( $p < 0.01$ ), whereas organic psychoses did not significantly benefit from the program offered ( $p < 0.05$ ). There were no significant differences regarding the result for different types of delinquencies in patients, however, duration of pre-treatment in forensic psychiatry was negatively correlated with the outcome ( $p < 0.05$ ).

Our first experiences emphasized that an alternative treatment program based on practical work, support of self-assurance, and training of social abilities could help to achieve positive results in patients who seemingly proved to be untreatable before. However, those who were diagnosed with organic psychoses by radiological and psychometric means could not benefit from this program to the same extent. In contrast, all types of delinquencies or



diagnoses, especially schizophrenic patients, benefited to a large extent regarding rehabilitation.

## Psychiatric Outpatient Treatment of Prisoners: Characteristics and Impact of Rehabilitation Process

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With the number of prisoners in North Rhine-Westphalia, Germany, remaining rather stable between 2002 and 2006 (+ 4.5%), 17,700 prisoners were detained on average in 2006. The prevalence of psychiatric diseases found in prisoners is much higher than can be found in general society. Facing a considerable lack of special psychiatric prison hospitals appropriately equipped to treat prisoners in Germany up until now, particular emphasis should be given to ambulant outpatient psychiatric treatment facilities within prisons as this will essentially contribute to enhance the rehabilitation process. The prisons (N=39) investigated showed striking differences regarding relative inpatient psychiatric treatment (0.01 – 4.09 annual psychiatric treatments per prisoner). The analysis of the implicit reasons for the desolate treatment situation in some prisons provokes a call for a change to proceed towards a reliable system which can cope adequately with the high prevalence of psychiatric diseases of prisoners, provide a sufficient high quality and number of outpatient treatment facilities, and provide psychiatric inpatient care in prison hospitals.

## Assessment of Radiological Scans in Forensic Psychiatry

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In a retrospective study we assessed the MRT and CCT scans of patients (N=148) treated in the central forensic psychiatric hospital in Saxony-Anhalt (Uchtspringe, Germany) who had been sentenced according to § 63 of German penal law. All scans had been performed in the course of routine diagnostic examinations. Seven regions of interest were determined (frontal, temporal, and parietal lobe, right/left respectively, and as well Ventricle III). These were rated according to a standard procedure, with 0 points given for healthy probands, up to 1 point for minor damage, and 2 points for considerable damage. The rating was performed independently by two experienced neurologists, and compared to a control group collected from patients of a radiologic ambulant treatment centre (N=35). Scans there had been performed in the course of routine diagnostic as well. Prior to rating, scans were blinded with regards to personal data and group assignment. The average age of the assessed patients was 36.05 years (min 16/max 77 years; SD 13.9). The control group (N=35) was matched in terms of age (39.12 years; SD 13.11). All regions assessed revealed a significant ( $p > 0.001$ ) difference compared to the control group. The main point score (average) was 4.48 (min 0/max 14; SD 3.77), whereas the control group's score was 1.17 (SD 1.65). Our results indicate that cerebral alterations can be found much more frequently among forensic psychiatry patients. This may hint at a link between biological alterations of the brain and delinquency, and should be investigated in subsequent studies.

### Recidivism in Patients Discharged from a Central Forensic State Hospital in Saxony-Anhalt, Germany

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We assessed the outcome of 137 patients (97.1% males) who had been discharged from forensic psychiatry in Saxony-Anhalt between 1992 and 2004. The sample consisted of

patients who had been treated according to chapter 63 of the German penal law (N=97; 70.8%) and those who did not undergo any treatment prior to discharge (N=40; 29.2%). The average length of treatment was 2.7 years. The (mean) age of all patients at discharge was 31.0 years. Five years after discharge, criminal recidivism occurred in 65 male patients (47.4%), with 44 (67.7%) cases representing serious offences. 20 of the serious offences (45.5%) were committed by patients suffering from personality disorders, whereas only one schizophrenic recidivist (2.3%) was found. Remarkably, only 28.9% of patients who received forensic treatment re-offended by committing a serious crime. This occurred among 40% of those who had not been treated. The duration of in-patient treatment was not related to the risk of re-offending; however, there was a significant effect of age ( $p<0.01$ ), as no patient over 45 years of age at discharge re-offended.

## 44. Risk Assessment: Part II

### Sexual Offending in Schizophrenia – A Comparative Trial

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**Objective:** Studies suggest a complex relationship between schizophrenia and sexually offensive behaviour. This study aimed to preserve the first findings with regards to the features of sexual offences and behaviours exhibited by psychotic men in Germany. Furthermore, a typology of the schizophrenic offender group was developed. **Methods:** A comparative trial design was used to differentiate the psychotic and non-psychotic offender group. A checklist was developed and applied to the records of 64 male restricted hospital order in-patients in Berlin with an index conviction for a contact sex offence against a woman. **Results:** Social isolation, antisocial behaviour, psychosexual variables, and adverse childhood experiences are characteristic of both schizophrenic offenders and sexual offenders in general. Different sexual offensive behaviours appeared in the schizophrenic subgroups. **Conclusions:** Negative symptoms of schizophrenia as well as antisocial traits had a great impact on schizophrenic sexual offending. Psychotic offenders appear to form a heterogeneous group.

### Prediction of Violence and Other Offences in Forensic Psychiatric Patients in Brazil

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In Brazil, Violence Risk Assessment (RA) was traditionally carried out in a clinical and unstructured manner. Aiming at improving the RA process, the authors evaluated the predictive effectiveness of the Brazilian version of HCR-20 and PCL-R in a forensic psychiatric population. The sample was composed by 68 male in-patients at the Dr. Maurício Cardoso Forensic Psychiatric Hospital (Porto Alegre, Brazil). Sociodemographic variables, as well as HCR-20 and PCL-R scores, were collected. PCL-R has already been validated for Brazilian samples. The hospital files were reviewed on a daily basis, and all violent and antisocial acts were registered. The period of observation was one year. With regards to predictive efficiency, the instruments' performance was generally good.

### Description of the Second Step to the Validation of the Brazilian Version of "HCR-20 Assessing Risk for Violence"

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Introduction: Assessing risk for violence is a complex task often based on clinical criteria that are not very objective or structured. HCR-20 has been used in several countries to increase the accuracy of this exam. HCR-20 had its Brazilian version validated recently by the authors. In this paper they will present the second step of the validation process, the assessment of its reliability in a forensic population. Method: Two examiners assessed a random sample of 30 patients that were complying with a security measure in a large forensic psychiatric hospital. Results: The value of the Intraclass Correlation Coefficient (ICC) for the score of subscale Historical was 0.97, for subscale Clinical it was 0.94, and for subscale Risk management, 0.96. As to the individual items of the HCR-20, the result of the ICC was good to excellent (mean = 0.97; interval, from 0.60 to 0.99). Conclusion: Interrater reliability of the Brazilian version of the HCR-20 scale was found to be similar to the results of studies in other countries. Besides being reliable, the scale was easy to apply in a forensic psychiatric population.

## Development of Forensic Outpatient Treatment for Crime Prevention in an Urban Catchment Area

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Forensic outpatient treatment is an integrative measure for crime prevention among mentally disordered patients. Between 2004 and 2008 this successful approach to preventive treatment was extended to a wide spectrum of patients in the metropolitan area of 1.8 million people in Hamburg at substantial risk for violence. A structured outpatient clinic that delivered risk management for a range of patients from special hospitals, preforensic patients of general psychiatry, and disordered patients from the justice system was implemented stepwise. This presentation deals with the empirical challenges and the standards of community risk management, in addition to the particular structural needs and their association with the legal framework of coercive measures. The results in terms of reducing length of stay, the number of patients in inpatient facilities, and the effect size of primary or secondary prophylaxis are discussed. Specific forensic outpatient treatment with its inherent skill in risk assessment and risk management reveals one of the future multidisciplinary developments in mental health services.

## 45. What is the Role of Risk Assessment in Civil Mental Health Services?

## The Predictive Value of Risk Categorization in Schizophrenia

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Background: Risk assessment is increasingly used to inform decisions regarding the psychiatric treatment of patients with schizophrenia and other serious mental disorders. Aims: To examine the theoretical limits of risk assessment and risk categorization as applied to a range of harms known to be associated with schizophrenia. Methods: Using rates of suicide, homicide, self-harm, and violence in schizophrenia, a hypothetical tool with an unrealistically high level of accuracy was used to calculate the proportion of true and false positive risk categorizations. Results: Risk categorization incorrectly classified a large proportion of patients as being at high risk of violence towards themselves and others. Conclusion: Risk assessment and categorization have severe limitations. A large proportion of patients classified as being at high risk will not, in fact, cause or suffer any harm. Unintended consequences of inaccurate risk categorization include unwarranted detention, misallocation of scarce health resources, and the stigma arising from patients being labeled as dangerous.

## Psychiatric Risk Assessment

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Where actuarial approaches recommend treatment interventions, those interventions usually combine psychiatric treatment with therapy aimed at “criminogenic needs”. Individual items are not identified as means of monitoring risk. Instead, the actuarial approach is used to allocate a client to the most appropriate setting where treatment can take place. Structured Professional Judgment (SPJ), on the other hand, identifies areas of clinical concern where treatment can be targeted. Some advocates go further, suggesting that changes in “clinical” and “risk” variables, such as insight and psychotic symptomatology, can then be used to monitor progress. If this works, it will be a good reason for a clinician to adopt a SPJ approach. The empirical investigation of the question will be described.

## Risk Assessment: 'Numbers' and 'Values'

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Why has 'risk assessment' recently assumed such salience in mental health care in the UK and a number of other countries? The frequency of serious violent incidents perpetrated by people with a mental illness is an insufficient explanation. Current accounts of 'risk perception' also appear inadequate. I will argue that understandings of mental illness and of the role of those charged with their care (or control or surveillance) play a key role. The common rationale for post-incident inquiries - learning lessons from discovering what went wrong - lends support to this idea, while at same time contributing to a flawed conception of what such inquiries can offer. At the same time understandings of probability and prediction are very poor. Unfortunately this applies to professionals as well as lay persons. Unrealistic expectations thus generated, in turn, carry a variety of significant 'costs' to those with a mental illness, to mental health professionals and to services. Especially important among these is that the implementation of risk assessment in mental healthcare often breaches the principle of 'justice' (or 'fairness') and heightens discrimination against people with mental illness. How then should a clinician act in the midst of such a tangled web of irrational pressures?

### Routine Screening of the Risk of Violence in Acutely Hospitalized Psychiatric Patients: For the Hospital Stay and after Discharge

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This presentation reports from a prospective study on the one-year routine use of (a) a violence risk screening (V-RISK-10) and (b) patients' own opinion of their risk of aggressive behavior (Self Report Scale, SRS) in two Norwegian acute psychiatric units. Patients were assessed at admission and before discharge. Despite good results from risk screening at the group level, the occurrence of false positives and negative predictions is still a challenge in clinical work. Results and clinical experiences from the project, and different aspects of risk screening in acute psychiatric units, will be discussed.

### The Role of Risk Assessment in Mental Health

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Risk assessment has been oversold in recent years as a solution to most if not all problems in mental health services. Particular problems result from unwarranted claims that individual prediction can ever achieve a high degree of precision. The search for the holy grail of a perfect risk assessment tool is pointless because there is inherent uncertainty in human behaviour. Existing tools have probably reached a ceiling beyond which it will be impossible to achieve greater predictive accuracy. That ceiling is considerably below the standard used in most diagnostic tests in physical medicine. Nevertheless the accuracy of structured professional judgment is higher than for unstructured methods and there are other advantages of increased reliability and better communication. It follows logically that whatever the method's imperfections, optimum care requires the routine use of structured professional judgment to assess violence risk in mental health.

## 46. Reformulation of Risk Assessment and Management in Psychiatry

### Risky Assumptions in Risk Assessment and Management Research

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Management of violence risk is a priority in psychiatric practice, research, and policy development. Despite extensive investigations examining correlates of violence and the link between violence and mental disorders, the yield for clinical decision making for individual patients has been limited. Studies have also produced contradictory results and a dichotomy between standardized measures of risk and clinical assessments has emerged. This presentation will review relevant literature and challenge current approaches to research around three critical inter-related assumptions. First, studies have implicitly treated violence as a uniform construct varying only in severity. Thus, in research, violence arising from psychiatric symptoms has not been distinguished from violence that has been adopted as a problem-solving strategy. Second, research has focused on the merit of accurate prediction; this belies the effect of treatment on risk reduction for particular kinds of violence such as that associated with psychosis and substance abuse. The focus on prediction confuses the detection of risk with violent outcomes. The third assumption is that research on the predictors of violence will be directly relevant to psychiatric clinical practice. Recognition of these factors leads to more effective application of risk assessment measures and suggests risk profiles applicable to clinical practice.



## Limitations of Risk Assessment Instruments

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In the past 50 years, the concept of “dangerousness to others” has played an increasingly important role in psychiatric practice: as a criterion for civil commitment, involuntary medication, and the duty to protect third parties. Psychiatrists historically made determinations about their patients’ dangerousness based upon clinical judgment alone, but research consistently demonstrated that such unaided clinical judgments were unreliable. In response to the need for better predictors of risk, actuarial risk assessment tools were developed. One such actuarial instrument is the Violence Risk Appraisal Guide (VRAG), which improved the ability to predict violence to approximately 70% in research studies, but was discordant with clinical psychiatric practice because of its reliance on immutable factors such as age, past violence history, and diagnosis of psychopathy. The next generation of risk assessment tools, of which the HCR-20 is the best-known example, moved beyond historical factors and included clinical and risk management factors in the prediction of violence. Although this change made intuitive sense to psychiatrists, the tool continued to have significant limitations, over-predicting violence in some cases and under-predicting in others. Thus, current risk assessment tools are decidedly imperfect, and we are left searching for a better model of risk assessment and management.

## Risks of Statistical Significance without Clinical Application

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This presentation addresses some of the limits of violence prediction in psychiatry and demonstrates a critical difficulty in applying research findings to clinical management of risk. At the base rates routinely encountered in out-patient settings, current methods would require the admission to hospital of large numbers of potential-offender patients in order to prevent the actual offending of a few. When research findings are either clinically irrelevant or clinically inapplicable, policy and legislation based on those results confuse treatment decisions and interfere with clinical judgment. New approaches and methodologies that move beyond the predictive and categorization models are required. Suggestions that substantially greater accuracy is possible for short-term predictions, for particular symptom clusters and for particular offenses have yet to be confirmed. Further research may improve

this state of affairs, for instance by concentrating on particular patient groups. The degree of improvement achieved so far, and the grounds for expecting further improvement in the future, will be discussed.

## A Functional Approach to Risk Assessment and Management

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Existing models of risk assessment and management were derived from social-legal developments in the 1960s and 1970s; they were not primarily generated from developments in clinical practice. While the research on risk has been extensive, it still fails to adequately inform clinical practice in meaningful ways, actually increases stigma, and turns clinicians into agents of social control. An appropriate goal of psychiatry is the treatment of psychiatric illness, contributing to public safety by reducing risk attributable to psychiatric illness. Because psychiatric symptoms impair capacity to reason, make appropriate decisions, control emotion and direct behavior, treatment of those symptoms assists both the person in recovery and society. Impaired capacities in these dimensions can be measured and monitored over the course of treatment. Restoring functional capacity is an appropriate goal of clinical care and an effective risk-management strategy that does not run the risk of treating individuals as statistical members of empirical categories or reducing care to the one-dimensional task of preventing violence. This presentation will describe the Functional Assessment and Intervention Risk (FAIR) Model. In this model, assessment is linked directly to treatment and outcomes, in a manner consistent with ethics principles that have been described for risk assessment.

## Risk Amplification and Public Risk Perceptions in Mental Health: The Emergence of Defensive Practice within the Decision Making Process in England and Wales

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The Mental Health Act 2007 in England and Wales introduces a number of amendments to the Mental Health Act 1983. Whilst the 2007 Act has sought to respond to difficulties arising from changing psychiatric practice and increasing definitional flexibility within the psychiatric care environment, a dominant policy driver for legislative reform is risk assessment and management. It has introduced several measures to re-emphasize a

commitment to the facilitation of patients' rights - for example, the introduction of independent mental health advocates and new safeguards surrounding ECT use - but the driving force of risk and its management, though diluted and more subtle in form, remains strong. This paper presents some early findings from an ongoing study that is concerned with evaluating how the risk agenda, as a policy driver, impacts upon institutions, individuals, and other key stakeholders involved in mental health decisions. This conference paper will focus in particular on the question of whether the risk agenda has influenced the decision-making process to the extent to which that defensive practices are beginning to emerge, and if so, what the wider implications of this will be for the provision of mental health care within England and Wales.

## 47. Criminal Recidivism in Prospective, Longitudinal Follow-Up

### Studies: Outcome of Risk Assessments

#### The Gothenburg Forensic Neuropsychiatry Project

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This study focused on the rate of violent crime relapse over a time span of several years. It compared the relapse rate of offenders sentenced to prison versus forensic psychiatric care, and tested the predictive ability of both criminological and clinical risk factors. 100 perpetrators of severe crimes were assessed in connection with pre-trial forensic psychiatric investigations at the Department of Forensic Psychiatry in Gothenburg between 1998 and 2001. A broad clinical battery was used, covering psychiatric, psychological, and psychosocial background factors, as well as risk instruments. Follow-up data for the following outcomes were collected from the registers: (i) incidents during treatment (forensic psychiatric/institutional/prison); (ii) recidivistic crimes (all types, particularly sexual and violent crimes). During the mean follow-up period of 59 ( $\pm 10.9$ ) months, 20 individuals relapsed into violent criminality. Relapses occurred during ongoing sanctions ( $n=6$ ) and after discharge or once on parole ( $n=14$ ). Criminological and clinical risk factors (i.e. age at first conviction, number of prison convictions, substance abuse, and scores on risk assessment instruments) showed a modest correlation with violent recidivism. Logistic regression analyses showed that the predictive ability of these risk factors were comparable overall, with both sets of variables correctly predicting about 80% of the outcomes. However, significant predictors were found only among the criminological variables. Overall, our

results question the notion that the mentally disordered as a group are especially prone to relapse into violent criminality. Instead of upholding the stigmatization of the mentally disordered, future efforts should be focused on developing programs that are based on the needs of prison inmates.

### Clinical Covariates to Repeated Violent Offending in Prison versus Forensic Psychiatric Treatment Cohorts

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As previous studies on a presumed association between violent death and violent criminal recidivism have failed to find such an association, the present study was designed to identify possible explanatory factors. The study population included 340 male subjects referred to pre-trial forensic psychiatric investigation, and followed for 13-20 years after the investigation. Cox regression was used with violent recidivism versus non-violent recidivism and non-recidivism as outcome variable. The endpoint was 31 December 2008 with death censored. Possible characteristics adjusted for age, such as time in institutions, age at start of substance abuse, age at first registered crime, prevalence of childhood psychosocial dysfunction, and number of previous sentences were explored as predictors. Identified predictors will be applied in a second analysis with violent death versus the endpoint, including non-violent death, as the outcome variable.

### The SiS-CAT Follow-Up Study

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In a previous study (SiS-CAT), we demonstrated the high prevalence of psychiatric disorders in general and of disruptive behavior disorders more specifically (including attention-deficit/hyperactivity disorder (AD/HD), oppositional defiant disorder, and conduct disorder) in a sample of institutionalized adolescents. At least one psychiatric disorder was diagnosed in 73% of the subjects: 48% met DSM-IV diagnostic criteria for AD/HD, 17% for a pervasive developmental disorder (PDD), and 10% had a mental retardation. The collapsed prevalence for psychiatric disorders requiring specialist attention, (i.e. AD/HD, PDD, psychotic disorders, and depression) was 63%. In the present study, the patterns of criminal behavior in this group are analysed with regards to relapse in criminal behavior following release from special youth care institutions. The aim was to identify a group with early-onset disruptive

behavior for comparison with adolescents with late onset disruptive behavior. Comparisons include background factors, cognitive profiles, personality profiles, and follow-up data from the Swedish criminal register on relapse in criminal behavior.

### The Malmö Forensic Psychiatric Cohort Follow-Up Study

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Forensic psychiatry is a relatively small yet important area of medicine. The objectives of forensic psychiatry are to determine correct diagnoses, treat them, and offer patients a satisfactory quality of life post release from the hospital in order to prevent new aversive events. This study aims to provide an overview of the clinical and crime-related features of a group of patients sentenced to forensic psychiatric in-patient treatment in the University Hospital MAS catchment area from 1999-2005, and to describe criminal recidivism after discharge from the hospital. Data was collected from the Forensic Psychiatric Investigations (FPI) that must precede a sentence to forensic psychiatric in-patient treatment with court supervision. Criminal recidivism will be presented in relation to duration of treatment, diagnostics and base-line risk factors.

### Structured Risk Assessment Instruments Do Not Predict Future Violence among High Risk Individuals

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Background: Structured professional judgment is increasingly used in clinical risk assessments instead of actuarial instruments despite lack of evidence of superiority. We compared predictive efficiency of 3 instruments for future violence according to psychiatric diagnosis, including those associated with violence and prolific criminality. Methods: Prospective measures using HCR-20, VRAG, OGRS 6 – 12 months before release in 1224 male prisoners, England and Wales. Lifetime schizophrenia, depression, substance misuse, personality disorder, and psychopathy were measured using standardised instruments. Outcome: violent convictions at 3 years post release. Predictive efficacy for each diagnostic category using AUC values and percentage correctly classified. Findings: Instruments

performed moderately (AUC 0.60-0.71) for clinical syndromes and personality disorder (AUC 0.58 – 0.74) but could not predict above chance for psychopaths. Good predictive accuracy was achieved only in absence of clinical syndromes and personality disorder. Actuarial instruments (VRAG, OGRS) were superior to the HCR-20 for all diagnoses except schizophrenia. Interpretation: Structured professional judgment may be too inaccurate to guide risk management of those at greatest risk and therefore may be unsuitable for use among prisoners and patients in high secure hospitals. Risk assessment instruments perform well among those with no psychiatric morbidity, including personality disorder. Clinicians must rely on their clinical experience when assessing psychopaths.

## 48. Risk Management in Stalking

### Threat Management for Stalking Victims

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Victims of stalking may experience anxiety, depression, guilt, helplessness, and symptoms of post-traumatic stress disorder. They may also be subjected to vandalism and personal violence. Threat management for individual victims requires a comprehensive approach including education, supportive psychotherapy, and a discussion of practical measures. Education to victims about the nature of stalking, including common emotional reactions helps to validate patients' feelings, reduce self-doubt, and mobilize them to find ways to protect themselves. It is important for victims to receive the message that this is not their fault. Supportive therapy will increase victims' self-esteem by helping them to assert themselves with the stalker and, if necessary, the authorities. Therapists must be aware of many countertransference issues that may interfere with effective therapy. They may over-identify with the patient's powerlessness or hesitate to take on a case out of fear of the stalker. On the other hand, therapists can advise and empower victims to take control of their lives and reduce their risk through documentation, collecting evidence, and taking a variety of personal safety precautions. This presentation will cover both psychotherapeutic and practical approaches to individual victims that will help decrease their personal risk.

### Reducing Harm by Dealing with Offenders

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In health care it is inevitable that professionals are confronted with violent and threatening people. However, most health care providers believe that offenders can only be dealt with in the justice system. In reality only a small proportion of these people face mandatory treatment. The author has developed a structured treatment program for handling people displaying violent and/or threatening behaviour. The main goal of the intervention program is to change the unacceptable behaviour. Instead of using a “medical model” in which healing is the goal we prefer harm reduction as the more suitable approach for this kind of problem. The therapeutic intervention is the best possible approach for the prevention of further escalation. The author will outline the structured treatment program based on a combination of cognitive behavioural technique and psycho-educative interventions and discuss problems based on his first hand experience. Providing treatment to this category of offenders always leads to the intervention dilemma, in which the intervention itself can contribute to further escalation. Carefully planning the intervention strategy helps to avoid negative consequences. The gathering of collateral information is always crucial for handling this type of offender.

## Stalking of Healthcare Professionals

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Healthcare workers are vulnerable to becoming a victim of stalking by their patients, most often occurring when stalkers are seeking intimacy, are resentful or incompetent. Healthcare workers regularly see lonely or mentally unstable individuals who may misconstrue sympathy and attention as romantic interest. Therapists may be vulnerable as a result of erotic transference. The literature suggests that a significant number of clinicians experience some type of stalking and suffer adverse consequences yet most lack any type of training to deal with this. Physicians in the Greater Toronto Area were surveyed about their stalking experiences to obtain information on various types of stalking, impact on the physicians harassed, types of patients who stalk, perceived reasons for the stalking, and strategies used to deal with the situation. Increased awareness of this phenomenon and appropriate interventions could reduce escalation of harassing behaviours. The warning signs and suggestions for management of stalkers in the healthcare setting will be discussed.

## Personal Security of Professionals in Stalking Cases

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This presentation will cover the basics of personal security tactics for professionals who deal with stalking and other forms of targeted violence. It will cover physical security, target hardening, personal security tactics as well as CPTED (Crime Prevention Through Environmental Design) for private practices. The main emphasis will be on personal security tactics for the personnel of a hospital or private clinic. We will cover guidelines, standard operating procedures, and verbal de-escalation techniques for threatening or hostile encounters. The participants will also receive information in regards to security awareness, personal value system, and security practices for the family members.

## 49. Assessment of Sexual Violence Risk - Lessons Learned and Future Directions

### Resource-Oriented Risk Assessment – An Approach to Balance Resource and Risk

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Though the most commonly used standardized risk assessment tools are well-validated, they contain a problematic aspect, in that they measure literally only the risk factors. Four years ago, researchers at the Van der Hoeven Kliniek in Utrecht, the Netherlands, rebelled against the convention of this risk-only risk assessments and developed a new instrument that assesses protective factors, the SAPROF (Structured Assessment of PROtective Factors



for Violence Risk), as a positive addition to other SPJ (Structured Professional Judgment)-risk assessment devices (De Vogel, De Ruiter, Bouman, & De Vries Robbé, 2007).

In addition to common standardized diagnostic and risk assessment tools, such as PCL-R, HCR-20, SVR-20, and Static-99, the German version of the SAPROF was successfully implemented in the Forensic Ambulatory Program for Sexual Offenders (FORAS) at the Institute for Sex Research and Forensic Psychiatry of the University Medical Centre Hamburg. After a pilot study with 30 clients in the program, additional clients have since been investigated. Characteristics and relationships between the risk measured by SVR-20 and Static-99, and protective factors in the SAPROF among these clients will be presented. Changes in assessment data during the therapy among clients who were rated in the pilot study will also be demonstrated. Suggestions for future research and optimization of the accuracy and comprehensiveness of forensic assessment are discussed.

### Predicting Recidivism of Sexual Offenders by Using Structured Professional Judgment: A Prospective-Longitudinal Study on the Predictive Validity of the Sexual Violence Risk-20 (SVR-20)

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The Sexual Violence Risk-20 (SVR-20; Boer, Hart, Kropp, & Webster, 1997) is the most commonly used Structured Professional Judgement (SPJ) guideline for sexual offender risk assessment and risk management planning. Using a prospective-longitudinal research design we evaluated the interrater reliability and the (predictive) validity of the German version of the SVR-20 (Müller-Isberner, Cabeza, & Eucker, 2000) by using a total sample of N=493 sexual offenders released from the Austrian Prison System. Furthermore, we examined the predictive quality of the three subscales of the instrument for different recidivism criteria and different offender subgroups (child molesters and rapists). The

average follow-up time period was approximately 4½ years, 2 years was defined as minimal follow-up period. The findings of the present study indicate generally good predictive accuracy of the SVR-20 comparable to other risk assessment instruments but also revealed inconsistency of the predictive power depending on recidivism criterion, offender subgroup, and subscale of SVR-20. For the prediction of sexual recidivism, the SVR-20 total score showed good predictive validity for the total sample (AUC=0.72) as well as for both subsamples (AUC=0.77 for child molester and AUC=0.71 for rapist subgroup, respectively). Implications for both risk assessment and research are discussed.

### The Assessment of Risk and Manageability of Intellectually Disabled Individuals Who Offend Sexually (The ARMIDILO-S) – Recent Data and Practice Implications

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A recent paper by Blacker, Beech, Wilcox and Boer (2010) showed that the Sexual Violence Risk-20 (SVR-20; Boer, Hart, Kropp, & Webster, 1997) had very poor predictive validity with a small sample of intellectually disabled sex offenders. However, the acute items of the ARMIDILO-S showed very good predictive validity. Boer and colleagues also recently published suggested ID applications of the SVR-20 items (to be used alongside the regular SVR-20 when assessing ID clients). These latter items have not been tested as to their predictive validity to date. The recent positive support for the ARMIDILO-S may make the use of adapted items for the SVR-2 a moot point. Implications for both risk assessment of ID sex offenders and research are discussed.

### Sexual Violence Risk – Best Practice Suggestions for the Assessment of Sexual Offenders

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While the Sexual Violence Risk-20 (SVR-20; Boer, Hart, Kropp, & Webster, 1997) is the most commonly used Structured Professional Judgement (SPJ) guideline for sexual offender risk assessment and risk management planning, there are many other instruments that are of similar (or better, depending on the study) predictive validity. The Static-99 and the more recent “R” version (Hanson & Thornton, 1999, 2009) is easily the most used actuarial test for estimating the likelihood of sex offender recidivism. Other tests by Hanson have less empirical support (e.g., the Stable 2007 and Acute 2007). This presentation will review some of the supporting data and make recommendations for best (and perhaps safest) practice in this constantly evolving field. Implications for both risk assessment and research are discussed.

## 50. Developments in Forensic Psychology

### Treatment Evaluation in a Dutch Forensic Psychiatric Hospital

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Treatment evaluation of forensic psychiatric patients is mainly based on the professional impressions of a multidisciplinary treatment team, generally comprised of psychologists, therapists, and nurses. It is often unclear on which precise grounds patients are evaluated. To clarify and support decisions in a more standardised way, a routine outcome monitoring system with an N=1 statistical procedure was introduced in the Dr. S. van Mesdag forensic psychiatric hospital. In this system, the professionals of all involved disciplines complete the same observation form consisting of forensic relevant dynamic risk factors. The forms are automatically processed into a report comprising the mean scores on the individual items, the degree of agreement between the reviewers, and the degree of actual change (calculated with a special elaborated N=1 statistical method). This report is then discussed at the treatment evaluation meeting. In this presentation the validation of the applied observational measurement instrument is discussed, together with an empirical N=1 statistical study.

### Dynamic Risk Assessment and Treatment Evaluation in Forensic Psychiatric Patients: A Study on the Dutch Risk Assessment Device HKT-30

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The predictive validity of the Dutch structured professional risk assessment device HKT-30 (Historical-Clinical-Future-30) was retrospectively investigated in a sample of approximately 200 forensic psychiatric patients on whom an entrustment order had been imposed. The Dutch entrustment order involves a penal measure concerning involuntary admission to a specialized maximum-security forensic psychiatric hospital in which the patient receives treatment, and is aimed at reducing the risk of recidivism. For each patient, the clinical and dynamic variables of the HKT-30 were coded five times in order to obtain an overview of the patient's course of treatment. Five years after discharge, official reconviction data was retrieved. The predictive validity of the HKT-30 for different recidivism end points was determined, both for the total sample and for particular subgroups of patients (e.g. distinguished by DSM-IV-diagnosis and index offense). Subsequently, the extent to which dynamic risk factors were susceptible to change during forensic psychiatric treatment and how these changes were associated to changes in the risk of recidivism was examined, again for both the total study sample and for specific subgroups of patients. Finally, recommendations were given regarding the usability of the HKT-30 risk assessment device as an instrument for evaluating and directing forensic psychiatric treatment.

### A Social Network Approach to Assess and Monitor the Forensic Psychiatric Patient's (Risk) Behavior

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In Dutch forensic psychiatric settings, the Forensic Social Network Analysis (FSNA) is often used in the clinical practice of risk assessment and risk management. The purpose of FSNA is to weigh relationships and network members in terms of risk (and severity) of recidivism on the individual patient level. The FSNA data is collected by interviewing the patient and his social network members. The involvement of network members can contribute to better social control, support, and functioning of the patient. In this workshop, we will discuss how to use the FSNA method to assess and monitor social network changes by using N=1 analysis. We will use a case study to describe a patient's social network at the time of his offense. We define which individual and social factors may result in new risks. Then, we analyze the patient's current network factors (during treatment) and categorize them into risk or protective factors. These factors become targets for intervention to minimize, monitor, and control the risk. To measure social network changes over the course of treatment, the patient and his significant others are interviewed repeatedly. To show the

benefits of these repeated measurements, we discuss the patient's changes in social support over time.

## Black Holes in Risk Assessment and Management

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Risk assessment, (community) treatment and risk management have become some of the most important goals of professionals working with sexual offenders. Forensic psychiatrists, psychologists and forensic workers in general have to promote the welfare of these patients and the safety of society. The following four points are the central theme of the presentation: First, during risk assessment (SVR-20/PCL-r) of sexual offenders, there is a strong emphasis on risk factors. Protective factors should also be taken into account. Second, we must consider the opportunity to invest in multi-treatment interventions. The combination of clinical interventions, pre-clinical interventions, social and contextual interventions (such as Forensic ACT), and skill training can assist in the prevention of new sexual offenses. Third, we have to rethink our treatment approaches with regards to sexual offenders. We often focus on competencies at the expense of limitations and disabilities that have a neurobiological basis. We should teach sexual offenders how to live with the irreversible restrictions and disabilities they may have. Finally, there should be more focus on future social networks of sexual offenders according to the principles of risk management.

## What are the Odds of Discharge from Forensic Psychiatry? Legal and Psychosocial Factors Associated with Long and Short Stay in Forensic Psychiatric Units

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Background: There is a considerable number of forensic psychiatric patients who are not deemed fit for discharge even after long periods of inpatient treatment. These patients challenge the treatment system, because they use up treatment capacity without significant outcome. On the other hand, there is a group of patients who is discharged within relatively

short treatment periods (three years or less). There is some empirical data about risk factors associated with exceptionally long terms of stay; and some about protective factors. Protective factors, however, are often inferred from risk factors through reversal of valence, i.e. the absence of risk results in good chances for discharge. In this study, we contrast two extremes, i.e. typical long stay patients and patients who were released after less than three years of treatment. Objectives: (1) To assess the number of patients who are not discharged in the long term and those with good chances for discharge. (2) To identify (further) correlates of chances for discharge and (3) to identify protective factors in addition to those which can be inferred from low scores in risk factors. Method: Several forensic psychiatric hospitals were contacted and asked to report on a set of variables considered to be predictive of social risk and good or bad chances for discharge. Assessments of over 300 patients are currently analysed and compared with respect to legal background, type of offence, psychiatric diagnoses, prior psychiatric treatments, and some variables tapping psychosocial adaptation prior to admission. Results and Discussion: Preliminary results will be presented and implications discussed.

## 51. Police Interactions with People with Mental Illnesses:

### Contemporary International Perspectives

#### Better Outcomes for Police Interactions with People with Mental Illnesses: Canadian Developments

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In Canada, as in many countries around the world, there are a significant number of interactions between police and people with mental illnesses. This presentation will include a brief overview of the Canadian situation in regard to police interactions with people with mental illnesses, and then focus on the various police-related projects of the Mental Health Commission of Canada (MHCC). These projects have included the endorsement of guidelines for police organizations in regard to interactions with the mental health system. Also, the MHCC has proposed a comprehensive model of police education and training in this area, the TEMPO model (**T**Training and **E**ducation about **M**Mental Illness for **P**Police **O**fficers), a multi

stage model appropriate for a variety of police employees including both officers and support staff, at a variety of levels of expertise. This model derives from a review of international practices and literature, as well from a unique consumer based study in British Columbia, also a project of the Mental Health Commission, whose primary purpose is to collect qualitative and quantitative data directly from people with mental illnesses, to inform the development of police education and training. The police projects collectively inform the development of a national mental health strategy in Canada.

### Tailoring Police Responses to People with Mental Illness to Jurisdictional Needs

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When communities develop specialized police responses to people with mental illnesses, many determine that unique jurisdictional factors necessitate a two-pronged approach—planners follow aspects of existing models as well as explore new strategies. This program design process involves careful consideration by stakeholders to determine program objectives, examine causes of the local problem, consider available resources and other community characteristics, and develop an approach that takes these factors into full consideration. As such, the program design process is built on problem solving rather than model replication. Little was known about how individual communities go about the program design process and what unique program features result. This presentation draws from research on 15 communities in the United States that have spent considerable time designing, adapting and implementing specialized police programs to improve responses to people with mental illnesses. The presentation will review several important steps in the program design process identified through this research and highlight experiences in Los Angeles, California and Akron, Ohio. This work was conducted by the Council of State Governments (CSG) Justice Center and the Police Executive Research Forum (PERF) as part of a grant from the U.S. Department of Justice, Bureau of Justice Assistance.

### Interactions between Police and People with Mental illnesses: The Hong Kong Experience

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In Hong Kong, mentally ill persons (MIPs) have long been neglected in society and limited resources are allocated to this deprived groups and their care-givers. It is known that

community-based mental health services are insufficient, resulting in many MIPs living in the society without receiving proper care and treatment. The Hong Kong Police has been gradually progressing to a service-based law-enforcement team since the last decade. The public would proactively seek help from the Police when they witness offences in which MIPs are involved. Hence, the Police are usually the first responders to deal with crimes committed by the MIPs and shoulder the responsibility to manage the MIPs in their daily activities. This paper will examine: (1) How are the MIPs handled in Hong Kong? (2) What is the helping role of the Police in dealing with the MIPs? (3) Are the frontline police officers well trained and capable enough to handle the MIPs? (4) What would be the possible consequences if the MIPs are not handled properly?

## Mental Illness and Social Stability in China

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The most recent years have seen several highly publicized cases where non-mentally ill persons were admitted to mental health institutions in China, mainly as a means used by some local governments to maintain social stability. Those cases demonstrate the urgency and importance of examining the legal prescriptions on admission (mandatory and non-mandatory) to and treatment in mental institutions in China. This paper first provides an overview of the mental illness burden and the structure of mental health facilities in China. Second, it reviews the laws and regulations in China on admission and treatment in mental health facilities. Third, it highlights the discrepancies between the laws and regulations on the book and in practice, and outlines the inadequacies of the laws and regulations in protecting human rights. Lastly it concludes by discussing the urgency of passing the long overdue Mental Health Act and the pressing necessity of enforcing the laws strictly in China. Only in so doing can social stability be maintained and human rights be protected in the long term.

## Protecting Human Rights in Police Interactions with People with Mental Illnesses: The Special Challenges for Police in the Developing World

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The World Health Organization (WHO), in a landmark report on global trends in mental health, has emphasized the universality of the experience of mental disorders in the contemporary world. During their lifetime more than 25% of individuals will develop one or more mental or behavioral disorders. Given prevalence data of this dimension it is scarcely surprising that wherever they reside on the planet many persons suffering from a mental disorder are likely to come in contact with police at some stage in their lives. This paper is devoted to consideration of the special challenges which are presented to policing by such interactions with the mentally ill in developing countries which lack the mental health resources and expertise normally found in the richer nations of the world. The situation prevailing in Papua New Guinea (PNG), where strong associations continue between a belief in the power of sorcery and attitudes towards the mentally ill, is used as a case study of such challenges and the human rights issues they raise.

## 52. Police Interactions with People with Mental Illnesses: Contemporary Antipodean Developments

### Towards a Best Practice Model for Police Contact with People Experiencing Mental Illness: Findings from Project PRIMeD

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This paper will present key findings from Project PRIMeD, a large-scale research collaboration between Monash University, Victoria Police, and the Victorian Institute of Mental Health that was funded by the Australian Research Council with the police as active industry partners. The 5 year program of research sought to develop an evidence base as to how often and in what circumstances police members come into contact with people experiencing mental illness and whether outcomes arising from these contacts differ from police contacts with other members of the community. Specifically, studies focused on

identifying gaps in police knowledge, training, service integration, and delivery. The presentation will start with an outline of the genesis to the project, and then present key research highlights before considering the breadth and significance of the implications along with the need for the development of an inter-agency model of best practice for contemporary community policing.

## Mental Illness and Criminal Offending as Mediators in Incidents of Police Use of Force

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In order to effectively perform their duties and provide secure, safe and orderly society, the police are occasionally required to use some level of force in their dealings with the public. In the state of Victoria, Australia, instances of use of force between the police and citizens are recorded on a specialised database, the Use of Force Register (UoF), which has been in operation since October 1995. The current study employed a robust data linkage methodology to explore the possible impact of citizen's mental illness and previous contact with the police, as mediators in explaining use of force incidents. A random sample of use of force incidents ( $n = 3925$ ) was extracted then linked with the public mental health database (VPCR) and the Victoria Police (LEAP) contact databases to ascertain the prevalence of mental illness and criminal offending for persons involved in these incidents. Key findings will be discussed and presented in relation to police policy, training and practice.

## Policing the Mentally Ill: Victimisation and Offending in Schizophrenia-Spectrum Disorders

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As 'gatekeepers' to the mental health and criminal justice systems, police members frequently come into contact with people experiencing severe mental illness. The evidence to date indicates that people with severe mental illness are likely to be at increased risk of both offending and victimisation. However, police training programs typically include only minimal information about the risks associated with severe mental illness. This paper will present the findings from a large epidemiological study investigating crime and violence amongst persons with schizophrenia-spectrum disorders in the Australian state of Victoria. This is the first published study to date that has examined official victimisation rates in a

representative mentally ill population. Results show significant differences in the rate, pattern, and intensity of both offending and victimisation amongst those with schizophrenia-spectrum disorders compared to the general community. Indeed, persons with schizophrenia-spectrum disorders can be seen to have unique risks and needs which must be addressed within both police and mental health services. Results will be discussed in light of their relevance to contemporary policing practices, with practical suggestions for implementing evidence-based practice into the police force.

### Evaluating and Implementing a Mental Health Intervention Team Program in the New South Wales Police Force: Better Outcomes for Police and Consumers?

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This paper will present key findings from an evaluation of the Mental Health Intervention Team [MHIT] program, initiated by the NSW Police Force in 2007 with the assistance of NSW health authorities. Informed and influenced by the Memphis Crisis Intervention Team model in the United States, the MHIT program is designed to reduce the risk of injury to police and mental health consumers when dealing with mental health related incidents; improve awareness among frontline police of the nature of mental illnesses and the risks they may present; enhance collaboration between government and non government bodies in responding to and managing mental health crisis incidents; and reduce the time taken by police to transfer people with mental illnesses into the health system. Based on a positive outcome of the evaluation the MHIT program is now being introduced throughout the NSW Police Force, the largest law enforcement agency in Australia with more than 15,000 sworn members. A description will also be given of a four day mental health training program which is being conducted for operational officers with the aim of delivering this program to 10% of the NSW police work force by 2015.

### Policing Mental Health Decisions: Negotiating Patient Autonomy and the Duty of Care

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This paper explores the roles, powers and responsibilities of professionals (both police and mental health practitioners) in the complex regulatory environment that characterizes modern mental health law and practice in Australia. A core principle of modern mental health legislation requires treatment, care, rehabilitation, and protection for mentally dysfunctional or mentally ill persons to be provided in a manner that is 'least restrictive'. Drawing on recent Australian cases, policies and practice, the paper examines the frontline policing practice of routinely apprehending individuals who are suicidal or pose a risk of harm to others irrespective of mental capacity and/or willingness to accept treatment. The gaps between the 'law in the books' and the 'law in action' are highly deleterious to human rights, and also hamper patient access to effective and appropriate treatment. The paper argues that the emerging precautionary model of police practice in the field of mental health, which is often justified by the mantra of police owing an overriding 'duty of care', must be reframed in favour of one consistent with the principles of 'least restrictive' treatment and the United Nations Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care (1991).

## 53. Police and Mental Health

### Crisis Intervention Team (CIT) Training for Police Officers: Effects on Attitudes, Knowledge, and Skills

Michael T. Compton, *Emory University School of Medicine*  
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To assist officers in responding to emergency crisis situations involving persons with mental illnesses, the Crisis Intervention Team (CIT) program was developed in Memphis, Tennessee in 1988. CIT has been recognized as a model collaboration between local mental health professionals, police officers, and family members of individuals with psychiatric illnesses who serve as advocates for mental health services. The program provides officers with 40 hours of specialized training, usually consisting of didactic classroom lectures, visits to local mental health services, and performance-based exercises that allow for the mastery of de-escalation techniques through role-play. This presentation will summarize recent data from a sample of officers attending CIT training (including data provided before and after their 40-hour training), as well as a sample of traditional police officers not attending CIT training.

Specifically, differences in a number of constructs will be described, including attitudes about psychiatric treatments, de-escalation skills, empathy, knowledge about mental illnesses, opinions about the responsiveness of hospitals/mental health agencies, and stigma. The findings provide further empirical support for the usefulness of CIT training and similar educational approaches that enhance police officers' abilities to effectively respond to people with serious mental illnesses who are in crisis.

## Minds in a Crowd: Psychological Theory and Police Crowd Control

Elisabeth Zoffmann, *University of British Columbia*  
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Police response to crowd behaviour and crowd control has in the past been driven by principles of control and force. This approach is not always successful as the police presence seems to crystallize the negative focus of crowds when they are out of control. The theory we present is that humans form a functional brain syncytium under the right conditions. People 'en masse' often behave in ways that the individuals alone would not. Literature review reveals little empirical study of mass behaviour though individual interviews with protest/riot participants indicates that frontal lobe functions are limited or absent in the context of excited crowd activity. Recent advances in policing methods have used principles from this theory to manage group behaviour by addressing the principle that critical mass, physical proximity, a physical or psychological focus and a driving 'beat' are required to form a 'mass brain' or syncytium that is less than the sum of its parts. This multi-media presentation will outline this theory and the outcome of applied police procedures that address the theoretical psychological principles. We hope that this presentation stimulates further research and applied methods in the area of group behaviour.

## Use of Tasers on People with Mental Illness: Systematic Literature Review

Anthony O'Brien, *University of Auckland*  
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Over the past decade the use of Tasers has proliferated amongst police forces throughout the world. However, this development has occurred in the absence of analysis or policy debate about the implications of this practice on people with mental illness. Concerns have been raised about the use of these devices on people with mental illness and a small number of studies have shown that people with mental illness have been disproportionately subjected to use of Tasers. Research to date has focussed mainly on the physical risks

associated with Taser use. This paper will present the results of a systematic literature review of use of Tasers on people with mental illness. Sources of data include peer reviewed publications and newspaper reports, as well as police department reports. The results of the study will inform the design of future research into use of Tasers, especially in terms of the quality of documentation on the use of Tasers on people with mental illness. It is also intended that the research will inform the development of police and mental health response to mental health crises.

## Mental Health Crisis Services and Police: A Comparative Approach to Evaluation

Cheryl Forchuk, *University of Western Ontario*  
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This Canadian study compared communities with three different models of crisis service to identify strengths and limitations related to each approach and included: 1) police as part of a specialized crisis mental health team; 2) a mental health worker as part of a specialized police team; and 3) an informal relationship between police and mental health crisis service. Both rural and urban areas were examined and compared. Data collection included focus groups and participant observation. Analysis revealed that while all communities valued their crisis services, all identified limitations related to responsiveness, access and systems-related issues. A system for quick access to psychiatric beds was important to the delivery of the services. Rural communities had no public transportation and an important police role was safe transportation to assistance. In rural communities, the mental health staff were generalists since a wide variety of situations needed to be addressed by a single staff member. In the urban areas, the transportation was less central and more sub-specialization developed with the larger number of mental health team members. This study suggests that different models of relationships between police and mental health crises workers are needed for rural and urban settings.

## Using Simulation to Educate Police about Mental Illness: Impact of Realism on the Learning Process

Wendy Stanyon, *University of Ontario Institute of Technology*  
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This presentation will highlight a unique partnership between a regional police service, a mental health facility and a university. Four simulations were developed with interactive

videos and an adaptive learning system that places police in realistic simulated situations and provides them with opportunities to respond to the situation and also receive detailed feedback. Developed within a Flash framework, the simulations have a self-contained library with additional learning resources and are based on actual police experiences involving persons presumed to have a mental illness. The purpose of these learning objects is to promote a better understanding of some of the challenges individuals with a mental illness experience and facilitate the ability of frontline officers to respond to specific situations using the most appropriate therapeutic communication strategies. A follow-up research study was conducted to evaluate the impact of using these simulations to educate police officers about mental illness and how to effectively engage with mentally ill persons. A demonstration of these interactive video-based learning objects as well as the findings from the research study that was conducted to evaluate the educational effectiveness of these simulations will be included in this presentation.

## 54. Crisis Intervention Team (CIT) Model

### The Crisis Intervention Team (CIT) Model: An Overview

Beth Broussard, *Emory University School of Medicine*  
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The Memphis, Tennessee model of the Crisis Intervention Team (CIT) program has quickly become an internationally recognized pre-booking jail diversion model. Founded on collaborations between law enforcement, mental health, and advocacy communities, the model aims to improve officer and patient safety, enhance access to mental health services, and reduce unnecessary incarceration for minor infractions by people with serious mental illnesses. It is estimated that over 1,500 CIT programs are currently in operation across the United States (U.S.). Recently, implementation of CIT has begun in non-U.S. settings, such as Australia and Canada. This presentation gives an overview of the model and its core elements. The future of CIT, on an international level, will also be discussed.

### Models Used to Understand/Evaluate Officer-Level Effects of CIT Training

Amy C. Watson, *University of Illinois at Chicago*  
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Beth Broussard, *Emory University School of Medicine*

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Michael T. Compton, *Emory University School of Medicine*

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Much focus has been placed on the widely disseminated 40-hour training component of the Crisis Intervention Team (CIT) model. Two theoretical models, the Theory of Planned Behavior and the Model of Officer-Level Effects of CIT, will be presented to illustrate how the training component of CIT might work to effect officer- and interaction-level outcomes, especially in de-escalation techniques and referral decisions. Current research exploring these two models in CIT-trained and non-CIT-trained officers will be discussed. Measurement instruments developed for examination of both the Theory of Planned Behavior and the Model of Officer-Level Effects of CIT will also be presented.

### CIT Training of Law Enforcement Officers: Research to Date on Officer-Level Effects

Michael T. Compton, *Emory University School of Medicine*

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Empirical research on Crisis Intervention Team (CIT) is accumulating as the program becomes more widely disseminated. In this presentation, key early research findings of officer-level effects, particularly related to the Georgia CIT program, will be discussed. The findings provide preliminary support for the effectiveness of CIT in several domains, such as knowledge, attitudes, self-efficacy, stigma/social distance, and use of force across an escalating crisis situation. Additional research on psychological characteristics (e.g., empathy and psychological mindedness) of those who self-select into CIT training will be presented.

### Emotionally Disturbed Person Calls and Options for Response: Perspectives of CIT- and non-CIT-Trained Police Officers

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Amy C. Watson, *University of Illinois at Chicago*

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Liat Kriegl, *University of Pennsylvania*  
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Casey Bohrman, *University of Pennsylvania*  
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CIT programs are designed to provide training to officers so they can respond more appropriately to emotionally disturbed person (EDP) calls and facilitate access to mental health services. Determining what is an appropriate response begins sequentially with understanding these encounters from the perspective of police officers, the accountable decision makers in these encounters. We take as a premise that officers develop frames of reference (or “schema”) for understanding and responding to these encounters that are shaped by socialization, training, and their experience as police officers. In this study, qualitative interviews provided the foundation to develop the Needs on the Street Interview (NOSI) to tap police officer schema, decision frames and confidence in the mental health resources available for resolving EDP calls. The NOSI was administered to 100 officers each in Chicago and Philadelphia. We examined the influence of expertise (novice or experienced), training (CIT or non-CIT), confidence in the MH system, and police department on the nature of Chicago and Philadelphia police officers’ schema of emotionally disturbed person calls. Implications for policy, training and police/mental health system collaborations will be discussed.

### Barriers to and Benefits of CIT Implementation

Beth Angell, *Rutgers University*  
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Amy C. Watson, *University of Illinois at Chicago*  
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Kelli E. Canada, *University of Chicago*  
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As part of a larger study of a large urban CIT program, qualitative interviews were conducted with police personnel from four Chicago police districts to gain insight into their perspectives on barriers to successful CIT implementation and the benefits of the program. Overall, four broad themes related to barriers emerged: information breakdown, manpower availability, mental health resources, and departmental support/police culture. Results also

indicate that police personnel, irrespective of whether they themselves received the training, perceive an array of benefits of CIT implementation in their district. Aspects of successful implementation include the application of knowledge and skills gained through the CIT training to actual cases, police collaboration with community mental health service providers, and diversion to mental health services. Findings are discussed in the context of the quantitative study results and emerging literature on CIT implementation. Implications for practice, policy, and future research are also considered.

## 55. New Developments in Mental Health: Awarding Compensation for Exposure to a Traumatic Events from a Variety of Countries

**Bitterness and Resentment, the World Is to Blame: A New Mental Illness, Let's Call It: 'Post Traumatic Embitterment Disorder'**

Valli Thanni, *Nepean Hospital, Penrith, Australia*  
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Yega Muthu, *University of Technology Sydney*  
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Signs around a battered economy around the world are having an impact on a person's mental health. What shall we call it, say, Post Traumatic Embitter Disorder (PTED) which is a relatively new disorder. PTED does not come from an intense, life-threatening situation. Instead the trigger is an event that "destroys their core values and shatters one's basic beliefs." Dr. Linden from Berlin first formulated the disorder through his clinical and psychiatric intervention in diagnosing patients who have lost their job. The term PTED did not received the reception it deserved when the APA had its meeting in New York in 2009. In this paper, it is argued that PTED should be classified as an adjustment disorder and should not be accorded any significant diagnostic criteria. DSM-V is merely being revised as opposed to being rewritten and runs the risk "massively pathologizing people. The field trials for DSM-V are fatally flawed and include many worrisome suggestions." This is amplified by a recent editorial in the New York Times, "Anything you put in that book, any little change you make, has huge implications not only for psychiatry but for pharmaceutical marketing, research, for the legal system, for who's considered to be normal or not, for who's considered disabled. And it has huge implications for stigma," Dr. First continued, "because the more disorders you put in, the more people get labels, and the higher the risk

that some get inappropriate treatment.” However, once this nascent disorder attracts pharmaceutical intervention in promoting a drug for treatment compared to wisdom therapy, will PTED be eligible for consideration for inclusion in DSM-V?

## Recent Developments in Personal Injury Court Proceedings in the Netherlands

Dineke de Groot, *Free University of Amsterdam*  
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The process of assessment of personal injury claims can have a detrimental effect on the victim that is often referred to as ‘secondary victimization’. This presentation is about Dutch initiatives to improve this situation within the administration of justice. Recently, a statute introduced a new type of civil procedure for personal injury claims. A party can ask for a limited judicial intervention in the ongoing out-of-court settlement of a personal injury claim. The court does not render a decision on the claim as whole, but only on the particular topic(s) that keep the parties from reaching an agreement. The aim of the court intervention is to enable the parties to return to the negotiation table and to reach a settlement. This mix of dispute resolution mechanisms aims to combine the best of two worlds, negotiation and adjudication, with the purpose of simplifying and speeding up the settlement of personal injury claims. In addition, it is conceivable that this method can function within the existing framework of criminal procedure to create another means of settling the claims of victims of traffic accidents or violent crimes without need for further litigation. These issues will be presented in the context of opening up new perspectives for courts to contribute to the improvement of the settlement process of personal injury claims.

## Compensation for Damage to the Mind in Tort Law: A Role for the Law and Emotion Movement?

Louise Bélanger-Hardy, *University of Ottawa*  
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Claims for compensation for damage to the mind following a tortuous act are still viewed with distrust by Canadian and other common law courts especially in the absence of physical injury. Victims face a set of narrow legal principles that aim to limit their ability to recover damages. Some of the restrictions include the need for a recognized psychiatric injury, the standard of the person of reasonable fortitude, and the prohibition against recovery for fear, disgust, and sadness. For many decades, common law courts have struggled with the application of these limiting principles and have been unable to respond to victims’ claims in

a fair manner. This paper argues that the problem is linked to the very traditional way in which legal actors, including judges, view injuries that are emotional, psychological or psychiatric in nature. In this context, the paper examines how the Law and Emotion movement and its scholarship could inform tort law and offer a new analytical paradigm for claims based on damage to the mind.

## Reparations for the Victims of International Crimes Committed in the Former Yugoslavia

Stathis Palassis, *University of Technology of Sydney*  
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The international crimes committed in the territory of the former Yugoslavia during the 1990s have been the subject of both State responsibility claims and prosecutions establishing individual criminal responsibility by the International Court of Justice and the International Criminal Tribunal for the former Yugoslavia respectively. Despite these initiatives contributing to acknowledgement of the commission of international crimes, they have not provided the victims with any kind of financial reparations. Instead, victims have had to make compensation claims under domestic law. As international mechanisms to provide financial reparations have not generally been available, a regional victim-oriented approach is advocated. It would focus on the provision of financial reparations, thereby reflecting enhanced victims' rights. The central tenet of the paper is that to provide improved international criminal justice, including financial reparations, both international initiatives and regional approaches to criminal justice are required. It is only by focusing on the needs of the victims that there can be closure and long-term regional stability.

## 56. Mental Health Evaluations and Courts: Assessment of Disorders, Forensic Patients (High Risk and Dangerousness), Indigenous People, Substance Abuse and Sentencing

### Australian Exploration of Capacity-Based Mental Health Legislation

Lianne Craze, *Mental Health Community Coalition of the ACT, Canberra City, Australia*  
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Currently there is significant questioning of the relevance and appropriateness of stand-alone mental health legislation given modern psychiatric knowledge and practice. Significant components of current Australian mental health legislation derives from 18th century statutes where people were apprehended by police, charged with being an insane dangerous lunatic, detained in police cells, prison or reception centre, brought before a magistrate, and ordered to be detained in a stand-alone asylum. The key elements of apprehension by police and civil commitment grounds of dangerousness still persist. Criticisms of stand-alone mental health legislation with its emphasis on the risk of dangerousness and its reliance on police apprehension are that it deters early treatment, reinforces the nexus between mental illness and dangerousness in public policy and community attitudes and is inconsistent with modern psychiatric knowledge, treatment, and practice. This paper discusses the exploration in Australia of a comprehensive legal framework of substituted decision-making which applies equally to all people who lack the mental capacity to make decisions about medical treatment, care, abode, and financial and personal affairs irrespective of diagnosis.

### The Experience and Assessment of Mental Illness in Indigenous Culture

Yega Muthu, *University of Technology Sydney*  
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Evidence presented to the Burdekin Inquiry by Aboriginal people indicates that mental illness amongst Aboriginal and Torres Strait Islander people is a common and crippling problem. However, often, mental illness goes undiagnosed, unnoticed, and untreated, and has described such culture-bound syndromes in Indigenous people as 'Psychological Fear States', 'Fear of Sorcery', 'Hysterical Trance Fear States', 'Prolonged Mutism', 'Hypochondriacal State' and 'Amok'. That these syndromes exist as clearly identified diagnostic entities is a matter of debate. There is no doubt that mental disorder and mental illness exist within Aboriginal peoples, such as schizophrenia, bipolar disorder, paranoid states, and other disorders. However, cultural explanations for causation must also be assessed before diagnosis and treatment may be successful. By attending this session, the audience will learn that often 'serious and unrecognized miscommunication is pervasive in non-aboriginal doctor/Aboriginal patient interactions. The issue is important because there are competing complications to effective clinical practice in Aboriginal communities, which includes differing belief systems, inefficiency of health systems and disempowerment of Aboriginal patients. This paper will show that to effectively manage mental illness in the Aboriginal community, it is important to cultivate cultural safety and to involve family and indigenous mental health workers in the process.

## On Automatism

Julio Arboleda-Florez, *Queen's University*  
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Automatisms are behaviours that happen outside conscious controls. Claims that a person was not fully conscious at the time some action took place imply lack of cognitive scrutiny and will. Automatisms, along with acts committed by accident, under duress, compulsion or threat, or from instinctively taking avoiding action, are not voluntary acts and are not punishable. The concept of free will as determinative of voluntary action is central to an understanding of automatism in Law. Automatisms result from medical conditions, external physical force, or serious emotional disturbances that may cause gaps of consciousness or interruptions in the thread of psychic life. During automatisms a person may perform simple or complex actions, more or less uncoordinated, without being fully aware. Afterwards, there may be confused memories or total amnesia for the episode. This presentation will explore the different clinical aspects of automatism and will relate it to legal issues and possible verdicts.

## Is Therapeutic Jurisprudence Available to Indigenous Australians Charged with Substance Use Offences?

Chris Cunneen, *James Cook University*  
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Across Australia there are various diversion programs and specialist courts that focus primarily on illicit drug use, mental health, and domestic violence. The impact on Indigenous people of specialist courts and therapeutic justice more generally has been limited. In some areas of concern, like illicit drug use, the focus may miss the key problem facing Indigenous communities (alcohol abuse or volatile substance misuse). It would appear that Indigenous offenders are less likely to access court alternatives and therapeutic interventions, with the exception of Indigenous specialist courts (e.g., circle sentencing). The paper discusses some of the reasons for the limited access by Indigenous people to these interventions.

## Competence to Stand Trial Evaluations in the Deaf Psychiatric Population

Jacob Holzer, *Massachusetts Department of Mental Health, Boston, USA*  
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Results of a recent study demonstrated that a large percentage of patients on a specialty deaf inpatient psychiatric unit fell into the non-fluent range of communication in American Sign Language (ASL). This finding has important implications for the process of assessing a defendant for competence to stand trial (CST) abilities. Problems related to a deaf defendant's understanding of legal concepts/processes and ability to work with an attorney may be based in part on impaired communication abilities and under-education about the legal process, rather than on psychiatric illness. The unique approach to this population includes an awareness of non-psychiatric factors which could impact on CST abilities, what specific measures may assist in the evaluation process, and which factors are correctable or treatable to improve CST abilities.

## Comparative Guardianship/Conservatorship Law

Andrea Risoli, *New York Law School*  
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This presentation will contain a comparison of guardianship/conservatorship law both internationally and in the United States. It will include a comprehensive review and discussion of how this area of the law relates to those with severe mental illness, the incompetent, infirm, infants in the community, and the elderly. In addition, it will discuss how guardianship/conservatorship law affects advance directives, government benefits, and the least restrictive alternative in care and treatment regimens, including medication and treatment over objection issues.

## 57. Legal Issues in Mental Health and Discrimination

### Reverse Mortgages and Equity Release Products in Australia and the UK: The Legislative Protection of Vulnerable Elders?

Fiona Ruth Burns, *University of Sydney*  
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In the light of the global financial crisis (and indeed possibly because of it), in the long term older Australians and Britons may have to consider equity release products as part of their retirement strategy: the real value of the pension may less or future governments may include the value of the family home in the pension eligibility criteria. Yet, the irony is that

those persons who may be expected to enter into these complex arrangements may be least able to protect themselves against predatory lending or elder financial abuse by family members, due for example to poor cognitive skills. The purpose of this paper is to discuss aspects of reverse mortgages in Australia and the United Kingdom, particular the following matters:

- The various kinds of equity release products and their availability in the Australian and United Kingdom markets;
- The basic features of reverse mortgages;
- The benefits of reverse mortgages;
- The downsides of reverse mortgages; and
- The regulation of reverse mortgages in the light of the *National Consumer Credit Code* in Australia, to the extent that it has been released or passed.
- The regulation of reverse mortgages in the light of such statutes as the *Financial Services and Markets Act 2000* and the *Consumer Credit Act 1974* in the United Kingdom.

It will be argued that in the light of some of the downsides of entering into reverse mortgages, it will be necessary for governments to take and maintain strong regulatory stance.

## The Emotional and Financial Costs of Litigation

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The South African Constitution grants everyone the right to have any dispute that can be resolved by the application of law decided in a fair public hearing before a court. Litigation is invariably a stressful and emotional experience. A successful litigant is entitled to a costs order against the losing party, which should fully indemnify the successful party for the expense incurred by having been unjustly compelled either to initiate or to defend litigation. Yet one seldom encounters litigants who are happy with the outcome of their litigation, even where they won the suit and got a costs order in their favour. Emotionally, the successful party feels that he has been misled by his attorney because he is still responsible for the additional expenses payable to his own attorney. Also, in many cases, it is not possible to recover the costs from the loser. The high costs of litigation often forces litigants to act in person, which they are ill-equipped to do, leading to a bad presentation of the case and severe emotional stress. Examples of such litigants are considered and the question is addressed what means a prospective litigant can employ to obtain a result which is financially and emotionally rewarding.



## Liability of the Mentally Ill Person in Tort: Comparative Law

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All Western Law systems recognize the problematic issue of legal liability of the mentally ill and the incompetent person. The criminal law, mostly in the Anglo-American law systems, refer to the M'Naughten rules established in England, after the 1843 attempted assassination of the British Prime Minister, Robert Peel and the assassination of his secretary, Edward Drummond, by Daniel M'Naghten, who acted under the influence of psychotic thoughts. The rules, then established, had set the platform for relieving the mentally ill person from criminal liability. However, when it comes to tort law, when a mentally ill person assaults another person and causes body damages, the situation may be considered differently. Indeed when such an assault is motivated by psychotic thinking, such as paranoid thoughts, nobody shall categorize such a person as criminal guilty, perhaps not even at fault. However, there is still a question of justice to the assaulted person, who may be suffering from severe, sometimes irreversible, body damages. The question is why should he suffer, and not be compensated for his bodily damaged, merely because of the fact that the assault had been perpetrated by a person suffering from mental illness? This paper shall discuss that dilemma in light of different approaches of different legal systems, including the Anglo-American system, the continental system, the Israeli system, and the old traditional Jewish Law – the Halakha.

## Employment Relations in Australia under the Fair Work Australia 2010 Regime - The Pendulum Swings Again

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In November 2007, a long-serving Government was ousted owing to public outrage concerning its industrial relations package, Work Choices. It has taken the existing Government some two years to modify and replace this system. On 1 July 2009 and 1 January 2010, the primary components of the Fair Work Australia regime were implemented. This paper shall overview the new system and its ramifications for Australian workers and businesses who have endured radical shifts in ideology and entitlements in just four years. Fair Work Australia has, in essence, removed the focus from the individual and re-established the bargaining power of the Collective. The voice of the Unions has been

restored after a brief period of silence. The ability of workers to challenge their employer's decision to terminate their employment has also been restored (in part). The Award ratification process is nearly complete - a process which lies at the core of the nationalised system, and common to both political parties. A new election is looming, and once again, industrial relations has become a hot topic in Australia. Ironically, Fair Work Australia is still in its fledgling stage, not having made its first Anniversary as yet. How the Nation has adapted to such radical change in such a short space of time is the focus of this paper.

## The Same Sex Marriage Debate: Why Does It Matter

Cheryl E. Amana Burris, *North Carolina Central University School of Law*  
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The U.S. passed the Defense of Marriage Act in 1996 in an attempt to provide protection for states unwilling to recognize same sex marriages from sister states. Marriage has typically been under the purview of individual states, thus states enacted or adopted their own version of DOMA, while others (beginning with Massachusetts) recognized such marriages. Proposition 8 (California's DOMA) was determined to be unconstitutional by a California court in 2010. My presentation will focus on literature dealing with why marriage is so important for all couples. Studies have shown the beneficial effects of marriage and how marriage differs from domestic partnerships in both quantitative and qualitative ways. I will consider how same sex marriages have fared both in the U.S. and abroad. I will discuss arguments by those opposing such marriages which are not supported by the reality of the marriages in states where recognized. What is shown is removing the bias and discrimination against such marriages does not harm the institution; rather it contributes to a better/richer society.

## 58. Mental Health Review and Rights

### Patient Autonomy and Open Justice at Australian Civil Commitment Review Hearings

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Throughout the world it is common that governments confer psychiatrists with an authority to detain certain persons believed to be suffering from a mental illness. Those psychiatrists

may, in most circumstances, also administer medical treatment in the absence of consent. In Australia, mental health legislation establishes mental health tribunals, and charges them with the responsibility of reviewing the statutory treatment criteria pertaining to a person for whom a psychiatrist has detained and treated. These tribunals therefore make determinations as to the lawfulness of maintaining a person's involuntary status. Contrary to criminal proceedings that deal with such deprivations of civil liberties, Australian tribunals invariably conduct reviews in camera. This presentation questions whether Australian mental health legislation adequately respects the autonomy of involuntary patients to determine the flow of information emanating from an involuntary status review hearing. It attempts to generate discussion by canvassing some potential limits on autonomy and paternalism; it proposes an appropriate role for open justice in facilitating transparency and accountability in relation to such important decision making.

### Mental Health Tribunals—Rights, Protection, and Treatment; Or Tribunals as Governance?

Terry Carney, *University of Sydney*  
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This paper draws on a multi-year Australian collaborative study of mental health review tribunals in three jurisdictions (Victoria, New South Wales, and the Australian Capital Territory) undertaken in conjunction with the NSW Law and Justice Foundation, using qualitative and quantitative methods to examine the role of mental health tribunals in advancing goals such as fairness, legality, and access to treatment. In recognition of shrinkage of state resources available for treatment and care of the mentally ill in many jurisdictions, and limited time and resources for review bodies, the paper reflects on stakeholder and client concerns about access to quality treatment and associated support services, review of treatment adequacy and drug regimes, and their 'participation' or dignity of engagement in review processes. Building on earlier arguments in favour of equipping tribunals to adequately engage the clinical and social domains in addition to the domain of 'legal rectitude', and for 'flexibility' of process more characteristic of case-conferencing modes, this paper examines the implications of such findings for the interests of clients and overall 'governance' in mental health.

### Balancing Individual Rights with Public Safety

Katey Thom, *University of Auckland*  
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New Zealand's legislation is underpinned by policy aimed at balancing the promotion of individual rights with the protection of the public's safety. Where people are being compulsory treated for their mental illness, balancing individual rights with public safety becomes a core challenge. Drawing on findings from qualitative research, this paper will illustrate this philosophical in practice, as members of New Zealand's Mental Health Review Tribunal grapple with decision-making regarding the legal status of individuals subject to mental health legislation. The paper will consider the difficulties member's face in balancing individuals' rights with the State's obligations and consider the implications of these findings for meeting the pro-therapeutic aspirations of the Mental Health Review Tribunal.

### Protecting Mental Health Clients' Dignity: The Importance of Legal Control

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Protecting human beings' dignity is a fundamental value underlying the UN's Universal Declaration of Human Rights as well as several recommendations and conventions derived from this, among them the European Convention of Human Rights (ECHR), a declaration that also takes precedence over Norwegian legislation. Still, clients' stories inform us that their dignity is not always protected in the mental health service systems. *The aim* of the study has been to investigate violations of dignity considered from the clients' points of view, and to suggest actions that may ensure that practice is brought in line with human rights' values. *The method* used has been a qualitative content analysis of 335 client narratives. *The conclusion* is that mental health clients experience infringements that cannot be explained without reference to their status as clients in a system which, based on judgments from medical experts, has a legitimised right to ignore clients' voices as well as their fundamental human rights. The main focus of the discussion has been the role of the ECHR and the European Court of Human Rights as instruments for protecting mental health clients' human rights. To bring about changes, recommendations and practices should be harmonized with the new UN Convention on the Rights of Persons with Disabilities (2006). Under this Convention, the European Court of Human Rights has support for the application of the ECHR without exemptions for special groups of people.

### Preventing Psychiatric Hospitalization and Involuntary Outpatient Civil Commitment

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**Objective:** This study considers how, for whom, under what circumstances, and with what consequences for patient care involuntary outpatient commitment (IOPC) was used in Victoria, Australia, to prevent psychiatric hospitalization. **Method:** The sample included 8,879 hospitalized patients given IOPCs and 16,094 without exposure. Logistic regression was used to determine the characteristics of patients selected for IOPC directly from the community, in lieu of hospitalization vs. patients hospitalized without IOPC; OLS regression to evaluate the relationship of direct community placement to future hospital utilization and involuntary community oversight. **Results:** IOPC was infrequently used directly from the community by comparison with orders issued at termination of inpatient episodes. IOPC was used for early initial prevention of hospitalization, prevention of return to hospital shortly after release to voluntary status, and maintenance of on-going involuntary community care episodes. The former situation prevented additional hospital involvement, the latter two extended community care episodes. **Conclusion:** For patients at risk of initial psychiatric hospitalization, IOPC provided a “least restrictive” alternative. When used to rescue a release plan or insure continuance of ongoing involuntary community care, it extended net time under restrictive oversight and lengthened treatment careers. Additional oversight may have led to more frequent hospitalization.

## 59. The Judicial Perspective on Dealing with the Mentally Disordered Litigant in British Columbia, Canada

### The Historical Model Compared with the Current Regime

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In 1991 S. 614 of the Criminal Code of Canada dealing with individuals found “not guilty by reason of insanity” was replaced by S. 672 and its 95 subsections. The resultant procedures in court and before the newly formed Provincial Review Boards have dramatically impacted the way in which the justice system now deals with those who have been found “not criminally responsible on account of mental disorder”. For many years Canada’s courts heard insanity defences and returned verdicts of not guilty by reason of insanity (NGRI). After such a verdict the accused was held in custody “at the pleasure of the Lieutenant Governor” and was subject, indefinitely, to the government’s executive oversight rather than to judicial review. The Code similarly provided orders of custody “until the pleasure of

the Lieutenant Governor of the province is known” in cases where the court made a verdict that the accused was “unfit on account of insanity to stand his trial.” The executive powers of the Lieutenant Governor in Council were, practically speaking, those of the Provincial Premier in cabinet. Decisions respecting the liberty of such an accused person remained with cabinet, were not subject to any prescribed standards, and were not subject to appeal. Reviews conducted by the Lieutenant Governor, or “Order in Council”, boards were similarly lacking in procedural safeguards and tended to be quite informal and casual. After being ordered into “strict custody” until the pleasure of the Lieutenant Governor was known, an accused could be ordered held in “safe custody” (in a mental hospital or in a *prison*), or “discharged conditionally” (loosened warrant), or “discharged absolutely”. In the 1991 case of *R. v Swain* the Supreme Court of Canada held that the Criminal Code provisions respecting insanity violated sections 7 and 9 of the Canadian Charter of Rights and Freedoms. Parliament responded to Swain with revisions to the Criminal Code in 1992. Section 16, the former insanity defence provision, was redrawn, replacing such terms as “insanity”, “natural imbecility” and “disease of the mind” with “mental disorder”, but to a great extent preserving the same tests to determine legal responsibility for an offence committed. S.16 of the Criminal Code of Canada states: “(1) No person is criminally responsible for an act committed or an omission made while suffering from a mental disorder that rendered the person incapable of appreciating the nature and quality of the act or omission or of knowing that it was wrong. (2) Every person is presumed not to suffer from a mental disorder so as to be exempt from criminal responsibility by virtue of subsection (1), until the contrary is proved on the balance of probabilities.”

### What If an Accused Might Not Even Be Fit to Stand Trial?

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It is imperative than an accused person understands the nature of the court process before s/he can stand trial. Every accused is presumed fit unless the Court is satisfied on a balance of probabilities otherwise. When the question of fitness arises, the Court must hold a hearing to determine the issue. Material considered will include an assessment from the Forensic Psychiatric Services, the circumstances of the alleged offence, and information surrounding the conduct of the accused while in police custody and in the Courtroom. The enquiry focuses on whether the accused is able to understand the nature and object of the proceedings (including the role of the various participants), the possible consequences of the proceedings, and whether s/he is able to effectively communicate with counsel. If found unfit, an accused will be remanded to hospital and within 45 days will appear before the BC

Review Board, which will make a disposition pending the accused person's return to fitness. A trial cannot be held until that occurs. In the meantime, Crown Counsel has a continuing obligation to demonstrate its case every two years. If the court finds that a prima facie case can no longer be established, the accused must be acquitted. This topic will deal with the process around which the courts attempt to decide whether an individual is fit to stand trial, the tests to be applied and the consequences of a judge deciding that someone cannot be brought to trial. The combination of the Criminal Code of Canada and the British Columbia Mental Health Act merge to create a series of options for dealing with a person who is clearly mentally ill and in conflict with the law.

### R. v Schoenborn, a Case Study

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This case study will touch on the practical realities of the tests and processes that apply to difficult and at times extremely emotional trials. From the complexities of presenting this horrific homicide case to the decision that was rendered this examination will outline the often subtle convergence of the medical and legal professions. Allan Schoenborn was charged in 2008 with first-degree murder of his three young children. Mr. Schoenborn, aged 41, pleaded not guilty to the murders of Kaitlynne, 10, Max, 8 and Cordon, 5, who were found dead in the family trailer in the small rural community of Merritt, British Columbia on April 26, 2008. Their mother, Darcie Clarke, made the gruesome discovery. Her two sons had been smothered and her daughter stabbed to death. Police launched an intensive search and Schoenborn was arrested in the nearby hills 10 days after the murder. At trial, he admitted to killing his children because he feared they were being sexually abused and that killing them was the only way to end their suffering. During the trial, the prosecution contended that Schoenborn killed his children to get revenge on Ms. Clarke, who had told him their relationship was over. The defence argued that he was psychotic or delusional when he killed them. Both sides called psychiatric evidence at the trial. This study will review the evidence presented and examine how the final judgment was reached. The judge, acting without a jury, held that Mr. Schoenborn was not criminally responsible for the murders.

### The Simply Difficult to Manage Litigants

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Of course Judges have to deal with litigants who are not charged with criminal offences. In civil and family court it is becoming increasingly common to have to directly engage with litigants who are emotionally disturbed and hard to interact with. These persons are often self-represented. The dynamics of the court process can bring out the best and worst in some people. Judges are placed in the difficult position of ensuring a fair process whilst maintaining impartiality in a volatile atmosphere. While there have been developments in other jurisdictions towards articulating a standard to assist in determining whether a person is capable of self representation, and, in Canada, developments in creating some guidelines to assist judges, the identification and cultivation of necessary skills for the task still seems to be in its infancy. This part of the presentation will offer observations and some suggestions for pursuing and adopting a systematic approach. Certain techniques which seem promising will be discussed as well as some which have “backfired”. The availability and suitability of these techniques will be examined in light of a number of common scenarios faced by members of the judiciary. In sum, this presentation will emphasize the need for versatility, flexibility and patience on the part of the court.

## 60. System Interactions with Mentally Disordered and Cognitively Impaired Populations

### Lifecourse Institutional Pathways into the Criminal Justice System for People with Disabilities

Eileen Baldry, *University of New South Wales*  
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The presence of people with mental health disorders and cognitive disability in criminal justice systems in Australia, and internationally is not a new phenomenon but the rate of people with mental health and cognitive disabilities in the criminal justice system appears to have increased. There is recognition that there is incongruence between human service and criminal justice systems’ dealing with people with disabilities. To progress preventive approaches to people with mental and cognitive disabilities entering and returning to the criminal justice system, new insights into, and understandings of their involvement are required. Descriptive and single system studies are not providing this new information. Lifecourse pathway studies that show the routes people with mental and cognitive disabilities take from childhood into, through, and back into the criminal justice system



rather than into support and care are one way of providing this new direction. This paper describes and critically reflects on these pathway findings from merged data from a large number of human service (school education, public housing, child protection, health and disability services) and criminal justice agencies (police, legal aid, prisons, community corrections, juvenile justice, and courts) for 2,731 persons, 85% of whom have mental and/or cognitive disability and 25% of whom are Indigenous Australians and who have been in prison.

### Understanding and Responding to Complexity: People with Mental Health and Cognitive Disabilities in the Criminal Justice System

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This paper uses findings from the project on mental health and cognitive disability in the criminal justice system introduced in paper 1 to explore the concept of complexity. This is done through a consideration of what 'disability' means in the prison and other parts of the criminal justice system in the context of co-occurring/multiple impairments when coupled with other dimensions of disadvantage such as gender, low socio-economic status, and Indigenous identity. Identifying and understanding the experiences of this group, who are often marginalized in both disability and criminological analyses, pose conceptual challenges for cultures of empowerment and resistance. As well, practical challenges for legal, human service and criminal justice systems, whose responses are often characterized by a limited capacity to conceptualize and address such complexity are revealed and addressed by an emerging critical disability-criminology theory.

### Critical Reflections on the Diversion of Defendants with Intellectual Disability and Acquired Brain Injury from the New South Wales Local Court

Linda Roslyn Steele, *University of Sydney*  
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Persons with intellectual disability and acquired brain injury are overrepresented in and experience disadvantage within the New South Wales criminal justice system. Diversion from the criminal justice system into disability support services pursuant to section 32 of the *Mental Health (Forensic Provisions) Act 1990* (NSW) ('Section 32 Diversion') is identified as one way to address some of the issues faced by this group. Section 32 enables a Magistrate to make an order diverting a defendant with intellectual disability or acquired brain injury

out of the criminal justice process and into the disability support system. This generally involves dismissal of the criminal charges conditional upon compliance with a ‘treatment plan’ which seeks to address underlying psychological, behavioural and medical aspects of the individual’s alleged offending. To date there has been an absence of critical analysis of Section 32 Diversion. This paper provides some critical reflections on Section 32 Diversion through applying a critical disability, Foucauldian methodology to an analysis of the legal and practical framework of Section 32 Diversion and the preliminary findings of empirical qualitative research of section 32 matters in the Local Court. This critical analysis suggests that Section 32 Diversion enables the criminalisation and regulation of defendants with intellectual disability and acquired brain injury in ways that extend beyond the capacity of the criminal law to deal with these individuals through conviction, sentencing, and punishment.

### Mental Health Frequent Presenters to NSW Police

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Mental health frequent presenters often have complex health, social, and economic needs, which are not always met, leading to relapses or crisis care by emergency services such as police, ambulance and emergency departments. Mental Health Frequent Presenters to police make up a disproportionately larger cohort of police apprehensions under the Mental Health Act 2007 (NSW); and they are more likely to also have charges for a range of low level criminal offences. This presentation will report on a study of mental health frequent presenters to police that is identifying and describing mental health frequent presenters to police through aggregated frequency data. The study aims to identify longitudinal trends from frequency analysis 2001-2009 and a detailed analysis of a 2005 cohort of frequent presenters from Police dealt with under the Mental Health Act (NSW). Brief discussion will also focus on the experience of interagency research on the issue. This paper will discuss the range of issues police face in dealing with frequent mental health presenters, propose some possible case management models and consider some findings indicating greater interagency work on the issue.

### Government Responses to People with Cognitive Disability in, or at Risk of, Contact with the Criminal Justice System

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Service responses of NSW government agencies to people with cognitive disability who may come into contact with the criminal justice system or are at risk of doing so are being developed. The Senior Officers' Group on Intellectual Disability and the Criminal Justice System NSW Interagency Service Principles and Protocols (SPP) was endorsed by Cabinet as the NSW government's response to this population in February 2010. This approach promotes interagency responses across the life course for people with cognitive impairment. In addition disability services are developing an education strategy that will provide information regarding the justice system to disability agencies and information regarding disability to justice agencies. This paper reflects on the development and outcomes of this service in terms of its disability service response to what has been traditionally a criminal justice matter.

## 61. Expert and Other Witnesses and Mental Health

### Child Witnesses Testifying in Criminal Court Proceedings: An Overview of Intermediary Services in South Africa

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Efforts to reduce the trauma suffered by child witnesses in the South African adversarial criminal justice system are impaired by arguments that the prosecution of crimes cannot disregard the rights of the alleged perpetrator. Leading the testimony of a child witness is a highly specialised task, and the criminal prosecutor and defence council are not skilled in these methods. Intermediary services for the child witness in court is thus paramount to reduce undue mental stress experienced by the child witness before, during, and after testifying. This paper highlights the fact that crime against children and the subsequent criminal proceedings where the child is required to testify as a witness occurs with sufficient frequency to warrant intermediary services to all child witnesses required to testify in South African criminal courts. Practical implications for practice are highlighted in order to improve the current intermediary process. The paper reflects on intermediary services rendered for more than 3,000 child witnesses in South Africa and discusses experiences and challenges from the perspective of both the child witness and the intermediary. The paper also provides supportive literature and a statistical overview of the work done by the Bethany House Trust, a NGO, in this regard.

## From Schadenfreude to Contemplation: Lessons for Forensic Experts

Graham Glancy, *University of Toronto*  
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In 2005, the Chief Coroner of Ontario, Canada, instituted a review into 45 cases of criminally suspicious child deaths about which a prominent pediatric forensic pathologist, Dr. Charles Smith, expressed an opinion that the death was homicide. Subsequent to the findings of the review, a provincial inquiry was called into the professional practice of Dr. Smith. The Inquiry concluded that Dr. Smith actively misled his superiors, made false and misleading statements to the court, and misrepresented the nature of his expertise. Recommendations from the Inquiry cover issues of medical sub-specialization, the evidentiary basis for expert opinion, oversight of the profession, and the development of best forensic practices. Although the Inquiry initially addressed pathologists, it becomes clear that these recommendations have significant implications for all forensic professions including forensic mental health. This paper summarizes the Inquiry report and considers the potentially important implications for forensic mental health professions. Specific issues include professional responsibility held by individual forensic practitioners; restoring public confidence in a forensic profession when one member is accused of gross professional misconduct or incompetence; and the peril to the public and the administration of justice, when the profession does not adequately train, guide and police its members.

## The Court's Misplaced Confidence in Psychiatric Diagnoses

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When considering psychiatric evidence, criminal justice systems often make considerable use of labels from official psychiatric classificatory systems, despite the wording in most legislation being centered on psychological and behavioural language. Just as this trend is becoming entrenched in judicial hearings, psychiatry is placing its present, purely categorical, diagnostic frameworks under increased scrutiny for their questionable validity, increased length and complexity. The lack of validity in large sectors of the present classificatory systems is now more openly acknowledged, prompting a rethink coincident with the processes of revising the International Classification of Diseases (ICD-10) and the American DSM 4. Examples of problems will be given. Psychiatry needs to overhaul its classificatory systems in order to improve both collegial communication and service

delivery. In the meantime, the Courts and Justice systems should review their receptiveness to DSM-4 and ICD10 based labels and cultivate a degree of scepticism regarding the validity of psychiatric diagnoses. The Courts' faith in present categorical classifications (ICD-10 and DSM-IV) is misplaced and ultimately unhelpful to the pursuit of justice.

## Reliability of Psychiatric Evidence in Serious Criminal Matters: Fitness to Stand Trial and the Defence of Mental Illness

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**Objective:** The criminal justice system relies on the opinions of expert witness to assist in decisions about fitness to stand trial (FST) and verdicts of not guilty by reason of mental illness (NGMI). The aim of the present study was to assess the level of agreement between experts about these legal issues using a consecutive series of serious criminal matters in New South Wales. **Methods:** Pairs of reports from 110 consecutive criminal matters completed by the New South Wales Office of the Director of Public Prosecutions between 2005 and 2007 were examined. The opinions of experts about FST and NGMI were recorded. **Results:** Agreement about FST was fair-moderate (experts engaged by opposite sides,  $\kappa=0.293$ ; experts engaged by the same side,  $\kappa=0.471$ ), although there was a higher level of agreement in homicide matters. Agreement about NGMI was moderate-good (experts engaged by opposite sides,  $\kappa=0.508$ ; experts engaged by the same side,  $\kappa=0.644$ ) and there was a higher level of agreement when the experts also agreed about the diagnosis of schizophrenia. Further analysis using generalized estimating equations did not find a higher level of agreement about FST or NGMI in pairs of reports containing the opinion of experts from the same side. **Conclusions:** Little evidence was found for bias in expert opinions about either FST or NGMI, but the comparatively low level of agreement about FST suggests the need for reform in the way that FST is assessed.

## 62. Ethical and Other Issues in Forensic Expert Testimony

### The Expert Witness Meets the Adversarial System: Ethical Issues and the Centrality of Method

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The lawyer's obligations in litigation are both to the client and to the judicial system. Rules of conduct leave a wide range of possibilities for lawyers to attempt to persuade a judge or jury through insincere statements that do not reach the level of falsehood. This chapter examines the role of the expert in such a system. The lawyer's interest is in having an expert that has become committed to being a team player. In these circumstances, it is very difficult for experts to maintain their independence. For this reason, it is of the utmost importance that forensic scientists develop methodologies that have been tested to be reliable, and which can speak for themselves. Proficiency testing is discussed as a stopgap measure while methods are developed in new fields. In setting forth the problem, the chapter explores certain biases to which experts are susceptible even with they try to act disinterestedly, and discusses the "bias blind spot," a term used by psychologists to describe the propensity to believe that oneself is immune from bias even if others are susceptible.

### Some of the Pressures on Forensic Psychologists' Expert Testimony Reports

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Recently Shane Bush, Mary Connell, and Robert Denny in their chapter on ethical decision-making emphasized the importance of forensic psychologists being aware of and coping with 'situational pressures'. They noted that such psychologists should anticipate the types of problems that may be encountered. The American Psychology - Law Society in its (still in draft) guidelines emphasizes that forensic psychology experts must be fully aware of the needs of relevant (and various) legal systems and procedures, especially those many of an adversarial nature. These guidelines (and those in various other countries such as of the British Psychological Society) stress that experts should not offer testimony or reports that stray beyond their competence. In the UK, as in some other countries, courts are requiring putative experts to have published relevant research/opinions/commentaries in peer-reviewed journals. This presentation will concisely overview developing aspects within some relevant guidance documents. It will then briefly give an account of some of the (hopefully interesting) 'ethical' experiences that the presenter (an investigative psychologist) has gone through in connection with a number of court cases.

### Suicide Note Assessment with Quantitative and Qualitative Methods

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Identifying suicide notes is an extremely difficult task. Part of this difficulty is common to many identification tasks with low accuracy rates. If the object to be identified is rare or experience with the object to be identified is low, identification rates are typically low because the identifiers do not have a well-founded grasp of the identifying features. Suicide notes are found in only the minority of actual suicides (it is estimated that notes only occur in 10 to 15% of suicides). It is not surprising then that psychiatrists and psychologists are claimed to have an accuracy rate for identifying texts as suicide notes or not at ranges from 50% to 70% (Pestian 2008), as even this group of professionals may not have consistent experience with real suicide notes. If the object to be identified has low internal consistency, because the object has a wide range of class characteristics, then identification accuracy is predictably low, because the object can be mistaken for so many other types of similar objects. Suicide notes contain elements of other text types, such as apologies and love letters, which can make them easily confusable. SNARE --suicide note assessment research-- is a computational, quantitative tool for identifying and classifying suicide notes. SNARE currently has obtained an accuracy rate of 80% on a dataset of 400+ real suicide notes and 500 control documents. When the real suicide note data is limited to brief notes (45 words or less) the accuracy rate increases to 86%. The dataset has been vetted. The statistical classifier is a linear discriminant function analysis using leave-one-out cross-validation. The reported accuracy rates are the average of true positives for the real suicide note class and the control document class. The quantitative method enables the analyst (or psychiatrist or psychologist) to start from an objective point in the investigation, since the software analyzes the questioned text without input from the analyst. But given an error rate from 14 to 20%, the analyst should then use SNARE to collect a pool of comparative documents from the real suicide note dataset. By comparing the questioned document to real suicide notes with similar characteristics, the analyst can determine whether SNARE has made a classification error or not. Methodologically, the most interesting aspect of this second step is the requirement that the analyst seek to disprove the SNARE classification.

## 63. ...To Tell the Truth, the Whole Truth...: Symptom Validity Test (SVT) and the Courts

### Symptom Validity Testing and the Rules of Evidence

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The rules of evidence determine what kinds of opinion evidence can be offered in court to a judge or jury. Traditionally the courts have been wary of mental health professionals being permitted to give evidence concerning the truthfulness of a litigant. Whether a litigant's evidence is to be found credible or reliable is generally regarded as a function exclusively within the province of the finder of fact. Mental health professionals who are assessing response style in forensic examinations need to understand the relevant rules of evidence and the law pertaining to opinion testimony when preparing reports or giving testimony before the courts or tribunals. The last decade has seen an explosion of Symptom Validity Testing (SVT) in a variety of both civil and criminal applications (Rogers, 2008; Boone, 2007; Morgan and Sweet, 2009; Larrabee, 2007). Several of the SVTs have provocative titles such "Structured Inventory of Malingered Symptomatology" (SIMS), "Test of Memory Malingered" (TOMM), "Malingering Probability Scale" (MPS) and "Multi-Dimensional Investigation of Neuropsychological Dissimulation" (MIND), which connote the very issue the courts view as being in conflict with the law of evidence. Rogers (2008) posits that "expert opinions about response style should be based on scientific, technical or specialized knowledge (i.e., *expertise*), rather than information that is available to, or conclusions that can be just as easily formed by the decision maker, and that (2) descriptions of and opinions about an examinee's response style should be couched in language that emphasizes this specialized knowledge or techniques that were employed by the examiner". This paper will examine the delicate balance between the role of the Court and forensic mental health examiners using SVTs. The presenter is a sitting member of the Court of Appeal of British Columbia, Canada. She will highlight landmark Canadian decisions on this topic and discuss approaches used by lawyers for both claimants and defendants in supporting or challenging a litigant's credibility.

## SVTs in Family Law

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Family Law is the one exception where forensic mental health professional can typically address the "ultimate issue". North American research (Bow and Quinnell, 2002) has shown that most Courts want recommendations from mental health professionals on matters relating to custody and access of children. Yet, Family Law is the *Kandahar* of forensic mental health professionals. While their colleagues in personal injury and criminal disputes, typically, maintain civil and healthy scientific debate, many mental health professionals in Family Law are embroiled in disputes with disciplinary boards arising from complaints by both the aggrieved litigants and/or their colleagues. Unlike their counterparts in personal



injury and criminal investigations, it is commonly assumed that parents are prone to embellish in socially desirable expectations when involved in a custody dispute (Condie, 2003). Given this atmosphere, one would expect a robust collection of psychological tests and SVTs to provide scientific support for the mental health professional operating in this arena. There is a disquieting absence of such research. This paper will present a review of the SVL literature that is available and discuss in detail the research of Posthuma, Goldstein and Siegel (2011) from both Canada and two jurisdictions in the United States on the Paulhus Deception Scales (PDS). The PDS (Paulhus, 1998) provides two subscales, one, measuring impression management, and the other, self-deception enhancement, developed from earlier research of Sackeim and Gur (1979) and has normative data on job applicants and prison inmates. This study represents the first major examination of the PDS support in family law. The research will compare those parents who are in contested custody disputes with those who are utilizing alternative forms of conflict resolutions such as collaborative law.

### The Three Modes of Symptom Misrepresentation

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Response bias, exaggeration, malingering, and other threats to test validity are not unitary constructs. If one takes an evolutionary psychology view of deception, misrepresentation is an adaptive strategy designed to solve particular problems in living, and to achieve specific goals. Richard Rogers "adaptational model" of malingering and Richard Lanyon's "content-valid" scheme are the viewpoints that best fit the facts of our clinical experience and research findings. This paper covers the context-sensitive forms that malingering takes. I propose three general groupings of SVTs to match the nature of feigned deficits. Malingered Neurocognitive deficit means a person feigns impairment in mental functions localized to the physical brain. Examples include producing low memory attention/concentration, and measured intelligence that is not accurate reflections of true capacity. Pertinent examples are provided in criminal and civil settings. In America, one cannot execute the mentally retarded, so it may pay to look as mentally retarded as possible during IQ testing. In personal injury, a head injury claim could command greater dollars if memory deficits are especially severe. The base rate for malingered amnesia is from 1/3<sup>rd</sup> to 2/3<sup>rd</sup> of all post-concussion claimants, per a series of large scale studies. Well-validated and accepted measures include the TOMM, WMT, Rey's various measures, and VIP. Psychiatric symptom validity refers to over-statement of emotional, physical, and personality problems. Behavior patterns falling into this category include faked insanity in a criminal context, false reporting

of nightmares and flashbacks in personal injury, and exaggerated pain and decrepitude in Worker's Compensation. There are many SVTs for this response style, including the validity scales of the MMPI-2 and MMPI-2-RF, the MCMI-III, and the PAI. Clinical methods include counting up the number of reported symptoms, and judging the subjective distance between symptoms reported and observed behavior (e.g., claims severe depression but affect is spontaneous and bright). Physical-motor malingering refers to exaggeration of motor skills deficits. The patient (or litigant) presents with abnormalities in movement that defy a conventional understanding of neuroanatomy. Examples include excessive pain behavior (e.g., antalgic gait, guarded movement), social signals that elicit attention and support (e.g., wearing a soft collar 6 months post-whiplash), and verbal report of dramatic suffering. This behavior is most often found in personal injury, particularly Worker's Compensation, because motor skills are strongly linked to work capacity, and hence have high face validity from the viewpoint of the plaintiff. Measures used to capture this form of feigning include Grip Strength and the MPSQ, although video surveillance is probably best.

### SVT in Criminal Law

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Probably the most interesting and compatible arena for SVT research is in criminal law applications. Most mental health practitioners and researchers find that the law on what can be accepted as evidence is much more developed in the criminal arena than in civil law such as personal injury and family matters. The protection of the innocent has been a focus of legislation and the law involving both defence and prosecution in most countries of the developed world. There is, however, considerable variability in different jurisdictions and between countries on the role of mental health expert evidence. The present paper will address SVT neuropsychological evidence in both Canada and the State of California focusing on *mens rea*, *actus reus* in diminished capacity applications involving both cognitive and emotional issues. Particular focus will be directed at the death penalty applications in the State of California.

### Future Directions in SVT Research

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This presentation will review some of the common areas of concern that is likely to direct future SVT research. A major concern exists with SVT test security. Neuropsychological files are routinely subpoenaed and can be circulated in law offices and elsewhere for examination. Research papers and textbooks published on SVTs are available to the public. Computerized search engines already provide considerable information on psychological tests, the various test items and their implication. The presenter will discuss the implications of this phenomena in future test development. A second area of concern is the need to develop more normative groups and determine the generalizability of various SVT procedures. More research is needed on the minority and ethnic groups within a country as well as the applicability to SVTs to identify the range of challenges presented not only by the specific legal application, but the range of variables involved with any specific litigant. Finally, the Courts are increasingly being introduced to a variety of psychophysiological SVT technology. These logical extensions of polygraph evidence are regarded by many as extensions of phrenology (Khoshbin & Khoshbin, 2007). We will consider the SVT functional brain imagery research (fMRI, PET, QEEG) as it relates to neuropsychological test performance.

## 64. Mental Health Legislation Scenario in South Asia

### Mental Health Legislation: Comparison of South Asian and Western Countries

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Building a responsive and accessible mental health system is a priority for every government, however there are countries that have no Mental Health Acts. Alternatively, if ever they did have one, they have remained as written laws but are not fully implemented. The World Health Organization report (2001) lists the following percentages by region for countries in those regions with and without mental health legislation.

Regions	With legislation	No legislation
Africa	59%	41%
The Americas	73%	27%
Eastern Mediterranean	59%	41%
Europe	96%	4%
South-East Asia	67%	33%
Western Pacific	72%	28%

Developing effective and comprehensive Mental Health Legislation in South Asia works in parallel with community mental health for early interventions and treatment for those with mental disorders. To implement "positive rights to care and treatment" for patients, it is absolutely essential to have (outpatient and inpatient) mental health centers available for prevention as well as for acute and chronic care for those with mental disorders. The bigger hurdle is the attitude and approach of South Asian governments to provide such resources for those who are not only suffering from mental health disabilities, but are also financially impoverished. The Center for Mental Health Law of Judge David L. Bazelon has been the USA's leading legal advocate for people with mental disabilities. The mission of the Center for Mental Health Law is to protect and advance the rights of adults and children who have mental disabilities. The Center envisages an America where people who have mental illnesses or developmental disabilities have access to the resources that enable them to participate fully in their communities. The latest Mental Health Bill was introduced into UK Parliament in November 2006 and was amended during its passage through Parliament. The Mental Health Act received Royal Assent in July 2007.

### Mental Health Legislation: Does it Facilitate or Hinder Mental Health Care in the Countries of South Asia

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Mental Health Legislation is increasingly being recognized as a vital component of the mental health delivery system in South Asia. In the ideal form, it is definitely facilitatory in delivering optimum care to the people. Tardy implementation can hinder progressive measures in every respect. Mental health is an oft-neglected area in South Asia. The number of psychiatrists available is often 0.2-0.4 per 100,000 compared to 10 per 100,000 in the developed world. The number of other mental health personnel such as clinical psychologists, psychiatric social workers and psychiatric nurses is even fewer. Budgetary allotment for mental health is just 2-3% of the general health budget. The number of psychiatric beds and psychiatric hospitals are also too few. However, the rapid spread of General Hospital Psychiatry has truly revolutionized mental health care in countries such as India. The National Mental Health Programme launched in India in 1982 aims to integrate mental health with general health. Bringing these GHP Units under MHA may stifle their growth and produce unnecessary and unwelcome obstructions, which will be a serious blow to the poor and underprivileged mentally ill. The involvement of Non-Governmental Organisations (NGOs) in mental health care has been a welcome step forward in many South

Asian countries. Navjeevan and Mariasadan in Kerala, India, The Banyan and ACMI in Bangalore, India, National Alliance for Mental Health- India (NAMH) and Fountain House in Pakistan are good examples. However bringing their activities under the Mental Health Act can also create problems and unnecessary delays. The Mental Health of Act of 1987 in India simplified admission and discharge procedures, provided for separate facilities for children and drug abusers, and aimed to promote human rights. Although it introduced several progressive provisions, there were several issues with this Act. A comprehensive amendment is now being taken up. In India, other acts relevant to mental health include the Juvenile Justice Act, the Persons with Disabilities Act and the Narcotics and Psychotropic Substances Act. Several countries in South Asia need to implement Mental Health Legislation in a progressive manner. For example, Bangladesh, a country with a population of over 150 million people, is still governed by the obsolete Lunacy Act of 1912. Changes in legislation - in every country of South Asia - are needed to make them more progressive.

### Mental Health Legislation in South Asian Countries: Shortcomings and Possible Solutions

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The mental health laws of all South Asian countries have a British colonial legacy. While the mental health laws in Britain have gone through several revisions during past many decades, they are either non-existent or have remained largely the same in South Asia. In all countries of South Asia, mental health services are poorly developed and the prime responsibility for managing persons with mental disorders rests primarily with the families. Various types of violations of the rights of mentally ill are well known in all countries of the region. Existing mental health legislations view persons with mental illness as being dangerous and incurable. They are primarily focussed on inpatient treatment in custodial institutional settings such as many archaic mental hospitals. There is an urgent need to enact legislations consistent with the current United Nations Convention on the Rights of Persons with Disability in every country of the region. The presentation will review the existing laws and propose suggestions and recommendations for revision, taking into consideration the current real world situation of mental health services in these developing countries of markedly limited resources and trained personnel.

### Evaluation of Mental Health Legislation in South Asian Countries: Are We Still Living in the Past?

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Mental health legislation is essential for a variety of reasons. Mentally ill people lack insight into their illnesses and rarely submit themselves for treatment and care. They are often subjected to abuse and exploitation amongst the general population due to the nature of the illness and its consequences. They are unable to stand for their human rights; civil, political, social or economic. Misconceptions about mental illness and the segregation of mentally ill people lead to discrimination and stigmatization. Especially salient, the mentally ill do not fight for good quality care within their locality. Thus mental illnesses cripple the lives of mentally ill people and impede the development of optimal services. Mental health legislation evolves gradually over time. Due to increasing awareness of human rights globally, it has become easier to guarantee the protection and promotion of rights and dignity of people with mental illnesses and the development of easily accessible good quality care within the locality of the individual. Effective mental health legislation should obviously be able to provide for the re-integration of mentally ill people and should assist in the battle against stigma and discrimination. While some of south Asian countries have no mental health policies and legislation, some countries maintain archaic laws that support isolated asylums in which to segregate the mentally ill. Additionally, laws that provide for centralised services to incarcerate mentally ill people are still in force in some countries. These laws were established prior to the pharmacological advances that are useful in the treatment of mentally ill people in the community with minimal disability. By and large, mental health legislation in the region has not led to the establishment of community mental health services and support to alleviate stigma and discrimination. In the south Asian region, our attitudes towards the mentally ill and our mental health services continue to belong more to the past than to the future.

### Mental Health Legislation: How to Implement in South Asian Countries

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Mental health services developed in the developing world of South Asian countries over the last 300 years under the legacy of colonialism. To start with, it was to provide for the personnel who subserved the infrastructure of the respective colonial powers that controlled the region. Mental health legislation came to provide the legal support for it. There has been a preoccupation with the 'right to freedom' in the mental health planning and legislation. This has taken precedence over 'right to treatment' which is increasingly

being seen as the more important consideration. Mental health services in most of the countries in South Asia operated under an informal system, and are still laboring under antiquated laws framed under the colonial powers, with recent attempts to modernize it. Such attempts have often been fragmented, inadequate, and controversial. As illustrated by the history of the United States, mental hospitals developed not so much to protect the freedom of the mentally ill as to provide to them a more humane living condition and treatment than what they were subjected to in the harsh realities of a 'frontier' society. Mental health services in South Asia labour under the horrendously adverse professionally trained manpower constraints. For the developing countries of South Asia, mental health legislation should ensure that whatever professional resources are available are not compromised, and that all contribute to their maximum at their levels of expertise. While safeguarding against clear abuse of patients and clearly wrong treatment options, the legislation should facilitate mental health services. The legislation will need to examine the contributions and needs of the various professional segments, such as government hospitals, private sector, and the traditional indigenous healers. A logical and optimal compromise of conflicting claims and needs of the various sectors will have to be effected. In this way, legislation can provide for the underpinning under which mental health services can progress in the region. Finally, the rich traditional legacy of the countries in the region should not be lost sight of, but exploited to the maximum advantage of all concerned.

## 65. Recent Developments in Law and Mental Health in Australia

### Mental Health Courts in Australia

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Criminal responsibility is, at common law, a matter correctly the province of a jury. That is to say, having heard all the evidence in a trial, a jury determines whether or not the elements of an offence have been proven. If so, the jury then considers whether any justifications or excuses raised by the defence have been disproven by the prosecution, or any defences raised by the accused have been proven. In Queensland, a different approach is taken. The Mental Health Act 2000 establishes a Mental Health Court which is empowered to conclusively determine whether an accused was suffering from mental illness at the time of the alleged offence, or whether the accused is currently incapable, by reason of mental illness, of standing trial for an offence. This paper discusses the operation of the Mental

Health Court, and critically assesses whether the Mental Health Court has been a valuable addition to the criminal trial process.

## Medical Decision-Making and Mental Health: Australian Developments

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A number of Australian jurisdictions have recently introduced, or are reforming, legislation dealing with medical decision-making. These reforms are directed at clarifying the extent to which competent adults are able to accept or refuse medical treatment, and to appoint substitute decision-makers to act in their stead in the event that they become incompetent. This relatively new legislation must now operate alongside more dated legislative regimes regulating mental health services, including the provision of medical treatment to mental health patients. This paper examines key features of the medical decision-making legislation in Australia (with a particular focus on recent reforms in Western Australia) and explores their interaction with mental health statutes, with an emphasis on those provisions relevant to compulsory medical treatment for mental illness. The paper will address the competing policies that underpin these areas of the law and how, at a practical level, the various statutory provisions may be applied in the delivery of mental health services.

## Australia – New Directions in Psychiatric Injury

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The distinctive approach of the Australian common law psychiatric injury claims was confirmed by the High Court's decision in *Tame v New South Wales* (2002) 211 CLR 317. In this case the High Court held that there could be a duty of care despite the absence of direct perception or sudden shock, in contrast to the more conservative approaches of the final courts of appeal in England and Canada. However, the legislation resulting from the Australian 'insurance crisis' provided the opportunity to impose legislative restrictions, and in April 2010 the High Court heard argument in a landmark decision, *Sheahan v State Rail Authority (NSW)*, which is likely to confirm that the statutory provisions have narrowed the scope of the common law. This paper assesses the scope for further developments, particularly in light of the fact that the statutory provisions are not uniform and do not apply in some exceptional situations. Looking into the future, the courts have not yet considered



the application of the statutory provisions to non-mainstream situations such as medical negligence, where the prior relationship between the parties assumes a greater importance.

## Recent Developments in the Law of Compensation for Psychiatric Injury in Australia

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In 2002–03, six out of eight Australian jurisdictions—New South Wales, Tasmania, the Australian Capital Territory, South Australia, Western Australia, and Victoria—substantially codified the law of compensation for psychiatric injury. Australia is now in the process of developing a discrete statute-based tort for negligently occasioned mental harm in the form of a recognised psychiatric illness or condition. The new cause of action differs considerably from the antecedent case law approach to this kind of liability. Under the statutory regime close family members (the degrees of closeness vary) suing for pure mental harm come within the duty of care—virtually ‘as of right’, in the sense that this relationship is considered sufficient except for the precondition of ‘normal fortitude’. At the same time, establishing duty of care as defined under mental provisions is generally not sufficient to prove liability: claimants will also have to establish (a) where relevant, that there was a breach of duty of care under general principles of negligence; and (b) causation according to the test specified in the legislation. This paper will examine the new tort in the light of the High Court’s decision in *Wicks v State Rail Authority (NSW)*; *Sheehan v State Rail Authority (NSW)* [2010]. It will also endeavour to point out the main differences between Australian, English, and American law in this area.

## Research Fraud, Plagiarism, and Regulation

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The motives and pathologies that generate dishonesty in research and illicit usage of others’ work are internationally challenging. Such conduct occurs throughout law, science, and medicine but relatively little attention has been given to the aetiologies of such conduct in the modern era. Utilising the case studies of Dr Scott Reuben in the United States, Professors Murch and Walker-Smith in the United Kingdom, and Professor Bruce Hall and Dr William McBride in Australia, this paper explores such phenomena and their repercussions for

contemporary research. The paper calls for changes of culture within the research, academic, and regulatory communities to deal effectively with scholarly misconduct.

## 66. Protecting Adults at Risk of Harm in Scottish Law

### Introduction to Scottish Legislation Dealing with the Protection of Adults at Risk from Harm

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Scotland has seen a recent spate of legislation aimed specifically at protecting adults deemed at risk, or those who in the past would have been deemed vulnerable. This is not a homogenous group and covers people with mental health problems, issues with capacity, and those at risk of harm or exploitation. Three specific pieces of legislation in Scotland deal with these groups: The Adults with Incapacity (Scotland) Act 2000, The Mental Health (Care and Treatment) (Scotland) Act 2003, and, The Adult Support and Protection (Scotland) Act 2007. This paper will consider the political and ethical issues leading up to the development of this framework in Scotland.

### The Adults with Incapacity (Scotland) Act 2000

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The Adults with Incapacity (Scotland) Act 2000 (AWIA), was developed by the Scottish Parliament in response to concerns from professionals about the need to protect adults who lacked capacity whilst ensuring the right to make decisions about their own lives were not removed. The main aim of the AWIA therefore is to provide a legal framework that gives adults with incapacity a say in their own lives while providing protection when it is needed. The AWIA applies to adults (those over 16) who by reason of mental disorder or an inability to communicate because of physical disability are incapable, either temporarily or permanently, of any of the following "acting, making decisions, communicating decisions, understanding decisions, retaining the memory of decisions". The legislation is built on five key principles. Any decision made on behalf of the adult; must benefit them, take account of their wishes, be the least restrictive option, encourage them to use existing skills and develop new ones, and takes account of the views of others, such as the primary carer.

Powers available within this legislation include gaining access to an adults' funds, intervention, and guardianship orders. This paper will consider how this act has impacted on the lives of adults who lack capacity in Scotland.

### The Mental Health (Care and Treatment) (Scotland) Act 2003

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The Millan Committee set up to review the previous 1984 Scottish Mental Health Act reported that 'it should not be the function of mental health law to impose treatment on those who are clearly able to make decisions for themselves'. As such, the current 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'. The inclusion of a capacity-type criterion for detention and compulsory treatment (significantly impaired decision-making ability/SIDMA) is seen as being a more ethical and less discriminatory way of dealing with people with mental disorders. This paper will look at the Scottish mental health Act in relation to how it specifically works to protect adults deemed at risk from harm.

### The Adult Support and Protection (Scotland) Act 2007

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In Scotland there is specific primary legislation, the Adult Support and Protection (Scotland) Act 2007 (ASP), to protect those who are deemed at risk of harm. This legislation importantly places a duty on local authorities and their key partners, health boards, police, education and voluntary organizations to work together to support and protect adults at risk of harm. The legislation is also based on a set of principles which aims to provide the means to intervene and prevent harm continuing – consistently, to put in place strengthened measures to give greater protection for those at risk from harm and to improve inter-agency co-operation and promote good inter-disciplinary practice. However the ASP is only one part of a triangle of protection, which provides the framework for inquiry, assessment, and intervention in the lives of adults in Scotland with a focus on support and protection. This paper will consider the implementation of this legislation and discuss the ethical issues inherent in protecting adults who have a right to self-determination.

## The Practitioner's Experience

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These pieces of legislation provide a practical framework for practitioners and clinical staff to support and protect clients. This paper will describe some complex examples to explore how the three Acts in Scotland can be used either separately or co-jointly to ensure best interests of individuals, and the legal and ethical issues relevant to supporting such decisions.

## 67. The Mental Capacity Act in England and Wales: Part I

### Mental Capacity Assessments and Best Interests: Are Professionals Getting It Right?

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The Mental Health Foundation has developed a suite of online research, audit and evaluation tools focused on different aspects of the Mental Capacity Act 2005 (MCA) for England and Wales. This includes a tool (called the AMCAT) for auditing and evaluating mental capacity assessments undertaken by health and social care staff. In the first three months the tool was available, it was used on average 500 times a month. The Foundation is also part of a consortium of organisations undertaking research into how best interests are determined under the MCA - we have developed another online tool (called BRIDGET) to evaluate and audit these best interests' decision-making processes. Aggregated data from the AMCAT and BRIDGET tools provide important and revealing information about how well the MCA is understood and being used in everyday practice. This paper will report these findings and consider their implications in terms of empowering and safeguarding people who may lack capacity.

### Whose Best Interests?

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The Mental Capacity Act (England and Wales) brought about several changes in capacity legislation, central to which was the clarification of instances where someone could be assessed as lacking capacity, and subsequently be subject to a 'best interests' decision. This paper aims to understand more about how this aspect of the law is being implemented in practice, and what the potential challenges and barriers may be. It draws on findings from an 18-month national research study about best interests decision making, funded by the National Institute for Health Research (NIHR). Although the Mental Capacity Act provides a checklist of good practice for best interests decisions, this may well play out in different ways within the three main contexts of: a) health; b) social care; c) property and affairs. The tensions and issues underlying best interests decisions may also be different for each of the main groups affected by the Act. The research includes a series of focus groups, as well as an online survey (discussed by Swift and Williamson). The current paper will focus on the practice survey, which consists of a telephone interview stage and face-to-face interviews with people involved in best interests decisions, and will present some of the key findings from this study, and explore possible recommendations and ways forward.

### Deprivation of Liberty Safeguards – Their Impact upon Human Rights and Care Practices

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This presentation is based upon initial findings of a study based in England on the Deprivation of Liberty safeguards (DOLS). DOLS were retrospectively inserted into the Mental Capacity Act to ensure compliance with article 5 of the European Convention on Human Rights. They aim to protect people in care homes or hospitals who lack capacity and are being cared for in a way that may constitute a deprivation of liberty. Amongst other matters, DOLS applications determine whether deprivation of liberty is occurring, and if so, whether this is in the person's best interests. Any deprivation of liberty must satisfy the requirements of being proportionate and justifiable and efforts must be made to minimize constraints on the person. The study is examining DOLS' impact on human rights and professional decision-making in situations of ethical complexity. This will be achieved by:

- a) Mapping DOLS processes and the support available to care providers,
- b) Examining a number of real-life cases via in-depth interviews and,
- c) Undertaking a national online factorial survey of all DOLS assessors in England.

This presentation will discuss emerging findings and examine their significance in promoting high quality care for people who lack capacity.

### Using the Mental Capacity Act to Facilitate the Participation of People with Dementia in Research: Successes and Challenges

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The Mental Capacity Act which came into force in England in 2007 gives a right of decision-making to people who lack capacity to make decisions. Whilst a key focus of the Act is facilitating decision-making in areas such as health and social care, this law has also introduced statutory requirements when undertaking research with, and obtaining consent from, people lacking capacity. Although the law protects their rights when involved in research, it has also been an important influence in promoting practice which empowers people lacking capacity to participate in research and, in turn, to express their voice. This paper reports initial findings from a 2-year qualitative study currently being undertaken in England (funded by the Economic and Social Research Council) which explores everyday decision-making by people living with dementia. The paper considers the positive influence of this law on ethical practice in recruiting people with dementia to the research and facilitating their participation throughout. The author also highlights some of the challenges involved in applying this law when undertaking research into decision-making with people who lack some decision-making capacity.

### Deciding between the Mental Capacity Act Deprivation of Liberty Safeguards and the Mental Health Act in England and Wales: Just a Matter of Choice?

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In England and Wales, authorisations under the Deprivation of Liberty Safeguards (DoLS) of the Mental Capacity Act 2005 and detention under the Mental Health Act 1983 (as amended, 2007) each provide a legal framework allowing the deprivation of liberty in hospital of men and women who lack capacity to make decisions about their care and treatment. In principle, there are differences between the two frameworks, reflecting the different contexts in which they arose and they are, in fact, meant to apply to different populations. In this presentation, we present data from different sources, including completed forms, the responses to standardised vignettes, and interviews with the practitioners involved, to examine how the two legal frameworks are used in everyday practice. These data suggest that many practitioners make decisions about the therapeutic purpose they wish to achieve and then try to identify the framework that best meets that purpose. The implications of this approach for the vulnerable men and women subject to these frameworks are discussed.

## 68. Innovation in Dutch Legislation

### The Making of a New Mental Health Act

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In this presentation, an overview will be given of the legislation process leading to the development of the new Mental Health Act (MHA). Where did we come from, what were the reasons to start talking about a new MHA, and what is the new direction? The focus of

the presentation will be on the process leading from the “old” MHA (wet BOPZ) to the new MHA (Wet Verplichte GGZ). In addition to legislation procedures, the Dutch standards and ethical principles that influenced the process will be discussed, including the role of the judge, subsidiarity, proportionality, efficacy, reciprocity, last resort, and physical integrity. Political, social, and professional views on both the old and the new MHA will be addressed in this presentation. Following a description of the procedure leading up to the new law, the outline of the new law will be discussed. Principles and structure will be presented, and there will also be a comparison between the “old” MHA and new MHA. The most important question is: does the new MHA answer the questions that the old one could not? Furthermore, does it really make possible a smooth transition between the forensic mental health care system and the general mental health care system?

### Children and Juveniles under the New Mental Health Act

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In my presentation I will begin with an explanation of the two different Acts in the Netherlands under which juveniles can be submitted to a closed ward. The Act of Juvenile Care and the Mental Health Act are the focus of discussion. The new Mental Health Act is diminishing the differences in legal protection of the juvenile in the two Acts; nevertheless, the opportunity to bridge the gap between the two Acts has not been used. Professionals are suggesting adjustments to create the possibility of a tailor-made solution for the problematic emotional development of the juvenile, and the many problems their families are facing.

### Towards a New Dutch Mental Health Act

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The new Dutch proposal for an “Involuntary Mental Health Care Act” 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 are intended to:

- Give more voice to patients and to families;
- Facilitate stepped care, treatment, and support;
- Safeguard legal positions and security;
- Create a more community-based MHC system;



- Build a more comprehensible Mental Health Act.

The aim is less involuntary care; or, if truly needed, more acceptable involuntary care. This shift in emphasis is quite different from the former Mental Health Act, which focused primarily on involuntary admission. In this symposium I will discuss important innovations regarding goals and criteria for involuntary care, respecting and restoring patients' autonomy, the facilitation of stepped care, continuity of care instead of compulsory admission, adaptation of the new Act to innovations in the MHC delivery system, and the introduction of various multidisciplinary mechanisms in order to support a 'binding' system.

## Involuntary Admission, Treatment, Care, and Supervision

Adger J.K. Hondius, *GGZ Centraal, Veluwe, The Netherlands*  
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In this presentation, psychiatric patients' legal position will be clarified in the case of involuntary care. In addition to a case study, the differences between the actual and the new Dutch Mental Health Act (MHA) will be discussed. A summary of the legal position of the actual Dutch MHA will be provided, and the changes in legal position in the new MHA will be explained. One of the most important changes is to stepped care along an (involuntary) Care Plan. Within the framework of this stepped care, there is the possibility of outpatient involuntary treatment. In the previous Dutch MHA, involuntary treatment was only possible in a clinical situation. Who is responsible for which decisions in involuntary care, and who supervises the practice of involuntary treatment? What is the role of the Chief psychiatrist in this supervision? What role will the psychiatrist play? Can something be said about the different responsibilities within the range of the judicial 'Care Order', advised by the 'Commission on Involuntary Care'?

## Forensic Mental Health and Involuntary Treatment

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Two new laws have recently been issued in the Netherlands: a completely new law on Forensic Mental Health Care, and a renewal of the existing law on coercive/involuntary Mental Health Care. Both laws are strongly related; the goal is to make the transition between judicial and regular mental health care simpler. The Dutch Ministry of Health and the Dutch Ministry of Justice have worked together on these two closely related laws. In this presentation the focus will be on the new Law on Forensic Mental Health. Practical

consequences for the organisation of forensic mental health care in the Netherlands will be discussed. An overview of the different forms and types of Forensic Mental Health Care in the Netherlands will also be given. Different settings and different types of treatment will be discussed. An outline of the national structure of responsibilities and duties (Ministries, Inspections, Dutch Health Authority (NZA) and fmhc-providers) will be given. The link between the forensic system and the general mental health system is complex; a significant number of problems have been distinguished in the process of “continuity of care”. Special focus will be on the similarities and differences in the use of involuntary treatment within both laws.

## 69. Mental Health and Forensic Psychiatry in Brazil

### Psychiatric Evaluation and Risk Profile of Forensic Patients in São Paulo State, Brazil

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**Introduction:** In the Brazilian Penal Code, all mentally ill who commit any kind of crime should be sent to a forensic hospital. The psychiatrist responsible for the evaluation is required to inform the judicial authority about diagnosis, prognosis and risk. Since the libertarian movements and laws (the so-called “Brazilian Psychiatric Reform”) of the seventies, these facilities have not been updated, and investments in infrastructure, new personnel and technical training have been minimal. There are 1,100 vacancies in São Paulo, and an ever-growing penal population that has now reached 180,000 inmates within the state. This work is based on 199 evaluations of patients located all over São Paulo State’s penitentiaries and provisory detention centers.

**Results:**

- Total of 199 patients
- Mean age of 33.85 years old;
- 80.9% were single, divorced or widowed;
- 40.5% were arrested for the first time;
- 26.62 had psychotic disorders; 72.7% had abuse or dependence to alcohol and/or drugs; 5% had epilepsy; 17.6% had mental retardation; 5.5% had pedophilia; 7% had mood disorders; 21.12% had personality disorders; 10.5% had other diagnosis.

- Crimes: 21.15% of the inmates had convictions related to drugs (traffic); 65.78% with theft or armed robbery; 36.53% with aggression, assault or murder and 17.73% with sexual crimes.

Discussion: This sample sheds some light on the composition of forensic hospitals located in São Paulo State, Brazil. The State still has no structure in place that guarantees proper assistance for the mentally ill in prison. We have informed the authorities and hope that solutions are found and implemented as soon as possible.

### Inpatient Psychiatric Care in a General Hospital: The Experience of the Hospital of the Penitentiary System in São Paulo, Brazil

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Objective: This study aims to present and discuss the peculiarities of a psychiatric inpatient service in a general forensic hospital. Presentation: In early 2009, the inmates of the State of São Paulo, Brazil who presented with severe mental disorder that required hospitalization while serving their sentences began to be treated at the Hospital of the Penitentiary System (HPS). HPS is a general hospital that provides care for the penitentiary population in the State (around 170,000 individuals). The 224/1992 ordinance of the Brazilian Health Ministry established the creation of psychiatric beds in general hospitals, aiming to provide support for the hospitalization of patients with severe mental disorders in the country. At the HPS, the service has been coordinated by a multidisciplinary team of mental health professionals, including a psychiatrist, a psychologist, a social worker, an occupational therapist, and several nurses. The ward has 8 psychiatric beds, and hospitalized patients remain there for an average of 20 days. During treatment, the patient receives intensive assistance for the

clinical condition. Their family is typically brought into the context of treatment as well, with the intent of collecting more adequate information, as well as trying to garner an approximation of the reality faced by the patient. Approaches that support and provide clarification for the family are implemented as well. After discharge, patients are redirected to their original prisons. The penitentiary units are contacted in order to begin a program to assist in the reintegration of the patient. Patients are thereafter treated as outpatients of the Hospital. The idea is promote their mental health, improve their quality of life, and prevent further need for hospitalization.

### An Experimental Forensic Psychiatric Unit for Young Offenders in Brazil

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The Brazilian Justice system for managing juvenile offenders is based on a special code, called the Statute of the Child and Teenager, and dates from 1990. This code of law is applied to offenders under the age of 18. In juvenile cases, the punishments for infractions are the so called “socio-educative measures”, and the total institutionalization time should not exceed 3 years. In São Paulo State, the Court has changed the regular protocols in a controversial way, sending some of the offenders from the juvenile facilities to a special closed unit, outside the system, to “treat” them. Nine youngsters have been transferred by court order, against the recommendations of The State Secretary for Health of São Paulo, with no prediction given for when they are likely to be discharged and no rules. The motives for this measure were based in social and psychiatric issues: the offenders were all found to be antisocial or psychopaths by the psychiatrist appointed by court to evaluate them. Additionally, they were charged with crimes against the person (murder and abuse, with traits of perversity). We aim to discuss legal issues related to personality disorders and how psychiatry is being used by the justice system to keep people with this diagnosis isolated from society. This presentation will also reflect on the hypocrisy of selecting only these youngsters for confinement in the special closed unit, while we know that about 10-20% of regular inmates are psychopaths. The main questions are:

- a) What are the expectations of Brazilian society regarding these interned juvenile offenders?
- b) When cases such as these arise, does the Public Health System have a better solution?

## Compulsory Hospitalization Study at the Juquery Psychiatric Hospital of the Santa Casa of São Paulo Medical School, Brazil

Luiz Felipe Rigonatti, *Juquery Psychiatric Hospital, São Paulo, Brazil*  
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In Brazil, psychiatric hospitalization is divided into voluntary, involuntary, and compulsory (court order). This context fits the reform of psychiatric care in Brazil. Law 10,216, enacted in Brazil in 2001, provides for the right of patients with psychiatric disorders and the care model of mental health in the country. Article 6 states that a psychiatric admission will only be possible through the medical opinion that characterizes their motives. However, in many cases, the judiciary provides medical treatment without technical evaluation of the patient. This study aims to evaluate the profile of patients admitted by court order at the Juquery Psychiatric Hospital of the Santa Casa of São Paulo Medical School, Brazil. The study was conducted by the analysis of records of patients admitted compulsorily over a four month period (September 2010 to January 2010). During the investigated period, there were 17 compulsory admissions in the service. Eleven (64.7%) patients were men. In only one case there was a medical report justifying the need for psychiatric hospitalization. Fourteen cases (82.4%) were diagnosed with drug addiction. Most patients were male and presented drug addiction. In almost all cases there was no medical report justifying the admission. This shows the high number of psychiatric admissions to a mental health unit by judge decision and denotes the increasing judicialization of mental health in Brazil. This phenomenon may be due to the problems relating to medical assistance for patients with mental disorders in Brazil, mainly for those who present severe drug addiction, which has occurred in the country because of the reform of psychiatric care.

## 70. Is the Use of Deception Ever Morally, Professionally, and Legally Acceptable in the Practice of Psychiatry?

### A Complex Out-Patient Case of Deception Involving Co-Morbid Disorders

Ken Balderson, *St Michael's Hospital, Toronto, Canada*  
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In this presentation, the following situation will be explored to demonstrate the pressing moral quandaries that clinicians often encounter in psychiatry. A 39 year-old man, a second-

generation immigrant to Canada from a southern European country, had a history of schizophrenia. He lacked insight into his illness and was chronically noncompliant with treatment. He developed skin lesions that were identified as Kaposi's Sarcoma, and he tested positive for HIV and was diagnosed with AIDS. Although he wanted treatment for his skin condition he denied having HIV/AIDS, saw no need for HIV/AIDS treatment, and refused to attend medical appointments. His family began to put antipsychotic and antiretroviral medication in his food without his knowledge. Remarkable improvement was seen in his Kaposi's Sarcoma, but he continued to refuse to attend medical appointments. Outpatient care providers were concerned about the ethics of treating him without his knowledge, with medications known to have serious risks. He was not receiving the routine laboratory tests used to monitor for potential toxicity, and specialists became reluctant to continue treatment. There were also public health concerns about his sexual practices and risk of infecting others unless his denial of having HIV/AIDS was challenged. The various care providers had differing views about whether the patient should be confronted about his conditions, and the consequences if this were to reveal the deceptive treatment.

### A Critical Examination of the Ethical, Professional, and Legal Principles Applicable to Cases Involving Lies and Deception in Psychiatry

Steve Abdool, *Homewood Health Centre, Guelph, Canada*  
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Taking a very open and interactive approach, participants will examine the following arguments to address the use of lies and deception in mental health. In today's Western society in particular, there is a heightened legal and professional emphasis on individualism. In health care delivery, this translates into the prominence of the patient's right to self governance, including the right to make seemingly "bad" decisions, whose ramifications, in the professional opinion of his/her care providers, are likely to run contrary to the patient's health, welfare, and well-being. This often causes moral distress in clinicians, who feel obliged by duty to care and the ethical principle of beneficence to act to benefit and sometimes protect the vulnerable patient. However, patients need to provide health care providers with informed consent to health care interventions; otherwise, such interventions would likely constitute assault by law. Informed consent requires full and free disclosure to the capable patient (or to the substitute decision-maker of the incapable patient). A lack of full disclosure, for example, by hiding medication in a patient's food, is perceived as deception, which runs contrary to ethical, professional, and legal values and principles. Under exactly what conditions, if any, might deception be justified?

## The Philosophical Nature and Role of Deception in Mental Health

Rosalind Abdool, *University of Waterloo*  
(rabdool@uwaterloo.ca)

‘Deception’ can be briefly described as intentionally and consciously misleading someone. In health-care, this is usually motivated to safeguard a patient’s ‘best interest’ (i.e., guided by the principle of beneficence). As a traditionally paternalistic profession, medicine abounds with situations involving deceit. However, at least in current Western society, there exists a strong desire for respect for autonomy to be the major guiding ethical principle in health-care. In mental health, the two notions of respect for autonomy by considering the patient’s desires and wishes and promoting a patient’s well-being often come into conflict. When ought it be appropriate, if ever, to place less emphasis on a patient’s autonomy in order to promote greater well-being for that patient? In cases where patients lack capacity, and cannot make certain decisions for themselves, is the “deception” of a patient in order to promote greater well-being rightly considered traditional deception? Philosophically, the presenter would critically examine the moral nature of deception; is it necessarily a morally dubious concept, as it has traditionally been labeled? It could be argued that in some very specific situations deception is morally permissible, and perhaps even desirable, in health-care.

## Deception and Non-Disclosure in Mental Health Research

Louise Campbell, *University Dublin College*  
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This presentation will examine the relationship between deception and non-disclosure in mental health research. Deception in research may be defined as the production of false beliefs in participants about the nature or purpose of a study, while the concept of non-disclosure refers to the deliberate withholding of information about some aspect of the study. The question of whether deception is ever permissible on therapeutic grounds is a controversial one. Some argue that any form of deception violates the ethical norms governing human experimentation and undermines the informed consent process. Obscured by this debate, however, are the myriad ways in which non-disclosure may lead to deception in the practical implementation of a research study. Research has shown that investigators often withhold information from participants with mental illness because it is assumed that the information will be harmful or will not be understood. The rationale for the use of placebo controls in drug trials is a case in point, although other examples include

withholding information about the purpose of the study or about the quality of the intervention tested. The purpose of this presentation is to examine the prevalence of deception in mental health research and to explore the adequacy of the justifications provided for it.

## The Covert Administration of Medication to Persons with Mental Health Issues: A Legal Analysis

Tess Sheldon, *University of Toronto*  
(tess.sheldon@utoronto.ca)

Participants will consider the legal and constitutional requirements that govern the covert administration of medication. The covert administration of medication to a person who is capable of consenting to treatment is a clear violation of the Ontario's Health Care Consent Act, exposes the practitioner to criminal charges of battery, false imprisonment or fraud, and may violate the practitioner's professional responsibilities. On the other hand, the covert administration of medication to a person who is incapable of making a treatment decision raises complex legal issues. While Courts have not commented on its legality or the constitutionality, the covert administration of medication engages consideration of Canadian constitutional protections, including security of the person, procedural rights on arrest or detention, freedom from cruel and unusual "treatment or punishment", and the right to equal treatment including on the basis of "mental disability". The covert administration of medication also raises questions about procedural fairness. In Ontario, it is unclear whether the substitute decision maker must consent specifically to the form of the administration. Neither the substitute decision maker nor the patient would be able to challenge the health practitioner's decision to covertly administer the medication. The presentation will also consider the application of international law.

## 71. The UNESCO Ethics Case Book Project: Psychotropics in Industry: Part I

### The Impact of Pharmaceutical Industry Influence on Psychiatric Decision Making

Harold Bursztajn, *Harvard Medical School*  
(harold\_bursztajn@hms.harvard.edu)



I will focus on a case analysis from the standpoint of medical decision making of the importance of clinicians and patients having timely information regarding the potential risks, benefits, and alternatives of recommended psychotropic medications. I will explore how delay in disclosure of risks of psychotropic medications can foreseeably foster denial of risks via such well described cognitive mechanisms as anchoring, adjustment, and conservatism in psychopharmaceutical decision-making and prescribing habits.

### Under-Reporting of Harms in Medical Journals

Abilash Gopal, *University of California at San Francisco*  
(abi.gopal@gmail.com)

This presentation will discuss the recent studies on the under-reporting of harms in high impact peer-reviewed medical journals and how the lack of consistency in reporting adverse side effects undermines genuine informed consent. The presentation will focus on the side effect profiles of SSRIs and atypical antidepressants.

### Enhancing Collaborative Decision-Making in an Industry Dominated Climate

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

This presentation will address the ethical issues that arise when professional and academic organizations are influenced by pharmaceutical companies. For example, how pharmaceutically driven Clinical Practice Guidelines create impediments to the informed consent process will be discussed. This presentation will also discuss the problem of covert industry ties - such as when professional practice foundations or patient advocacy groups receive significant funding from pharmaceutical companies. Indeed, these indirect industry ties are a largely unaddressed but significant problem in the mental health field because patients may be receiving imbalanced or inaccurate information about the efficacy and safety of psychotropic medications. Disclosure of direct or indirect financial conflicts of interest is insufficient to protect the interests of vulnerable psychiatric patients. Suggestions for creating a more genuine informed consent process and for enhancing collaborative decision making will be offered.

### The Ethical Implications of the Pharmaceutical Industry's Influence on the Nosology and Treatment of Psychiatric Disorders

Itay Shuv-Ami, *Tel Aviv University*  
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This presentation will address the ethical implications of the pharmaceutical industry's influence on both the nosology of psychiatric disorders, as well as the conceptions of suggested treatment approaches as presented in various clinical guidelines. For example, the pharmaceutical industry's influence on treatment decision making has contributed much to the erosion of the DSM's biopsychosocial axial structure in standard psychiatric practice. This erosion has far-reaching implications on the ethical practice of psychopharmacology. Unethical consequences will be discussed, including those that arise even when an indicated medication is being prescribed for an approved disorder. These consequences will be shown to occur in several individual and societal areas, including issues of informed consent, beneficence and non-maleficence, as well as others. Suggestions for promoting a more ethically sound practice will be offered.

### Under-Reporting of Pharmaceutical Multi-National Companies on Lack of Efficacy and Possible Adverse Reactions of Psychopharmaceutical Medications

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

An article in the NY Times on June 10, 2005 referred to Ely Lilly's \$690 million dollar out-of-court settlement of 8,000 lawsuits over Zyprexa-induced diabetes. The Zyprexa suits contended that from 1996 to 2003, Lilly did not adequately disclose the drug's risks. Another class action suit was filed in Pennsylvania in March of 2006 against SmithKline Beecham and GlaxoSmithKline (GSK) after the tragic death of Trevor Blain, an 11 year old boy and the suicide attempt of Tonya Brooks, a 17 year old girl. The class action suit contended that the suicide attempts had been influenced by "Paxil", manufactured by GSK. The claim contended that, in the U.S., GSK failed to publish a warning against the use of Paxil in children and adolescents under the age of 18, although such a warning was issued in the UK. This claim revealed serious violations of ethics, as GSK under-reported clinical trial results which pointed to the lack of efficacy of Paxil, under certain circumstances, in children and adolescents. A similar claim has been filed in Israel against GSK, which circumvented Ministry of Health regulations regarding the prohibition on the use of Seroxat in children and adolescents. Lawsuits such as these launched against pharmaceutical companies emphasize the problems that arise from under-reporting or even concealing vital drug information from both the doctors and the public. The presentation shall discuss this

problematic issue, which concerns not only ethics violations but also tort and criminal law violations.

## 72. The UNESCO Ethics Case Book Project: Psychotropics in

### Industry: Part II

#### Unbalanced Information Leading to Unbalanced Care for Patients

Robindra Paul, *Consulting Psychiatrist, Cleveland, USA*  
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Doctors attend educational conferences, continuing education programs, and meal programs that are sponsored, at least in part, by pharmaceutical companies. Furthermore, doctors are in contact with drug representatives and colleagues speak about particular medications in pharmaceutical-sponsored events. The information provided at these events lends a favorable perspective to the medications that pharmaceutical companies are marketing. Without a balanced perspective, clinical choices are likely to be biased in favor of these medications. This presentation will provide case vignettes and discuss how unbalanced perspectives can lead to less than optimal care for patients.

#### The Impact of the New Transparency on Psychiatry and Industry

David J. Rothman, *Columbia College of Physicians & Surgeons*  
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Over the past several years, an extraordinary change in disclosure and transparency of industry-physician payments has occurred. Mostly as the result of settlements to the lawsuits brought by the U.S. Department of Justice, some dozen drug and device manufacturers now disclose on their websites the names and affiliations of physicians to whom they have made payments and the exact dollar amount of the payment. Thus, for the first time, there is a public record of who is receiving what from industry. This presentation will explore the meaning of this innovation for psychiatry. Using several of the websites, it will first, provide an analysis of the type of data available and the uses to which they can be put. It will also offer some initial comparisons between psychiatry and other specialties. From this base, the presentation will consider various possible outcomes related to this new level of disclosure. It will focus on psychiatrists in academic medical settings, on authors of

psychiatric journal articles, and on practicing psychiatrists. This analysis is all the more important because beginning in 2013, there will be, courtesy of the Sunshine provisions in the new health care reform bill, a national data base, with search engines, that will contain payments from all companies to all physicians. In other words, every dollar that a psychiatrist earns will be public information. How this information might be used by editors, deans, chairs, and patients will be at the core of this presentation.

## The Role of Patient Advocacy Groups in Shaping Psychiatric Care

Sheila M. Rothman, *Columbia University*  
(Smr4@columbia.edu)

This presentation will explore the influence of patient advocacy groups on the framing of policy and practice in the field of psychiatry. Although patient advocacy groups are not unique to psychiatry, they are of extraordinary influence in determining public and private reimbursement policies for psychiatric drugs —what drugs are paid for, and who receives the benefits. At the same time, patient advocacy groups often receive substantial support from the drug industry, in a frank effort to promote the marketing of their products. Analyzing the industry ties and advocacy activities of these patient groups is now possible because of the new disclosure and transparency policies followed by a number of pharmaceutical companies. As a result of settlements to the lawsuits brought by the U.S. Department of Justice, a number of companies now disclose on their websites not only payments to physicians (as per the presentation of David Rothman) but also payments to patient advocacy groups. Here too, and for the first time, there is a public record of what groups are receiving financial support from industry. This presentation will open with a brief examination of the history of patient advocacy groups, with particular attention to their emergence in the field of psychiatry. It will next trace the influence of the groups on public policy and overlapping agendas of the groups and industry. This presentation will build on and extend the findings of my recently completed article, to be published in January 2011 in the *American Journal of Public Health*, entitled, “Health Advocacy Organizations and the Pharmaceutical Industry: An Analysis of Disclosure Practices in a Sentinel Case.”

## Is Sunshine Always the Best Disinfectant? U.S. Senator Charles Grassley's Campaign for Medical Transparency.

Frederica Stahl, *Columbia University*  
(sfs2130@columbia.edu)

In 2013 pharmaceutical companies will be legally bound to publicly disclose all payments to U.S. physicians. This paper describes a U.S. Senator's successful campaign to legislate transparency of industry-medicine relationships. His campaign focused on cases of conflicted psychiatrists at influential Academic Medical Centers. The violations of conflict of interest in many of these cases were egregious, but apart from a temporary glare of adverse publicity, transparency changed little. These case stories show sunshine has been less effective as a disinfectant than many of us would have presumed.

## 73. New Frontiers in Forensic Psychiatry

### What Can Natural Science Tell Us about Human Responsibility?

Henrik Anckarsäter, *University of Gothenburg*  
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In a seminal 2001 paper, followed by a book in the Oxford University press series "International Perspectives in Philosophy and Psychiatry", Bracken and Thomas called for psychiatry to develop into a "postpsychiatry". Acknowledging the significant progress achieved through modern psychiatry, they envisioned increasing awareness of context, skepticism to the meta-narratives ("grand theories") of modernistic science, and emphasis on ethics over technology, specifically as related to coercive care and societal interests taking precedence over individual needs and rights. Using these principles to approach issues in psychiatric diagnostics, including its use in legal contexts, I have argued for a rigorous interpretation of what empirical psychiatry can actually inform us on, for dysfunction and subjective suffering as measures of severity of mental health problems, and for restrictions in special legislations by diagnostics (penal or other, Anckarsäter, 2010). However, the overarching trends in today's psychiatry are turning in an opposite direction: psychiatry is becoming functionally "hypermodern". Based on noting but correlations and general assumptions about causality, it is claimed that free will and moral responsibility have been scientifically refuted. Categorical diagnoses continue to be treated as discrete disease entities independent of culture and context, in spite of epidemiological, behavior genetic, brain imaging, molecular genetic, and neurocognitive studies demonstrating that mental health problems are dimensional, dynamic, complex, non-specific, and etiologically heterogenous. Even if psychiatric assessments of dangerousness were discarded as unreliable and unethical forty years ago, forensic psychiatry has continued to develop new "generations" of risk assessment methods, and in spite of consistent evidence showing that the best predictor of future behavior is previous behaviors, risk assessments become more

and more of a priority in clinical psychiatry. Not only “risk” but also other numerical abstractions, such as “quality”, “efficacy”, and “security”, are catch phrases increasingly used to defend industrialized treatment and coercive measures that serve societal rather than individual needs.

## The Concept of Accountability

Susanna Radovic, *University of Gothenburg*  
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Since 1965, Swedish penal law does not exculpate on the grounds of diminished accountability; perpetrators of serious crimes can be sentenced to either imprisonment or involuntary psychiatric treatment. Whether an offender is sentenced to such treatment depends on the type and severity of the mental disorder, its relation to the crime, and the need for treatment, rather than on whether certain cognitive and volitional requisites are met. In recent years, a re-introduction of accountability as a precondition for legal responsibility has been argued for, recently even by the Swedish Government itself. It has been suggested that such a regulation would better satisfy the requirements of humanity, justice, legal security, predictability, and proportionality (SOU 2002:3 p. 220). There are, however, many difficulties implicated in using accountability as a prerequisite for legal responsibility that have been overlooked in the Swedish debate. Some of these difficulties involve the vagueness of the concept of accountability itself. In this paper I will critically examine the arguments that have been raised in favour of a change in the Swedish legal system and describe and discuss the conceptual difficulties involved in using the concept of accountability in legal circumstances.

## Contemporary Design of Facilities for Forensic Psychiatric Care in Sweden: Differing Visions and Outcomes

Morgan Andersson, *Chalmers University of Technology*  
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That considerable changes are underway in Swedish forensic psychiatry is reflected in the design of clinics since entering the new millennium. Seven new forensic psychiatric clinics accommodating 500 patients are planned or under construction in Sweden, costing an estimated 3 billion Swedish Crowns. Documentation regarding organization, planning, and construction has been collected. All building projects between 1970 and 2008 have been studied in order to analyze current design development in facilities for forensic psychiatric

care. This paper presents the initial findings. Post 2006, the projects show increasing static security adaptations concomitant with regulations issued by the National Board of Health and Welfare (SOSFS 2006:9), with the changes occurring despite unaltered legislation. We also found great diversity in the physical design, little coordination between the projects, and varied visions and goals. Few scientific studies or systematic needs assessments were made prior to decision-making. Objections from neighbours delayed construction in several instances, especially in locations outside hospitals or near housing areas. There were also considerable variations in the interpretation of the legislation that stipulates public access to official documentation and the time-frame within which such requests must be granted.

## Religion in Prison

Anna-Kari Sjödin, *National Board of Forensic Medicine, Gothenburg, Sweden*  
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The aim of this study is to investigate religious beliefs among prisoners. The conditions for this area of research are unique in Sweden, as it is the only country where the correctional system is supportive of retreat activity (i.e., as has been done in the Kumla maximum security prison since 2001). Traditional religious concerns revolve around atonement, guilt, good and evil - questions that are of immediate importance for one who has committed a crime. What aspects carry the most weight? Is it a set of beliefs based primarily on ethical considerations (i.e., how one should act to live well and lead a good life)? Or is there also room for thoughts about the meaning of life and of mythical character, such as the divine presence in creation? Does religious conviction reach the deeper layers of the human psyche (i.e., the realisation of personal shortcomings, and experiences of guilt)? This is not a study of treatment; it will, however, add to our knowledge of what religious experiences contribute when building a concept of the meaning of life, and furthermore investigates the need for support of religious activities in prison.

## Economic Steering Mechanisms

Fredrik Dahlin, *Stockholm School of Economics*  
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This project relies on accounting theory in the fields of accountability in interorganizational settings and aims at studying the practice within Swedish administrative bodies, primarily municipalities, of pre-emptive measures for juveniles risking to establish a life-path characterised by crimes and substance abuse. The study is inspired by the fact that the costs

of preventing the development of criminality and substance abuse are low compared to the societal costs of fully developed deprived lifestyles (police, courts, prisons, insurance-damage controls), not to mention the non-monetary costs of crime-victims reduced life quality. In Sweden municipalities are responsible for pre-emptive measures, since it constitutes social problems while the state is in charge of handling crimes (a law-enforcement issue). The prime hypothesis is that municipalities save money by holding pre-emption costs down since future costs will be a matter for the state. The pilot study rather indicates that the level of public spending for pre-emptive measures is determined by available financial resources rather than estimated needs; they are reduced in times of recession and increased in good economic times. The pilot study also displays the effect of several dimensions of accountability within the municipalities.

## 74. Pressing Spiritual, Religious, and Cultural Constructs of Mental Health, Illness, and Existential Distress

### Theological Perspectives in Times of Distress

Christine Jamieson, *Concordia University*  
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This presentation will consist of three parts with the goal of exploring the role of theology in times of psychic distress. First, the presenter will clarify the intricate connection between mental health and the experience of a meaningful existence. Humans are oriented towards meaning at a very basic level. Language is one realm of meaning but certainly not the only one. Additionally, she will explore different realms of meaning operative in human living. Next, she will explore the rupture or gap that constitutes human preconscious experience which is a core cause of the anguish experienced with a loss of meaning. This will be further explored by drawing on the work of psychoanalyst and linguist, Julia Kristeva. Finally, it will be proposed that experiences of meaning and loss of meaning are “religious” in nature and therefore call for a theological response. The presenter’s contention is that questions of meaning and meaninglessness presuppose a deeper, religious question of ultimate value and meaning in human existence.

### Identifying and Supporting the Spirituality of Patients within a Mental Health Setting



Janet M. Young, *St Joseph's Healthcare, Hamilton, Canada*  
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Spirituality is difficult to define and has many voices within a mental health setting. However, spiritual or religious language is often used in the expression of psychological distress. How can we differentiate between a genuine expression of belief and a cultural interpretation of psychosis? How does psychosis impact faith? What tools can be used by the caregivers to interpret the ideas being expressed in such language? This would include a discussion of the importance of understanding the nature of personal belief using recognized cultural beliefs and religious norms as resources in recovery. Examples will be given of how religious language and symbolism might be interpreted. Fowler's developmental model of faith will be related to how mental health consumers expand and integrate their belief system to support their recovery. Examples will be given illustrating how spiritual support has facilitated recovery. The role of professional spiritual care providers will be examined within a multidisciplinary team context. Their shamanic role within the wider community and its significance within the healthcare system will be examined. Recent research on spiritual care in mental health will be presented.

### Promoting Emotional and Spiritual Health and Well-Being in Clinicians

Alison Abdool, *Homewood Health Centre, Guelph, Canada*  
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Edgardo Perez, *Homewood Health Centre, Guelph, Canada*  
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The concept of well-being and positive health necessarily consists of the physical, mental, social, and spiritual attributes that permit an individual to cope successfully with challenges to health and functioning. 1 in 4 Canadians will experience mental illness at some point in their life, and naturally health care professionals are no exception. Arguably, their vulnerability to developing emotional, psychological, and psychiatric disorders, including existential distress, may be heightened due to the nature and complexity of today's health care delivery processes. This presentation will critically explore the important (yet much ignored) dimension of spirituality and emotional health and well-being at both personal and organizational levels. It is crucial to recognize the extensive nature of moral distress, compassion fatigue and burnout in today's health care system. In this presentation, the presenter will facilitate an examination of a number of concepts and strategies to effectively achieve a healthy sense of self and well-being while providing care and treatments to

psychiatric patients. These will include emotional well-being, personal mastery, knowing oneself, developing a personal plan for resilience, stress-proofing for life, change as it applies to oneself and others, and a formula for success and happiness.

### An Exploration of the Socio-Cultural Interface of Spirituality, Stigma and Labeling

Steve Abdool, *Homewood Health Centre, Guelph, Canada*  
(abdostev@homewood.org)

This presentation will critically examine socio-cultural sources of stigma and labeling associated with 'mental illness' that significantly influence patients', families', health care professionals', and society's perception and treatment decisions. These pose serious challenges regarding illness identification, care, and recovery in many diverse cultures. Such obstacles may include a deep mistrust of the institutions/experts and beliefs in the unreliability of diagnosis; differing norms and understanding of mental illness in general; significant poverty/socio-economic dimensions to health and coping; poor understanding of support systems in place; fear of further persecution and/or stigmatization; language/gendered/cultural/normative differences creating perceived and possibly real barriers; preconceived notions of the expert and the powers/implications/fears of a tyranny of experts; and a lack of knowledge of self-advocacy and rights, with far-reaching implications for both self and family. Several essential strategies for addressing these issues will be briefly explored. For example, the role and responsibilities of governments and health care organizations to actively support advocacy initiatives, public education to reduce – and eventually eradicate - myths relating to both people from diverse cultures and mental illness itself, integration of education relating to culture, stigma and labeling in the educational curriculum of health care professionals, and assisting patients to regain a sense of dignity and self-worth.

### Helping in Healing: South Asian Ethical Perspectives on Spirituality and Culture as Catalysts in the Healing of Mental Illness

Joseph Chandrakanthan, *Homewood Health Centre, Guelph, Canada*  
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The dialectical relationship between spirituality and mental health has well been established with empirical and scientific research in the last three decades or so. In many of the eastern religions, the spiritual path to find and experience the Divine has been in inextricably

interwoven with techniques that have psychological and psycho spiritual manifestations. In spite of the availability of medical treatment, it is not uncommon that people resort to spiritual healers, exorcists, charmers, magicians, and other similar person with spiritual powers to rid themselves of psych-somatic or psychic illnesses. This presentation will touch upon some of the mental illnesses that are said to be at least in part caused by religion and excessive religious scrupulosity, and on the other it will also examine the ways and methods of healing that invoke super-natural or spiritual powers. Some of these methods have been proposed to and accepted by the medical community for their ability to provide relief from mental illness. In presenting the empirical aspects of this phenomenon, an ethical examination will also be explored.

## 75. Clinical and Ethics Controversies

### Ethics of Medical Privacy in Clinical Practice

Graham Spruiell, *Harvard Medical School*  
(gls@analysis.com)

Doctors in countries around the world struggle with an ethics dilemma involving medical privacy. Within the past century, the development of such devices as the Hollerith Tabulator, computers, and the internet have dramatically magnified this concern. Federal and statutory regulations that compel disclosure of confidential information, along with investigations into alleged wrong-doing on the part of doctors, also heighten this concern. Still, many doctors consider confidentiality to be a first principle of medical ethics: a precept, that will be argued, derives from Natural Law, the Hippocratic Oath, Common Law, and is referred to in documents such as the American Constitution and the UN's Constitution of Human Rights. Doctors are increasingly called upon to wear two different hats and can rarely dedicate themselves exclusively to their patient's interests, but are also expected to balance their patient's interests against larger social and political interests. This presentation will touch upon strategies to deal with this ethical conflict while taking into account variations in legal frameworks according to country.

### Do Expert Witnessing and Informed Consent Show Parallel Differences with Other Differences between the U.S. and Western Europe?

Michael Lamport Commons, *Harvard Medical School*  
(commons@tiac.net)

In Kohlberg's moral developmental theory, only at the metasystematic stage 12 (achieved by 1.5% of people in educated society) is there a coordination of rights with responsibilities. That is, rights and responsibilities are seen to be the reciprocal of one another. At all lower stages, right and responsibilities are seen as separate and competing. There seem to be two dimensions on which the U.S. and Western Europe differ: there may be greater emphasis on duties and responsibilities in Europe than in the U.S., and less of an emphasis on rights and freedoms. The U.S. may also emphasize individuals, compared to a greater emphasis on groups in Western Europe. For example, in the U.S., individual rights (free speech) are very important, whereas in Western Europe, group rights (assembly) are important. The emphases in the U.S. on individual rights include strict equality and behavior based on free will, whereas in Western Europe there is less emphasis on individual rights and greater emphasis on heredity, individual differences and history. The presentation will discuss the implications for conformity, religion, free will, belief in authority, informed consent, and rates of crime and incarceration.

### Impediments to Informed Consent

Lisa Cosgrove, *University of Massachusetts at Boston*  
([lisa.cosgrove@umb.edu](mailto:lisa.cosgrove@umb.edu))

This presentation will address impediments to the informed consent process. It will discuss the meta-analytic studies that have raised questions about the efficacy of antidepressants and the validity of the methods used to assess their risks and benefits. For example, the presenter will discuss how the design and methodology of RCTs for antidepressants can favor industry in subtle but significant ways, such as through the use of improperly designed outcome measures and through the use of statistical techniques to control for attrition that artificially enhance efficacy findings. Suggestions for overcoming impediments to informed consent and for enhancing ethical practice and collaborative decision-making will be offered.

### Boundaries: Applying Understanding of and Insight about Human Nature and Political Violence

Terry Bard, *Harvard Medical School*  
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Understanding and insight about the brain and human behavior over the last century continues to generate a variety of models for addressing and alleviating suffering and modifying thought and behavior. These models evolved based on both clinical experience and empirical study, often for therapeutic relief though, at other times, simply for readjusting behavior or thinking. Mental health professionals utilizing these models and associated techniques have achieved powerful social roles in managing these models for the benefit of individuals with whom they interact. Recognizing the potential persuasive and analytic capacities of mental health professionals - particularly psychiatrists, psychologists, and other similarly trained persons - in recent decades, governments, their leaders and militaries, have tried to use such trained individuals to support political and/or military objectives, generating a backlash by some professional groups and achieving support by other professional groups. Establishing moral, ethical, and clinical boundaries remains murky and begs for greater awareness and clarity among mental health providers that can be used when faced with experiences that challenge them.

## 76. HUMAN RIGHTS AND MENTAL HEALTH ISSUES IN CHINA

### Forced Organ Harvesting in China: Part I

Torsten Trey, *Doctors against Forced Organ Harvesting, Washington, USA*  
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Doctors against Forced Organ Harvesting is a non-governmental organization which seeks to bring unethical medical practices to public awareness, to initiate further investigation and to promote ethical practices in medicine. It was founded consequent on publications about unethical and forced organ procurement practices mainly reported from China and summarized in the Kilgour & Matas Report. This presentation will provide the latest information available about unethical and forced organ procurement practices in China and report on its own efforts to initiate further investigation and to promote ethical practices for organ transplants in China.

### Forced Organ Harvesting in China: Part II

David Matas, *University of Manitoba*  
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David Kilgour, *Former Member of Parliament, Edmonton, Canada*

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This presentation will draw a comparison between what the psychiatric profession did to end abuse in the Soviet Union with what the transplant profession has done to end abuse in China. The World Psychiatric Association condemned the Soviet Union for abuse of psychiatry against political dissidents by resolution in 1977. The Soviet Psychiatric Association withdrew from the World Psychiatric Association in 1983 when it faced almost certain expulsion. The World Psychiatric Association agreed in 1989 to readmit the Soviet Psychiatric Association provided several conditions were met. This presentation will address the adequacy of current efforts of all the organizations represented in this panel to stop the killing of prisoners in general and Falun Gong practitioners in particular for their organs.

### **Mental Illness and Crime: A Study Based on Forensic Psychiatric Assessed Cases in China 1997-2006**

Junmei Hu, *Sichuan University*  
(Junmeihu@hotmail.com)

Background: Criminal acts by mentally ill persons have led to growing concerns about how this type of offender will be dealt with in different countries, but there is relatively little English literature on forensic psychiatry from China. Objective: To analyze the characteristics of 2,152 criminal cases assessed by forensic psychiatric experts and introduce the status of forensic psychiatry assessments in China. Methods: A retrospective study of 2,152 criminal cases assessed by the Forensic Psychiatry Department of Sichuan University, China between 1997 and 2006. A total of 3,016 cases were assessed during this time period. Data on age, sex, education, occupation, offences, psychiatric diagnoses, and legal capacity were described. Results: The number of forensic psychiatric assessments was on the rise between 1997 and 2006. 92.3% of referred units originated from the police. Most of the criminal suspects that we assessed were in their youth or middle aged, unemployed or farmers. All the subjects were diagnosed with mental disorders, including schizophrenia /paranoid disorders (53.2%), personality or conduct disorders (1.0%), dementia (8.8%), alcohol related disorders (10.9%), organic brain dysfunction, epilepsy and associated mental disorders (7.4%), stress-related disorders (3.1%), and mood disorders (4.3%). 8.8% did not have psychosis. Homicide (47.4%) was the alleged crime significantly more often than wounding (18.9%), rape (7.4%), robbery (5.4%), theft (4.85), arson (5.5%), deception/fraud (0.7%), public vandalism (4.0%), poisoning (1.8%), and others (4.1%). 2,081 cases were referred for an assessment of responsibility, in which 47.6% were deemed irresponsible, 21.8% partly responsible and 30.46 fully responsible. 1,121 (53.86%) of the cases referred for an

assessment of responsibility were diagnosed with schizophrenia/paranoid disorders. Only 60 of these (5.4%) were found to be fully responsible; 831 (74.1%) were determined to be irresponsible and 230 (20.5%) were found to be partly responsible. All those not found to have psychosis (181 - 8.7%) were assessed and found to be fully responsible. A total of 49 cases were assessed for trial competence, and 32 (65.3%) were not competent to stand trial. 34.2% of the subjects had never been treated for their disorder, and 59.4% had stopped their medical treatment when the criminal action occurred. Conclusion: The study demonstrated the present state of affairs of forensic psychiatric assessment in China, and provides reference points from which the development of forensic psychiatry can be improved in the future.

## 77. Forensic and Ethics Controversies

### Forensic Psychological Assessment: A Comparison of North American and European Guidelines from a Jurisprudent Science Perspective

Eric Y. Drogin, *Harvard Medical School*  
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Assessment guidelines for forensic psychologists exist either as free-standing documents or as recommendations embedded in general guidelines for clinical practitioners. Some are essentially recapitulations of codified law, while others adopt a guild advocacy perspective seemingly developed without reference to—or in willful disregard of—pertinent legal standards. Components of guidelines fashioned in another nation are occasionally transplanted or incorporated by reference without confirmation of their applicability to indigenous legal and mental health systems. The very best of these guidelines comport with a “Jurisprudent Science” perspective that matches psychological science, psychological practice, and psychological roles in a jurisdiction-specific fashion to the stated requirements of the courts. Participants will engage in a review of various guidelines and consider how the issues raised in representative forensic psychological research and practice vignettes would be addressed in selected North American and European jurisdictions.

### Forensic Psychological Report Writing and Testimony: A Comparison of North American and European Guidelines from a Jurisprudent Science Perspective

John R. Williams, *University of Wales*  
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Even the most artfully—and ethically—crafted forensic psychological evaluation can be invalidated by a maladaptive approach to report writing and testimony. Although this is a phenomenon well-known to lawyers and expert witnesses alike, there is considerable diversity in institutional attempts to address it. A primary distinction can be drawn between guidelines that seek to advance a social scientific agenda—with or without sensitivity to the dictates of indigenous professional culture—and guidelines that recognize that the context within which services are being rendered is legal instead of either clinical or academic. The best of these guidelines comport with a “Jurisprudent Science” perspective that matches psychological science, psychological practice, and psychological roles in a jurisdiction-specific fashion to the stated requirements of the courts. Participants will engage in a review of various guidelines and consider how selected approaches to report writing and testimony would fare in selected North American and European jurisdictions.

### How Do You Know When It’s Torture?

Barry Roth, *Harvard Medical School*  
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A paradigmatic example of the interface between psychiatry and the law is the forensic psychiatric expert’s assessment of torture survivors with Posttraumatic Stress Disorder who are applying for refugee asylum. A consistent, objective, scientific, and systematic medical-scientific approach to the cultural and political nexus, interacting with psychological factors, is necessary, legitimate, and useful to the achievement of just adjudication and respect for clinical variables. The presentation will demonstrate the approach and provide illustrative case examples.

### Distinguishing the Roles of Trial Consultants and Expert Witnesses: Legal and Ethical Issues from a Jurisprudent Science Perspective

Thomas G. Gutheil, *Harvard Medical School*  
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Eric Y. Drogin, *Harvard Medical School*  
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Trial consultants are members of a litigation team, committed to its success and unlikely to be compelled to disclose proprietary information. Expert witnesses, by contrast, must avoid



partisan bias and may be called upon to divulge the data contributing to their stated opinions. Several American commentators maintain that for a host of legal and ethical reasons these two roles are incompatible. By contrast, the British Psychological Society states that expert witnesses may “evaluate the emergent evidence presented by an opposing psychologist” and “advise counsel on issues deemed to merit specific cross-examination,” and finds that such practices reflect “nothing underhand or untoward.” This issue is optimally examined from a “Jurisprudent Science” perspective that matches psychological science, psychological practice, and psychological roles to the stated requirements of the courts. Participants will review (1) differences in the codified approaches of North American and European jurisdictions; (2) the results of pilot research on practitioners’ notions of appropriate trial consultant versus expert witness activities; and (3) prospects for change in related standards of forensic practice.

## 78. Ethics in Forensic Psychiatry

### Shame and Moral Consciousness

Joost Baneke, *University of Oxford*  
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Moral psychology is a very young branch of the steadily growing tree of empirical and academic psychology. But in philosophy, theology, and in the oldest poems and other texts of humanity, one may find many roots and even respected ancient trees which seem to be more or less related to modern moral psychology. Moral psychology is about moral behaviour and its determinants, like emotions, cognitions, motives, personality characteristics, and specific circumstances. In other words, it is about virtues and vices. There is some difference between moral and forensic psychology, the first being more basic than forensic psychology, the latter being more practical and aimed at – for example – concrete diagnostics or treatment of delinquents. Common human emotions like shame and guilt are called moral emotions, and are as such very relevant for moral psychology. As far as behaviour and its antecedents have to do with *mores*, social and cultural customs, it can be studied by moral psychology. In this paper some basic questions about determinants of consciousness, in particular of moral consciousness will be presented. Is moral consciousness a really conscious process, or is it not? In which way are shame and guilt conscious determinants of moral consciousness and behavior? How can we interpret recent empirical research related to moral emotions and free will?

## The Role of Personal Social Networks in Risk Assessment and Risk Management of Forensic Psychiatric Patients

Swanny Kremer, *Forensic Psychiatric Hospital Dr. S. van Mesdag, Groningen, The Netherlands* (s.kremer@fpcvanmesdag.nl)

Social network factors are usually not accounted for in the clinical practice of risk assessment/-management. This presentation introduces the Social Network Analysis (SNA) as an instrument to systematically chart the relationships and personal networks of forensic psychiatric patients. From 2005-2007, the so called 'Forensic Social Network Analysis' (FSNA) was developed in a Dutch Forensic Psychiatric Hospital, FPC Dr. S. van Mesdag. A case study describes the FSNA concepts and shows the benefits of using FSNA as a practical tool for the assessment and management of individual risk behavior. The development and application of risk assessment instruments has recently gained importance in the forensic field. Although structured risk assessment instruments can predict a significant part of future risk behavior, these instruments have several limitations. First, the prediction of future risk is mostly based on group-level analysis rather than on individual-level analysis. A second limitation is the dynamic and temporal nature of risk behavior and risk assessment. Changing a person's setting or social context influences the risk of recidivism. The above limitations can be minimized by integrating social network factors in the risk assessment procedure.

## Conceptual Issues in Forensic Psychiatry: Free Will, Mental Disorder, and Decision-Making

Gerben Meynen, *Free University of Amsterdam*  
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A notorious conceptual issue in forensic psychiatry concerns 'free will'. Forensic psychiatry is confronted with this topic as it provides some of the alleged rationale for forensic assessment. The rationale referring to free will is often explained in three steps: 1) the notion of legal responsibility presupposes that of free will, 2) free will can be compromised by mental disorder, and therefore, 3) forensic psychiatric assessments can play a role in criminal law procedures. If we take such a view of the forensic task, free will is clearly a central component. Yet some scientists and philosophers find the existence of free will to be doubtful, taking the view that our brain appears to be functioning in a deterministic way. How is free will possible given this kind of determinism? In this presentation, I will argue that this is indeed a complicated philosophical problem, but that its relevance to forensic

psychiatric expertise is limited. I will do so by proposing to conceive of the forensic assessment as an evaluation of the influence of a mental disorder on the decision-making process. Yet, from this characterization of the assessment another conceptual issue arises that is deserving of forensic attention; namely, determining the precise ways in which mental disorders can decisively influence decision-making. I will additionally explore how best to approach this issue.

## 79. Action and Responsibility

### Moral Responsibility and the Ability to Tell Right from Wrong

Ragnar Francén, *Stockholm University*  
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One factor sometimes seen as relevant to a person's moral responsibility, and her legal accountability, is that person's ability to distinguish between right and wrong actions. According to the criminal laws of several countries a person having committed a criminal act is unaccountable if, at the time of the act, she lacked the ability to understand the wrongfulness of the act due to mental disorder. This paper distinguishes between different factors that can potentially diminish someone's ability to make moral evaluations. If we take the ability to be motivated in accordance with one's moral evaluations as a prerequisite of being able to make genuine moral evaluations, then people suffering from mental disorders that diminish this ability (i.e., perhaps psychopathy) are not responsible for their acts. This notion could have critical implications for ascriptions of moral responsibility and legal accountability.

### Self-Deception, Agency, and Responsibility

John Eriksson, *University of Gothenburg*  
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Interpersonal deception sometimes compromises the deceived agent's agency. For instance, if Bill performs a particular action as the result of being deceived by Lisa (maybe she lied to him about the consequences or withheld relevant information), then Bill's agency seems to be compromised. As a result, his responsibility may be limited. Indeed, being the victim of deception may even be exculpatory; rather, it is the deceiver that is blameworthy. This raises interesting questions about the effects on agency and responsibility in cases of self-

deception. For instance, is an agent who deceives herself responsible in virtue of being the deceiver and/or exculpated in virtue of being the victim of deception? This paper examines the effects that self-deception may have on agency and responsibility.

## Responsibility and Ignorance

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It is a commonplace assertion that ignorance undermines attributions of moral responsibility and sometimes completely exonerates an agent. On the other hand, there are other cases where ignorance does very little to undermine moral responsibility. These are cases where we find it natural to say that the agent should have known better or should have suspected the bad outcome. The purpose of this talk is two-fold: to explain why our attributions of moral responsibility are sensitive to ignorance in this limited way, and to defend a certain account of the normative requirement to know or suspect certain things that underlie the exceptions to the rule that ignorance exonerates. In very general terms, the suggestion is (1) that we attribute responsibility to an agent for outcomes that we take to be straightforwardly explained by a motivational state of a type that tends to respond to agent's being held responsible for being in such a state and (2) that ignorance often, but not always, undermines this explanatory connection. The cases where responsibility survives ignorance are those where the explanatory connection remains intact. This has important implications for attributions of responsibility to individuals suffering from various cognitive and psychological abnormalities.

## Emotion, Causation, and Responsibility in the Context of Hate Crime Legislation

David Brax, *Gothenburg University*  
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Hate Crime (HC) legislation is a contentious issue among legal scholars and philosophers. At the heart of the controversy lies the suspicion that it punishes a certain mental state ("hate", or rather: "prejudice" or "bias") that either 1) the agent cannot be held responsible for or 2) is not the proper domain of legislation. (2 may be argued independently of, or as a consequence of 1). A hate crime is an action deemed criminal on independent grounds, but with an additional feature: It's motivated by a certain attitude towards the victim (typically a negative evaluation of the group to which the victim belongs) normally with a certain intention (typically to harm, degrade or instill fear in this and other members of the group).

Critics argue that judging hate crime as worse than its non-hate version cannot be based merely on the intention to harm a larger group, since this factor is covered by legislation already. The only distinguishing mark, then, is the prejudice behind the intention. In order to justify HC legislation, we may have to allow that the law distinguishes good motives from bad ones, and that this is not reducible to the harm intended or caused by the particular crime in question. I will focus on a particular question relevant to this issue: How should we understand the "hate" in hate crime? Can it be said be part of the causal explanation of the criminal act in a sense sufficient to ensure enhanced moral and legal culpability? Contrasting cases are such where an emotion-based explanation is held to mitigate responsibility/culpability. The question is if this distinction is based on an evaluation of the emotion in question, or if it can be performed by specifying the relation between emotion, motivation and action. Or if it necessarily involves both factors. To specify the relevant relation between emotion and criminal action is important if we are to define hate crime not merely by what thought/emotions the perpetrator may have but by the cause of the crime in question.

## 80. Ethical Issues in Mental Health and Research

### Ethics in Mental Health Care - Comparison of Law and Practice in Germany and Ontario

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Most civilized countries have enacted legislation governing the state's approach to the care and treatment of the mentally ill. Recognizing that they constitute a vulnerable population, the intent is usually to treat mentally ill persons with respect, offering treatments where available, and restricting personal freedoms as little as possible. This paper will compare

two different approaches (that of Germany and the province of Ontario, Canada) to reach this goal by studying several important issues including: involuntary detention, assessment of capacity, and decision making for incapable patients. The organization of various laws, responsible institutions and decision making bodies will be compared. In Germany, a strong separation of law and executive power is eminent. Any decision constraining the freedom or autonomy of the patient is made by a judge. The psychiatrist has the role of a facilitator to the legal system by rendering an informed judgment. In Ontario, the decision instead lies in the hand of the psychiatrist. If the patient challenges the decision, the psychiatrist has to defend it in front of the Consent and Capacity Board. The pros and cons of both approaches will be discussed.

### Pledge, Peril, and the Ethical Professional

Wendy Austin, *University of Alberta*  
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Health professionals “profess” to the public that they can be trusted to use their specialized knowledge in a manner consistent with the standards of practice and codes of ethical conduct established by their particular discipline. Research is revealing, however, that such professionals increasingly identify constraints to their trustworthiness in everyday practice. They are describing barriers to enacting their knowledge and skills in a way that they deem fit. In this presentation, interdisciplinary research in relational ethics that focuses on Canadian professionals’ experiences of moral distress and compassion fatigue will be shared and discussed. The claim will be made that systemic changes to healthcare systems are not only negatively impacting professional caring relationships, but are placing health professionals themselves at risk. The moral distress and compassion fatigue that is experienced on the frontlines of health care are posing significant threats to the wellbeing of individual professionals and placing their very moral orientation at risk.

### Forensic Settings and the Recovery Model of Care: Ethical Opponents?

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In recent years, a recovery model of therapy and care has been recommended for effective addictions and mental health care. This model can be seen as a welcome “corrective” to care models that traditionally emphasized such ethically-related concepts and priorities as best interests, safety first, first do no harm, and ensuring prompt access to services. But how

readily does this recovery model of care fit with standard practices and norms of forensic mental health and addictions programs? How good is this fit when forensic programs incorporate norms and values of the dominant community in terms of personal responsibility, theories of punishment, public safety, fair legal processes, and police and governmental powers. Recently, academics and clinicians have questioned the extent that ethically based requirements and routines of forensic settings can either facilitate or can restrict the ethically based strengths and richness of a recovery model of care. Sceptics (or realists?) would conclude that forensic settings are not amenable to successful or robust recovery models. This presentation will examine both the complementary and competing ethical underpinnings of forensic settings versus recovery-based therapy programs.

### Evoking the Unspeakable of Mental Health Care: The Phenomenology of the Image

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Qualitative health researchers are increasingly using images as both a source of research data and as a means of expressing their research findings. By appealing to one's senses and emotions, images offer researchers an additional source of knowledge about a given phenomenon. However, unlike their textual counterparts, the analysis of which has been extensively explored, there is little research addressing the analysis of images as data independent of their creators and even less exploring the use of images to evocatively illustrate or augment the presentations of research. This paper discusses the use of images, as data and presentation, in a Canadian research program in health ethics. It specifically examines how images were used in various research projects to explore, evoke, and ultimately reveal the phenomena of living with mental illness, moral distress, and compassion fatigue.

### Autonomous Consent: Who Cares about the Mentally Handicapped in Roadside Tunnels?

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International principles and guidelines governing biomedical research stipulate that a potential research participant has inalienable rights to have full knowledge of the research study, the procedures, benefits, risks, and discomforts involved before opting in or out; that

any consent granted by the volunteer must be strictly autonomous, free of any inducement or coercion from a third party; and that the volunteer must be guaranteed the full right to withdraw from the study at his or her convenience, without accompanying punishment. With mental patients, the contrary is practiced in Cameroon. In 2009, hundreds of mentally belaboured men and women, who occupy haunted houses, roadside tunnels, and slaughter houses, were gathered in a trypanosomiasis infested village in the South West region to participate in a clinical trial where they were administered both treatment and placebo for the illness. More than 30 of those who were given the placebo contracted trypanosomiasis, and were subsequently abandoned to fend for themselves. Many died in agony. This presentation will examine whether the CIOMS, the Helsinki Declaration, and the Belmont Report considered such persons.

## 81. Concepts of the Self: Part I

### The Self and the Social Order: Then and Now

Leonard V. Kaplan, *University of Wisconsin at Madison*  
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From Plato on, every significant social philosopher and theologian in the West has had at least an implicit assumption about the human essence. For some we are not only flawed but close to corrupt for others we are a *tabula rasa* formed by culture. Plato in the Republic created types that fit the political economy and culture he conjectured for his idealized and probably ironic notion of the republic. Weber in the 20th century typified character types in economy and culture. Following him and playing on psychoanalytic insights Frankfurt school thinkers trying to answer the problem of the authoritarian personality produced a body of work fitting the self to modern political cultures. The early work of Eric Fromm stands out but so does the work of Adorno, Marcuse and Horkheimer. The work went on with thinkers like Habermas and Seyla Benhabib. This presentation will trace the historical moves on self and social order and then consider its contemporary relevance.

### Concepts of Self and Personality in Rosenzweig's Thinking

Barbara Galli, *McGill University*  
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Firmly holding philosophy to its purview of uncovering original essences and sources in the strict absence of presuppositions, Franz Rosenzweig (1886-1929) claims to presuppose only a “nothing.” He seeks to determine the essences of the three irreducible elements of reality: God, the world, and man. To do this, Rosenzweig looks behind, as it were, the full-fledged active creation into the silence of the passive, inner, pre-relating, instantaneous “formation” of the three essential aspects of reality. Each has a positive and negative pole; and the negative in each negates its own nothing. While the essences of God and of the world will be briefly delineated, the concentration will be on man, whose essence is the Self and is a sphere unto itself, distinct from personality. It is personality, however, that calls forth eternity for living man. The Self, in its formation, though infinite and enduring in living man, is a finite element. Rosenzweig’s explicit suggestions with regard to both death and old age are expressed in an interesting detection of a weakness in Kant’s view of man as a “citizen of two worlds,” contending that Kant confounds the natural view of man from the elemental.

### The Berlin Jewish Community: Changes and Chances

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In the 1980’s, the world found itself in a process of dramatic change. One of the major events of this era was the fall of the Berlin Wall in November 1989. For the Jewish community of Berlin, this time - especially in light of growing immigration from the disintegrating Soviet Union - was of particular importance. A single Berlin Jewish community, as it had existed up until 1953, emerged once again out of the former East and West communities. Hermann Simon, who grew up the son of survivors in East Berlin, lived through this process and, at the same time, helped influence the new developments. He will report from his firsthand experience and observation of the last two decades from a Jewish point of view. In particular, the speaker will deal with the problems of the new Russian-speaking community members and will ask the questions, how successful has the integration of this community been and what problems will the Jewish community face in coming decades?

### Autonomous Self in Times of Genocidal Terror

Rachel F. Brenner, *University of Wisconsin at Madison*  
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The Holocaust called into question the ethical core of the non-Jewish individual. Nowhere perhaps was the moral authenticity of the self more acutely tested than in occupied

Warsaw. The empathic perception of the Jews in an intersubjective interaction between equals was radically eliminated not only by the German occupier's racist ideology, but also by large segments of the Polish population, which subscribed to an extreme nationalist orientation. The split between the humanistic universalism of equality and justice and the xenophobia of some Polish nationals particularity confronted the enlightened Polish intellectuals with a dilemma. To oppose the Nazi dehumanization of the Jews would position them against the majority of their fellow Poles, who aspired to Judenfrei Poland. To comply with the new social legal order, which decreed the mass murder of the Jews, would amount to moral self-betrayal. This paper examines a number of notable Polish Warsaw writers and their wartime diary recordings of the persecutions of the Jews in their city, both in the ghetto and on the "Aryan side." I believe that these direct, in-time-in-place responses to the atrocity of the genocide provide an unusual opportunity to investigate the vitality of humanistic values in times of terror.

### Self, the Social Order, and Philip Rieff's "Jew of Culture"

Gregory Kaplan, *Rice University*  
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Due to its plasticity, "self is an artful dodger," wrote Philip Rieff; only social interdictions stabilize and, therefore, secure a cultural life — and not merely physical existence. Yet that cultural security exacts the price of remission. Remission in Rieff's account countervails Nietzsche's resentment. Resentment for Nietzsche turns the self from an agent into a reactant who, rather than affirming life, willfully denies or narrows its options. Rieff's remissive instead practices self-denial in order to recover from its manifest guilt, and return from self-deification. Rieff's early opposition of authority to therapy resurfaces in his later figure of the Jew of Culture who resists every self-affirmation — especially the stridency, in Rieff's view, of the putative critical class (i.e. university professors). It is not, however, until his later work announces a "vertical authority" that the initial theological significance of remission is faced head on. My paper considers whether Rieff's claim that tradition puts a self in the social order has demonstrated that the failure of anti-culture ("deathworks") sanctions some sacred order or simply succeeds it.

## 82. Concepts of the Self: Part II

### Psychosocial Aspects of Self in Persons with Physical Disabilities/Neurological Disorders

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While contemporary commentators (Foucault, Goffman, et. al.,) have examined the sense of Self in mentally ill individuals, little attention has been paid to the sense of self and the social order reflective of individuals with physical disabilities and/or neurological disorders (e.g. Cerebral Palsy, Multiple Sclerosis). This paper will explore the psychosocial, and, when applicable, psychosexual aspects of the sense of Self as predictive of personal and political outcomes in the lives of persons with these disabilities. The research on differential characteristics among men and women with disabilities provides a heuristic starting point for philosophical and political insights into advocacy movements engaged in by these populations as well as psychosocial "life cycle" self-perceptions and behaviors that deserve separate and special consideration in terms of ego integrity, dignity, and the confrontation with potential despair.

### Psychiatric Diagnosis as a Rite of Passage

Guy Lord, *Medical College of Wisconsin*  
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It has been noted that developed Western cultures usually lack a distinct puberty ritual or rite of passage from childhood to adulthood. Such transitions happen piecemeal: obtaining a driver's license, being old enough to vote, drink, get married. The ages at which these occur vary from one country or, in the USA, from one state to another. They also vary over time. During the Vietnam era, it was felt that if one was old enough to die in combat one should be old enough to vote. So the age for this dropped from 21 to 18. A trend in the USA has been to lower the age at which juveniles can be adjudicated in adult court. Another area in which the boundary between child and adult is changing, is in psychiatric diagnoses. This history is reflected in the successive editions of the Diagnostic and Statistical Manual of Mental Disorders. In this series, published by the American Psychiatric Association, beginning with the first DSM in the 1960's and now at DSM IV (1994), the set of "Disorders Usually First Diagnosed in Infancy, Childhood, or Adolescence" has evolved considerably. Now DSM V is a work in progress and some of the most contentious issues are within childhood diagnoses, including Autism and ADHD. A brief history of psychiatric diagnoses used for children will be presented. Clearly this speaks much about how a society conceptualizes childhood.

## The Effects of Criminal Justice Involvement and Housing on Self-Identity among Dually Diagnosed Homeless Adults

Howard Dichter, *Pathways to Housing, New York, USA*  
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Ben Henwood, *Pathways to Housing, New York, USA*

James Tiderington, *Pathways to Housing, New York, USA*

Criminal involvement of a mentally ill, substance abusing homeless population recently enrolled in a housing program will be discussed. The Housing First model effectively ends homelessness by providing immediate access to permanent, independent apartments along with ongoing support services. The model is based on the idea that housing is a fundamental right and that individuals must learn to develop a new sense of 'self' in order to recover. A majority of this population, however, has a history of criminal involvement, many with repeated serious crimes; it is unclear how this history affects one's self-identity and if access to housing and services affects one's 'criminal self.' Using case examples, this talk will focus on: categories of prior criminal activity, the significance of prior criminal behaviors in relationship to how clients perceive themselves, and challenges in preventing ongoing criminal justice involvement once in stable housing as well as how access to stable housing affects one's self-identity.

## How Rational is the Notion of Self-Interest as a Guide to Human Behavior?

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Economists, especially those of classical and neoclassical leanings, have long accepted as an article of faith the auto-corrective mechanism of self-interest. Other social science disciplines, in keeping with the demands of modern methodologies of 'scientific' inquiry that stress mathematical elegance, have adopted a similar faith and now worship at the same altar of self-interest. As articulated by Adam Smith, self-interest, as opposed to greed or selfishness, is the proper avenue by which a collectivity may achieve the most out of its endowment of resources. Thus, by diligently pursuing one's interest, the individual, without intending it, generates beneficial externalities that accrue to society at large; and if everyone behaves accordingly the better for society. The Hobbesian expression of the same idea is not wide from this understanding - that all human behavior is almost always guided

by self-interest even in the extreme case when one is willing to risk physical danger in order to save the life of a stranger. The simplicity and elegance of the self-interest model make it a very attractive tool for academic inquiry, but unfortunately, the same attributes supply the source of its poor predictive powers especially when burdened with any variant of the 'rational choice' hypothesis. I argue in this paper that self-interest, as a socially useful guide to human behavior, has severe limitations, particularly when applied to the behavior of individuals in positions of political power in developed and developing countries with weakened or underdeveloped social institutions. In this regard I theorize (with supporting empirical evidence) that the beneficial externalities that are made possible in a given society when individuals allow their self-interest to guide behavior depend, to a large extent, on prevailing social institutions that mediate and act as checks on such behavior. In societies where such institutions are weak or non-existent, reliance on self-interest to bring about desired social outcome has been shown to be ill-advised. The experiences of developing nations and the 2008 global financial crisis serve as illustrations. So the self as profit maximizer is inadequate for political, legal and psychological analyses.

## 83. Concepts of the Self: Part III

### I Know Where My Soul Is: Aspects of the Self through a Poet's Eyes

Judy Washbush, *Wisconsin Fellowship of Poets, Madison*  
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This presentation is given from the viewpoint of a poet who is actively exploring herself and other selves around her. I have nurtured poetry writing in children and teens and more recently, in prison inmates. My upcoming book of poems, probably titled GOD IS BIGGER THAN THAT BOOK, pictures self in relationship to a transcendent deity, to demons and other spirits and to the dark and light soup that is humanity, and also attempts to place self in the ocean of Self. This presentation will include a reading and elaboration of poems illustrating those themes.

### Language, Literacy, and Self

Carole Chaski, *Institute for Linguistic Evidence, Georgetown, USA*  
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Language, Literacy, and Self Literacy is the fundamental technology that changes the way we can function linguistically. Plato's Socrates was strikingly anti-literacy. Partly in reaction to the legal system of Ancient Greece and the sophism of the rhetoricians, Socrates' anti-literacy stance was more interestingly based in his realization that the act of reading engages the self. The self in the act of reading becomes amorphous, as it takes on the identity of the textual voice. This same realization - in the form of an admonition - is stated repeatedly in the Hebrew Scriptures, where Moses, the psalmists, and the prophets repeatedly admonish the believer to read the law and meditate on the law. This theme is echoed again in the Christian New Testament, because "you are what you read" - that is, you become the textual voice of the material you choose to read. On the other hand, the act of writing enables the writer to expand and exchange identities, so that writing can be seen as a way of becoming someone else. This idea is fundamental to recent research on writing and mental health, writing and coping with chronic disease, and journaling in general. In this context, two forensic cases in which identities are exchanged through writing are discussed.

### Landscape, Narrative, and Identity: W.S. Merwin's Hawai'i

Susan Erickson, *Retired, Madison, USA*  
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Environmental psychologists and geographers have recognized the role of place in the formation of the self. This paper, however, approaches the idea of place-identity from a literary perspective by examining W.S. Merwin's verse epic of 19th-century Hawai'i, "The Folding Cliffs". Merwin, himself a long-time transplant on Maui, explores the Hawaiian rooting of identity in a landscape that is at once present surroundings and a past composed of the oft-repeated stories of its inhabitants. Threatening this Hawaiian narrative, and therefore the place that embodies it, is an alien law. "The Folding Cliffs" may be seen as the poet's attempt to find an identity through the narrative recreation of a place that has been irretrievably altered.

### The Need for Social Justice to Trump Market Price

Joan I. Schwarz, *University of Wisconsin at Whitewater*  
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This presentation will address Adam Smith's economic and moral philosophy which he grounded in the biology of human behavior premised on the belief that the universal drive for self-love and instinctual curiosity, when balanced appropriately within a free market,

could be the engines of social improvement for the benefit of the community at large. As is well known, his theory about the "impartial spectator" (conscience) provided the prescription for positive change in a free-market economy, ensuring a stable civil order and an equitable distribution of wealth. Unfortunately, America seems to have forgotten about the empathetic part of his philosophy and his belief in the need for peer recognition and neighborly social acceptance to hold in check greed and similarly undesirable behaviors, all of which has led to a loss of self with an exacting toll on our citizens' mental health. With America's true yardstick of social success today being material wealth, social justice has been subordinated to market price. What is necessary to restore a more humane and equitable society? What has happened to the scientific inquiry to learn more about the roots of the human condition to work toward what actually makes individuals and a society happy? The answer lies in Adam Smith's theory - a focus on the moral part, the "conscience", of our society. An empathetic society would not allow so many callous policies in the U.S. To name a few: 1) the government's annual hunger report to delete the word "hunger" and instead refer to the 50 million Americans, including almost one in four children, as suffering from "low-food security"; 2) the gap between the rich and the poor being greater than any other industrialized country; 3) the Government Accountability Office's findings that almost 2/3 of the companies in the U.S. usually pay no taxes; and 4) the financial collapse of our "free market" economy with the resulting foreclosures; increasing debt loads and bankruptcies; job losses and failed businesses; and most significantly, the personal despair, loss of self-esteem and belief in the one's value, as well as the loss of hope in the vision of America's once-honored value system. I will address how the policies of our materialistic society have impacted the mental health and well-being of middle-class citizens living in a mid-western American city. I see heart-wrenching experiences everyday in my law practice: the family whose long-standing landscape business goes under, forcing them to sell business equipment piece by piece for daily living expenses while filing for bankruptcy in hopes of saving their house from foreclosure; the family that owns a local restaurant but cannot procure a loan from a local bank for their business and are forced into foreclosure on their business and home; the increasing number of families divorcing and children in therapy because of the financial stresses; and on and on. Where are the protections for these citizens? Why do we not have a Social Report Card which monitors the well-being of our citizenry the way we monitor our financial markets? A collective sense of urgency is needed in order to move toward a shift in politics and social welfare policies that will reflect a new normative behavior, that of a non-coercive, caring, temperate, moral and equitable state. Only with a shift in values toward empathy for individuals will policy change. And then, only with policy change will institutional change follow so that market price will be subordinated to social justice.

## Leo Tolstoy: War and Trauma

Gary Rosenshield, *University of Wisconsin at Madison*  
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In the last several years in the United States, there has been a growing interest in the study of trauma, especially post-traumatic stress disorder (PTSD), in part due to recognition by the military and the medical profession that the nation has a responsibility to address the serious psychological disorders of soldiers returning from Iraq. In one of the efforts to train those who treat trauma, the military has enlisted the services of classic literature, specifically the production and discussion of Greek plays such as Sophocles' *Ajax* and *Philoctetes*, which poignantly depict the psychological effects of trauma on Greek heroes of the Trojan War. Jonathan Shay's *Achilles in Vietnam* uses the example of Achilles, the greatest warrior in the Greek literary tradition, to study the relationship between PTSD and the indiscriminate and remorseless killing that sometimes takes place in modern warfare. It is surprising, then, that Leo Tolstoy's *War and Peace*, generally considered to be the greatest novel about war, has not been studied in terms of trauma, since it deals with both the short- and long-term effects of trauma on those who served in the Napoleonic Wars. Tolstoy shows all three of the major heroes of the novel undergoing traumatic experiences, to paraphrase Tolstoy himself, each in his own way. Nikolay Rostov becomes disillusioned (and loses his faith) over the mistreatment of wounded war heroes; Pierre Bezukhov barely escapes execution and then death from starvation; and Andrey Bolkonsky's world is overturned each time he is seriously wounded in battle. The present paper examines the initial reaction to trauma of Tolstoy's heroes and how the trauma differently affects the later stages of their lives.

## Tobacco Advertising and Images of the Self

Gerald J. Thain, *University of Wisconsin at Madison*  
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Many advertising campaigns assert that use of the product will improve the consumer's personality and thereby, the consumer's self-image. The greatest example is Marlboro cigarette advertising. The product, without undergoing any physical changes, went from a "woman's cigarette" with less than 1/2 of 1% of the market, to a "he-man's cigarette" with more than half the market in a few years due to the "Marlboro Man" advertising. The brand eventually became the second most valuable in the world, behind only Coca-Cola. The strategy that accomplished this will be reviewed and evaluated, with reference to the



difficulties this type of advertising presents not only for legal challenges but also for health officials when the product is addictive and uniquely dangerous to the well-being of its users. This is followed by a review of the ways in which advertising regulators attempted to deal with such messages and the means used by health organizations to counter the campaign with their own efforts to shape the images of smokers and non-smokers. The case study then leads to more general reflections on the lessons of this situation for the influence of advertising on the self-images of consumers.

## 84. Concepts of the Self: Part IV

### The Self and Evil

Kenneth Seeskin, *Northwestern University*  
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Although philosophers have had a great deal to say about goodness, it is odd that they have had comparatively little to say about evil. For Socrates, evil is a miscalculation about what it is in our interest to do. For Kant, evil is subordination of the demands of morality to those of selfishness. Both theories deny the possibility of pursuing evil for its own sake. Focusing mainly on the Kantian account, this paper will argue that while some evil results from subordinating morality to self-interest, not all does. Sometimes people do evil knowing that it will not advance their self-interest and may even hinder it. What is involved here is not the pursuit of self but the loss of self, the appeal of experiences in which the demands of both morality and self-interest are overwhelmed by the emotional intensity of the moment. To take this a step further, Kant argued that by its very nature, reason seeks the unconditioned. Give it an idea with limits, and it will immediately posit something without limits. I will argue that the problem is that other aspects of human life work the same way and thus stand as rivals to reason.

### Imagining Medieval Jewish Philosophers as Ourselves

Aaron W. Hughes, *State University of New York at Buffalo*  
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This paper begins with a hermeneutical problem: how do we understand those who live in earlier centuries? What modern presuppositions, in other words, go into imagining and constructing premodern lives? With this theoretical question as my backdrop, I will explore

some of the modern contexts responsible for creating the discipline of medieval Jewish philosophy, whose very stuff or quiddity is comprised of “selves” – i.e., those we label as “medieval Jewish philosophers.” Is medieval Jewish rationalism the same thing as modern Jewish rationalism? Most likely it is not. However, in their desire to create a version of modern Judaism and modern Jewish life that fitted with nineteenth century ideals, Jewish scholars created an elaborate system of privilege and denial to establish what they perceived to be earlier forms of Jewish rationalism. After a brief survey of this system – their constructions, their contestations – this paper goes onto explore the contemporary period, to see if the situation is any different. Have we simply inherited the constructions of our nineteenth century precursors? What does it mean to study “medieval Jewish philosophers” from the vantage point of today? What does this study say about those we study and about ourselves?

### Intersecting Selves: Can Religious and Political Selves Be Reconciled?

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Elizabeth Davenport, *University of Chicago*  
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Every day the global news presents us with instances of conflict between the fundamental human rights perspective of modernism and the postmodern claims of religious justification, raising questions about the tensions between the common good, imposition of religious values, and the health imperatives of recognizing universal human rights. Is there a perspective from which the claims of religious justification and fundamental human well-being can be reconciled? We argue that conflicts of religious justification and human rights can only be reconciled from a spiritual perspective (inclusive of secular humanism), and at some risk, both in terms of the mental health of the self and the health of the public. We conclude by arguing that public discussion of the intersection of religion and human rights should be encouraged.

### Self Conceptions as the Ground of Legal Authority in Medieval Jewish Thought

James A. Diamond, *University of Waterloo*  
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In the Old Testament, embryonic legal institutions are grounded in individual moments of self awareness when the distinctive self surrenders to the common self. For medieval Jewish thinkers, that awareness emerges from extreme humility in the face of absolute divine stature and authority. For example, the origins of a supreme court that checks monarchic power are rooted in a narrative in Numbers which is initiated by Moses' exasperation with the sole burdens of leadership. Crucial to the narrative is not simply the formation of a body (seventy elders) that share political authority but the sentiments expressed by Moses in response to a "democratization" of his unique prophetic talents. Nahmanides comments that Moses endorses it out of an awareness of his own commonality rather than distinction. In fact, the general prohibition against arrogance and hubris is derived, for Nahmanides, from the "common" posture mandated the king by Deuteronomy 17. Likewise, the single juridical identification of Moses as king in Maimonides' legal code is in the context of shared authority between Moses and the Supreme Court and is informed by Moses' self diminishment. Jewish medieval exegetes understood self-conceptions as indispensable to the formation of a balanced political and legislative regime.

## 85. Law in Books and in Action: Detective Fiction and the Legalism of the Observing Eye

Roscoe Pound in a 1910 article famously referred to the distinction between law in the books and law in action. Yet not all action takes place off the page. This panel looks at detective mysteries as law in action which takes place in novels. Its particular concern is how the observing eye - which handles questions of time as defined within its social meaning (such as decline), interpreting social norms and texts, and drawing the connection between the depth of the psyche and the criminal act - provide mechanisms for understanding how the criminal act (*actus reus*) might be connected to a complex, troubling vision of the criminal mind.

### The Public and Private Lives of Cities

Thomas Morawetz, *University of Connecticut*  
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This presentation will probe the *noir* underworld of Ireland and Italy, whose urban centers have deeply rooted histories filled with violence and intrigue. Situating crime within its moral context, this presentation will examine the social and legal critiques implicit in the

mysteries of Ken Bruen (Galway), John Brady (Dublin), and Donna Leon (Venice). There are intriguing similarities and differences across the board - but these authors are concerned with decline and decadence. Political corruption and the misuse of power are the subtext, and often the text, of all three writers. They surface the invasion and distortion of private life through public malfeasance with insight and irony.

## Psychoanalysis, Truth, and Fact in the Narrative World of Detectives

Susan Schmeiser, *University of Connecticut*  
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Susan Schmeiser will examine the connection between psychoanalysts and detectives. Detectives must often plumb the depths of the human psyche while logically organizing available clues into a coherent story. This paper will explore the genre of psychoanalytic detective narratives, which first emerged while psychoanalysis was establishing itself as a theoretical and clinical discipline and which retains remarkably vibrancy today. It focuses particularly on novels by Gladys Mitchell, Frank Tallis, and Gillian Slovo as well as the work of mid-century analyst Theodor Reik. This genre calls into question the distinction between “narrative truth” and “historical truth” first elaborated by analyst Donald Spence and then embraced by legal scholars to distinguish the putative fact-finding mission of law from the interpretive one of psychoanalytic theories and therapies. The detective-psychoanalyst betrays the interpretive dimension of the fact-finding process and the investigative dimension of therapeutic work.

## The Role of Film in Exploring Patient Narrative in Mental Health

Carolyn Johnston, *King's College London*  
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The aim of this presentation is to consider the portrayal of mental illness in film and its value in exploring and understanding the patient experience of mental illness. Despite more enlightened representations of mental illness now being portrayed, images from films such as *Repulsion* and *One Flew Over the Cuckoo's Nest* still endure. Cinematographic depiction of mental illness may be unrealistic, reinforce negative stereotypes, and perpetuate stigmatizing attitudes to mental illness. Psychiatrists themselves may fare little better, often portrayed as heroes, villains or developing unprofessional relationships with patients. Films may also be lacking in medical and factual accuracy. Despite these shortcomings film can be a positive educational tool in psychiatry. It can promote awareness and reflection of the

patient experience and the healthcare/patient relationship. Using film in teaching is also popular with students, they are familiar with the format and language of film and they may more freely engage in discussion of 'difficult' topics because film can make a subject safer by objectifying it. This presentation will include film clips as illustration to address the advantages and limitations of film in providing insight into mental illness and the role of film in education and training of healthcare professionals.

## 86. Neuropsychology

### Neuropsychological Impairments and Development of Disruptive Behaviour Disorders

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Introduction: Antisocial behavior and delinquency as well as ADHD, CD, and ODD (so-called disruptive behavior disorders) are associated with neuropsychological impairments, predominantly in verbal, intellectual, and executive functioning. Genetic and psychosocial influences may find their expression in antisocial behavior by interacting with other factors. Interrelated dimensions such as temperament, emotional and behavioral dysregulation, and personality traits appear to be important. Method: Data from the youngest cohort of the Pittsburgh Youth Study from male juveniles who participated in the Raine et al. (2005) substudy are used. Different neuropsychological measures (KIT, WISC, CPT, WCST and VDLT), data from personality inventories (CU, YS, SP, YP, BP) and measures of psychiatric symptoms (CBCL, DIS-C; DISC-P) were used in the analysis. Research: The aim of the study is to investigate the interaction between neuropsychological impairments and personality in the development, including persistence and desistance of, antisocial behavior and disruptive behavior disorders. Results: It is hypothesized that neuropsychological impairments as well

as callous-unemotional personality traits co-occur in persisters. It is expected that specific neuropsychological impairments differentially associated with disruptive behavior disorder symptoms will be found. The results will be discussed.

## Paranoia Querulans Revisited: Assessment of Social Cognition and the Practice of Forensic Neuropsychology

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In the field of forensic neuropsychology, social cognitive dysfunctions are of major relevance for a comprehensive forensic assessment and, if applicable, for determining the course of treatment. Disturbances in the perception, identification, interpretation, experience, analysis, and expression of emotions all contribute to the dysfunctional processing of emotional and social stimuli. This, in turn, induces social misinterpretation, which forms the basis of many aberrant or delinquent behaviours and provokes cascades of negative social interactions. Social cognitive disorders, therefore, are a profound problem for the three central goals in forensic mental health care, i.e., effective treatment, risk reduction, and rehabilitation. In this presentation, the historical concept of *paranoia querulans* is revisited and discussed in the context of affective information processing, and, more specifically, social cognition. It is demonstrated that a neurocognitive framework advances the understanding of social misinterpretation and delinquency, and provides guidance in the forensic neuropsychological examination of criminal behaviours.

## Management of Androgen Deprivation Therapy in Sex Offenders

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Androgen Deprivation Therapy is an important therapeutic option in the treatment of sex offenders, particularly in cases of hypersexuality and/or paraphilia. ADT attenuates the responsiveness to sexual cues. Thus, the patient has the possibility of increased control over

his behaviour. This pharmaceutical treatment is favourably combined with cognitive-behavioural psychotherapy. The use of ADT can result in side effects such as osteoporosis, weight gain, muscle weakness, gynaecomastia, hot flashes, and depression. To ensure efficacy, the medication must be provided without interruption. In some cases it is possible to adjust the dosage of medication, thus relieving side effects.

### Facilitation of Psychological Treatment in Court-Ordered Dual Diagnosis Detention Patients Using Mood Stabilizers and Atomoxetine: A Pilot Study

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Psychological treatment as usual of patients with personality disorders and drug addictions was compared with simultaneous psychopharmacological (pre)treatment of Mixed Affective State and/or ADHD. In about one third of the patients, the primary clinical features found were racing thoughts, mood instability, and outbursts of unprovoked rage. All these patients had been convicted of violent offences. Treatment was started with a mood stabilizer, after tapering off antidepressants. If mood swings had disappeared but racing thoughts were still present, atomoxetine was added, pro diagnosi. To our surprise, even just after the start of this treatment, these patients declared "they finally had become quiet in the head". It was striking that most of these patients gained more control over their situation and could forgo their original coping mechanism of drug abuse. The patients become more able to discriminate between relevant and irrelevant thoughts. Less time was required to establish a therapeutic relationship and recurrent drawbacks due to impulsive obstruction to treatment occurred far less frequently. The patients became more receptive to hearing explanations about observations made by staff members. The patients, in summary, could better focus on treatment when placed on this regimen.

## Neurochemical Mechanisms Controlling Impulsive Aggression in Animals and Humans

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It is well known that aggressive behavior in both humans and animals are under control of selective brain neurotransmitters. Major neurotransmitters regulating aggression include monoamines, amino acid neurotransmitters, and neuropeptides. There is strong support for a serotonin mechanism (via 5HT1A receptors) in suppressing impulsive (defensive) aggression as there is for an inhibitory GABAergic mechanism (acting through GABAA receptors). The classical animal literature also supports the presence of excitatory mechanisms involving catecholamines. Moreover, peptide neurotransmitters play an equally important role in regulating impulsive aggression and include enkephalins, which are inhibitory, and act through  $\mu$  opioid receptors, and substance P, which is excitatory, and acts through NK1 receptors. Recently, proinflammatory cytokines, which are present in brain, have been shown to powerfully regulate defensive aggression and fighting behavior in several species. To date, cytokines which have been identified that modulate aggression include interleukin 1 (IL1), interleukin 2 (IL2) and tumor necrosis factor (TNF $\alpha$ ). Studies on the neurochemistry of aggression conducted in animals and humans will be briefly reviewed and the discussion will focus upon evidence supporting cytokine functions and their possible linkage to classical neurotransmitters in aggression as well as to identify the likely sites in the brain where these effects are mediated.

## Neuropsychological and Neurological Correlates in Violent and Homicidal Offenders: A Legal and Neuroscience Perspective

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Neuropsychological and neurological correlates in violent and homicidal offenders: A legal and neuroscience perspective Abstract Violence and murder has its roots in biological, psychological, and sociological factors. This article will focus on one specific element of the biological aspects of violence and murder; specifically; neurological and neuropsychological aspects. The author will provide a literature review contrasting structural brain abnormalities and dysfunction (neuropathology) and brain behavior (neuropsychological) relational attributes to violence, aggression, and homicidal behavior in particular. After reviewing the literature, the author will address how these brain-related structural and



functional correlates to violence are utilized in court proceedings. Specifically, the article questions how expert witnesses can integrate neurological and especially neuropsychological data to address psycholegal issues, such as mitigation, freewill, and moral culpability, especially within death penalty and murder cases. The author provides recommendations for the practicing forensic neuropsychologist evaluating homicide cases.

## 87. Neurobiology of Aggression

### Association between Variants of the Oxytocin Receptor Gene and Psychopathic Traits in Young Adults and Adolescents

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Previous research has shown that the neuropeptide oxytocin plays an important role in social behaviors in humans and other animals. Genetic variation of the oxytocin receptor gene (*OXTR*) has been associated with emotional and social deficits both in subjects diagnosed with autism spectrum disorders and in normal subjects. Socially deviant behavior is a key component in psychopathic traits and is therefore hypothesized to be at least partially influenced by variation in the *OXTR*. Twelve Single Nucleotide Polymorphisms (SNPs) in the *OXTR* were genotyped in 1200 boys and girls assessed for psychopathic personality traits using the Youth Psychopathic traits Inventory at two time points (16-17 and 19-20 years old, respectively). One of the polymorphisms, rs75775, was associated with psychopathic personality traits in boys at both time-points, with the strongest relation to the callous-unemotional trait at the first time-point. In conclusion, these results indicate that polymorphisms of the *OXTR* may affect inter-individual differences in psychopathic personality traits in boys.

### Cerebrospinal Neurochemical Markers for Personality Traits

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A number of transmitter metabolites found in cerebrospinal fluid have proved solid markers for behavioral traits, such as suicide or emotional aggression. Chemical analytical methods tapping into the integrity of the central nervous system (CNS) and into brain growth and metabolism are now being developed in an expanding literature targeting neurological

disorders. Markers for inflammation, blood-brain barrier permeability, axonal growth, and synaptic metabolism hold important potential for psychiatric research and their use in forensic psychiatry will be reviewed based on new studies.

### The Study of Aggression in New Biomedical Model Systems – A Review from Studies in Fish

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The zebra fish, *Danio rerio*, is a fairly new model system in biomedical research. Its advantages include a mapped genome, developed molecular and genetic techniques, rapid early development and transparency of the embryo. It is possible to down-regulate or over-express certain genes in the zebra fish, or perform screens of mutated animals to isolate certain phenotypes. Also, due to their size and numerous offspring, zebra fish embryos have successfully started to be used in toxicology and drug screening. These are factors that make the zebra fish a promising candidate for studying the genetics underlying aggression. There are today a number of behavioral tests used to study aggression in adult zebra fish, already identifying personality traits similar to those in other vertebrates. The behavioral tests have also shown the influence of hormonal regulation, alcohol, and transmitter systems on aggressive behavior. A mutated zebra fish strain with elevated aggression has also been identified. Future research will likely allow us to isolate the specific genes contributing to aggressive behavior, and subsequent pharmaceutical testing based on these findings will be possible.

### Neurochemical Measures Co-Vary with Personality Traits: Forensic Psychiatric Findings Replicated in a General Population Sample

Sara Bromander, *University of Gothenburg*  
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The biochemical nature of aggression and violence is an intriguing field of study. Increased blood-brain barrier (BBB) permeability, elevated serum thyroid hormone (TH) activity, and a monoaminergic imbalance have previously been found in violent offenders. In order to examine the relation between personality traits and these biochemical markers in a general population sample, neurobiological markers in CSF and serum were explored in 21 patients undergoing knee surgery. Results on the Karolinska Scales of Personality and the Temperament and Character Inventory were compared to CSF/serum albumin and serum

concentrations of beta trace protein ( $\beta$ TP) (markers of BBB permeability), CSF ratios between the dopamine and serotonin metabolites (HVA/5-HIAA), to CSF/serum of activated TH(T3) and to its precursor T4. Serum  $\beta$ TP correlated significantly with Monotony Avoidance and Impulsiveness; CSF HVA/5-HIAA ratios with Irritability and low Cooperativeness. TH did not correlate with any personality traits. As reported in forensic psychiatric patients, aggressive, unempathetic personality traits were thus associated with increased dopaminergic activity in relation to the 5-HT activity, and impulsivity to increased BBB permeability in a general population sample.

## Making Better Psychopaths: Novel Therapies and Moral Enhancement

Simon Barnes, *University of Manchester*  
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Recent developments in cognitive neuroscience have shed light on aspects of the “moral” brain, and may support the existence of specific functional deficits in psychopathy. Conceivably, these developments may enable the creation of novel therapies targeting psychopathy. Presently, the mainstay of treatment for psychopaths is psychological, with modest success. Furthermore, these treatments must largely be restricted to behavioural goals (i.e. within Factor 2 of Hare’s PCL-R). In future, however, it may become possible to alter the function of the brain processes underlying the psychopathic personality, permitting more ambitious treatment goals (i.e. within Factor 1 of Hare’s PCL-R). It may, for example, become possible to enhance an individual’s capacity for empathy by using drugs or neural implants. In addition to clinical implications, such developments are likely to change how society regards psychopaths, and how psychopaths regard themselves. In this talk I explore some of the legal and ethical implications of future “moral” treatments of psychopathy, focusing on adult psychopaths in an English legal context. In particular, I consider what counts as a “moral enhancement”, and the extent to which behavioural outcomes can and should be used to determine this.

## 88. Behavioral Genetics and Antisocial Spectrum Disorders: Law, Science, and Policy

### The Long and Winding Road from Genes to Behavior

Tracy D. Gunter, *Saint Louis University*

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There is little scientific doubt that gene structure and function play a role in the development of antisocial spectrum behavioral disorders including conduct disorder, psychopathy, and antisocial / dissocial personality disorders. In this paper I shall examine some of the study designs used to interrogate the biology of behavioral disorders, specific genetic factors hypothesized important in antisocial spectrum disorders (with particular attention to MAOA and 5HTTLPR), limitations in behavioral genetics research, and evolving directions in research using bio banking and community consent models. Particular attention will be paid to the appropriate interpretation and use of data arising from genetic studies in these areas. While genetic factors are likely important in these disorders, no single facet of gene structure or function is determinative of outcome or behavior.

### The Use of DNA Methylation Signatures as a Mechanism to Assess Substance Use

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Substance Abuse and Dependence have large socioeconomic impacts and are major risk factors for both current criminal behavior and future recidivism after completion of rehabilitation. The largest predictors of these outcomes are the chronicity and quantity of substance use. Unfortunately, the current methods for assessment of these measures are based on self report data or spot assays that detect recent use, both of which have serious shortcomings. The assessment of DNA methylation changes induced by substance use may offer a useful alternative or supplement to these methods. In this presentation, we first review DNA methylation and methods used to assess DNA methylation in the laboratory. Next, we review the current state of knowledge about the effects of substance use, including nicotine and alcohol, on peripheral DNA methylation. Finally, we compare and contrast the strengths of methylation based assessments with current methods. We conclude that assessment of DNA methylation biosignatures will be a useful method for the assessment of substance use but that further research is needed before this tool is ready for use in the clinic or courtroom.

### Mixing Genetic and EMR Data: One Challenge Too Many for Privacy and Confidentiality?

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Mixing genomic and electronic medical records (EMR) data is the new Holy Grail for medical researchers. For example, the U.S.-based eMERGE Network consortium that seeks to combine DNA bio-repositories with EMR data for "large-scale, high-throughput genetic research." Separately, however, genomic and EMR data repositories already strain our privacy, confidentiality, and security models. Some bioethicists argue that such data are overprotected and that reduced protections, even implied waivers or consent, should be used. Others argue that, the public benefits of such research notwithstanding, autonomy-based privacy and related protections should continue and even be strengthened. These questions are addressed in the context of U.S. Common Rule and HIPAA privacy protections, with specific attention being given to the limits of deidentification, community goods and group harm, and the legal and social implications of genetic testing for disruptive behavior disorders.

### Implications of Genetic Testing in Child Mental Health and the Courts

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Recent advances in genetic research on risk for antisocial behavior have profound implications with respect to application of genetic screening in treatment and the courts. While identification of genetic risk may aid in the research development of more targeted prevention and intervention efforts, the application in clinical settings currently has no precedent in child mental health. Until indicated treatments are proven, such screening will be of no direct benefit. In addition, genetic testing must be considered in the context of patient's current behavioral needs and potential stigmatization. There will also be questions as to whether certain services or interventions will require established genotype. Psychiatric and neurobiological findings have an established role in juvenile justice and genetic findings will play a larger role as more is understood and screening more widely done. There are potential risks with interpretation of genetic risk as predestined outcome without consideration of contributing factors. It is also likely that genetic data will be considered in dealing with failed adoptions, foster care, and custody cases handled through the courts. Careful consideration of the potential applications in clinics and the courts is necessary to assure the appropriate and ethical use of genetic screening in dealing with antisocial behaviors.

### Psychopathic Determinism and the Insanity Defense

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For millennia, classifications of mental disorders have been primarily phenomenological or etiological. In American insanity jurisprudence and professional literature, reasons have been put forward for including or excluding psychopathic disorders as qualifying mental conditions for the insanity defense, including biological and, more specifically, genetic etiological assumptions, which have both favored and disfavored exculpation and leniency in adjudication of guilt and punishment. Long recognized physiological correlates, evidence for genetic contributions, brain trauma, and recent functional neuroimaging findings, point to natural causation of psychopathic disorders and their associated behaviors, re-fueling the long standing question of whether psychopathically disordered individuals should have their criminal conduct excused. The normative functionalistic view of criminal responsibility leaves society (through its policy makers) free to decide, with input from psychiatry, psychology and the neurosciences, what the insanity standard ought to be and in effect what functional disabilities should pertain, regardless of their etiology. From this perspective even an assumption of biologically, genetically determined psychopathic disorder and criminal behavior will not necessarily qualify for the insanity defense.

## 89. Torture, Trauma, and Stress in Mental Health

### The Impact of Interrogation Stress on Compliance and Suggestibility in U.S. Military Special Operations Personnel

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From a behavioral science standpoint, it remains an open question as to whether or not stressful interrogation methods yield more valid information than would otherwise be obtained by the use of non-stressful methods. Stressful methods may produce increased compliance, suggestibility, and false confessions - which result in invalid information. Previous research suggests that individuals who give false confessions to the police have increased traits of compliance and suggestibility. While informative, these data are largely derived post adjudication. As such the extant data about increased compliance and suggestibility are unclear in that they may be due to: A) the stress of the interrogation process, B) recall bias; C) to a bias in the sampled populations or D) a combination of the

above. The present study assessed whether human compliance and suggestibility are increased in individuals exposed to stressful interrogations stress. Over 100 participants enrolled in military survival school were randomly assigned for assessments of compliance and suggestibility (using the Gudjonsson Compliance and Suggestibility Scale) prior to, during, and after exposure to interrogation stress. Participants were also assessed pre-stress for a propensity to dissociation and for symptoms of burnout. The results indicate stress exposure significantly increased compliance in individuals with an increased propensity to dissociation; stress exposure increased suggestibility. In addition, pre-stress assessments of burnout predicted suggestibility in all participants. Thus, some individuals are vulnerable and increase in compliance when exposed to interrogation stress. In addition, individuals who are experiencing burnout are at increased risk for increased suggestibility. Implications for forensic settings will be discussed.

### **Torture and Health Professionals – Stop Impunity!**

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Torture is internationally prohibited, yet it frequently occurs with the assistance of health professionals. Recent examples include allegations of transgressions by American psychologists and physicians. A higher standard is expected of health professionals, yet the UN Principles of Medical Ethics are not enforceable in a comprehensive manner at an inter-governmental level. A proposal for an International Health Professionals Ethics Oversight Committee to regulate all health workers in relation to unethical standards of practice involving torture and other forms of cruel, inhuman, and degrading treatment was presented at the International Council of Nurses Congress in 2001, the IX Congress of Social Psychology for Liberation in Chiapas, the International Congress on Law and Mental Health in Padua in 2007 and in New York in 2009, the American Psychological Association Convention in 2009, and the American Psychologists for Social Responsibility Symposium in 2010. In the development of the proposal, the Victoria Coalition for Survivors of Torture in Canada has consulted with a number of experts including the UN Rapporteur for Health for All, a member of the UN Committee against Torture, and Amnesty International. This presentation provides an update about the proposal and an opportunity for input into its development and implementation.

### **The Influence of Clinicians' Trauma Exposure and PTSD on Assessing Risk of Child Abuse**

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Research has identified high levels of trauma exposure and PTSD in professionals responsible for assessing children at risk of abuse. An important question arises: what is the influence of stress and trauma on professional judgment? This study used an experimental design to evaluate the association between critical incident exposure, PTSD, and workers' judgments of child risk. A sample of 94 protection workers was recruited from nine child welfare agencies. All workers were presented with two simulated clinical interviews involving typical child welfare intake cases. Pre-scenario administration of standardized instruments addressing prior trauma exposure and current PTSD symptoms revealed high levels of exposure to critical events in the workplace and high levels of traumatic stress symptoms. After the simulated interviews, workers completed two standardized risk assessment measures. One measure was a consensus-based risk assessment instrument, the other an actuarial tool. Number of prior critical events encountered was negatively associated with assessment of risk. Level of traumatic stress symptoms was negatively associated with risk on one, but not other measures of risk. As standardized measures for assessing a child's risk of abuse appear to be influenced by worker variables, implications for both clinical management and judicial decision making must be considered.

### The Instinctual Trauma Response: Understanding the Biology of Trauma and How to Treat It

Lee Norton, *Center for Trauma Therapy, Franklin, USA*  
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Clinical and legal practitioners work with a large population of clients who have sustained acute or chronic trauma (usually both). Trauma affects the individual's perception, judgment and behavior, and obscures insight. For this reason, it is helpful to carefully examine the dynamic of traumatic incidents, and how this dynamic is re-enacted in self-defeating mental, emotional and behavioral patterns. This presentation will focus on a phenomenon called The Instinctual Trauma Response (ITR), developed by Louis Tinnin, M.D., and Linda Gantt, Ph.D. Drs. Tinnin and Gantt have combined the neurological and emotional models of understanding the effects of trauma, with extremely effective and efficient methods of resolving traumatic stress reactions. The ITR model comprises five stages inherent to any traumatic event: Startle, Thwarted Intention, Freeze, Altered State of Consciousness, Altered Body Sensations, Automatic Obedience, and Self Repair. In this presentation each component of the ITR model will be examined and discussed, along with a five-part model



for resolving trauma. Mental health and law practitioners alike can benefit from the practical applications associated with this model, parts of which can be used in the confines environments of jails, prisons, and psychiatric hospitals. The framework that the model provides for understanding the disorganized thinking and behavior that often accompanies trauma, and the steps for resolving traumatic reactions, are a tremendous contribution to any practitioner working with traumatized individuals.

## 90. Mental Health in the Danish Law System

### Mentally Disordered Non-Psychotic Criminal Offenders – Determinants for Sanctions of Treatment

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Non-psychotic criminal offenders may, according to the Danish Penal Code, be sentenced to treatment rather than punishment - when treatment is considered the more appropriate sanction in order to prevent relapse into crime. The court's decision is always based on a forensic psychiatric report, and, in cases of doubt, it is additionally based on a review from the Psychiatric Section of the Danish Medico-Legal Council. Data on a sample of 298 non-psychotic offenders was collected from the forensic psychiatric reports, the reviews from the Council, and the final court records. All in all, about one half of the offenders received a sanction of treatment instead of punishment. Demographic data as well as data from the criminal and psychiatric histories of the offenders were statistically analysed using correlation and regression analyses, and the resulting possible determinants for the court's decision on treatment instead of punishment will be presented and discussed.

### Are Criminal Females Mentally Disordered and Criminal Males Dangerous?

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Are criminal females mentally disordered and criminal males dangerous? As part of a Danish project on 298 not psychotic but otherwise mentally disordered offenders, all of whom were psychiatrically assessed before their trial, the female part of the sample is presented and the gender aspect analysed, comparing the 53 females of the sample with the 245 males. The women received the more serious diagnoses, and 58% of the females versus 43%

of the males were eventually sentenced to psychiatric treatment instead of punishment. However, no female, compared to 17 males, received a sanction of indefinite detention, a sanction reserved for the most dangerous of offenders. The extent to which the concepts of female offenders as mad and males as bad reflects the type of crime will be discussed, as will whether it should also be understood in light of the psychiatric and judicial systems' different responses to the two genders.

### The Function of the Danish Medico-Legal Council in Cases of Mentally Disordered Non-Psychotic Criminal Offenders

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The Danish Penal Code diverts (nearly) all psychotic offenders from punishment to psychiatric treatment. Even non-psychotic offenders may be sentenced to treatment, if it is believed that treatment will better prevent criminal recidivism than punishment. The court's decision as to whether or not the defendant is comprised in one of the sections on mentally disordered offenders as well as on the question of a possible treatment sanction is always based on a forensic psychiatric report. In cases of doubt the court asks for a review of the report by The Psychiatric Section of The Danish Medico-Legal Council. This council has since its foundation in 1909 given expert medical opinions in individual cases to all relevant public authorities – especially the courts. The expert role of the Council is illustrated by the use of a sample of 298 statements on non-psychotic offenders. It is concluded that The Council is useful for the quality of the psychiatric assessment reports in the whole country and thus for the condition of a fair trial in these difficult cases in the cross-field between psychiatry and law.

### Forensic Psychiatric Evaluations Concerning Non-Psychotic but Otherwise Mentally Disturbed Offenders (§69 In The Danish Penal Code) in 2003 and 2008 at 4 Centres in Denmark

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Tina Gram Larsen, *Aalborg University Hospital, Aalborg, Denmark*

The Danish Penal Code comprises two paragraphs (§§ 16 and 69) about the legal status of mentally ill or retarded offenders and one concerning the associated judicial measures (§69). § 16 states that persons who at the time of the criminal act were irresponsible due to psychosis or quite similar conditions or a pronounced mental retardation are not punishable under law. § 69 concerns persons with a less severe degree of mental illness or retardation. A forensic psychiatric evaluation should be requested by the judicial system if there are reasons to assume that the offender suffers from any of the conditions comprised in § 16 and often also for the more heterogeneous conditions comprised in § 69. The forensic evaluation takes place before the trial. Two key questions must be dealt with in the conclusion of the forensic psychiatric report: which of §§ 16 or 69 is relevant in the case at hand and what kind of judicial measure should be suggested to the court. In the present study we had access to data from the four regional forensic psychiatric centres in Denmark, covering approximately 80% of the total number of § 69 cases. Study design was comparative, retrospective, and file-based. Material was forensic reports delivered from the four centres in 2003 and 2008, where the delinquent was assigned to § 69. All reports were scrutinized by experienced forensic psychiatrists and selected data was registered, with focus on age, ethnicity, diagnosis, offence, substance abuse, suggestion as to judicial measure, and the final sentence. Development, differences, and alterations over time and within the group of § 69-persons, between the regional centres, and in the judicial measures will be addressed according to the above mentioned items. A total of 313 forensic reports were included from 2003 and 374 from 2008. Preliminary data suggests an increasing number of forensic reports being requested and possible regional differences concerning diagnostic practice. Collection of data is close to terminated and results will subsequently be reported.

### **PSP (Psychiatry, Social Services, Police) Collaboration: A New Model of Working Practice between Governmental Sectors**

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Michael F. Rasmussen, *Police Academy, Copenhagen, Denmark*

This is a presentation of a new model of working practice between Psychiatry / Mental Health Services, Social Services, and the local Police Department. The model was introduced in 2005 in one urban municipal in the greater Copenhagen area. The intention was to ensure that relevant information was shared and to diminishing the friction in collaboration between the sectors in order to enhance support to citizens at risk. The model has been practiced locally since 2005. In 2009 it was up-scaled by the Danish authorities to national coverage. The presentation will focus on experiences with and potential of the model as seen from a forensic psychiatric view point.

## 91. Posttraumatic Stress Disorder

### Challenges in the Diagnosis and Treatment of PTSD and Mild Traumatic Brain Injury (mTBI) in U.S. Military Veterans

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Increasing numbers of Veterans with a diagnosis of PTSD and Mild Traumatic Brain Injury (mTBI) are being seen in the Department of Veterans Affairs due to the continuing conflicts in Iraq and Afghanistan. The Department of Defense and the Defense and Veteran's Brain Injury Center estimate that 22% of all combat casualties from these conflicts are brain injuries, compared to 12% of Vietnam related combat casualties. mTBI is caused by blows to the head and exposure to blasts and explosions that result in concussion, which when suffered multiple times can complicate the condition. Signs of mTBI include blurred vision, headaches, aggressive behavior, depression, and cognitive issues such as trouble concentrating. The diagnosis of mTBI PTSD presents unique challenges for diagnosticians. The current VA screening tool is intended to initiate the evaluation process, not to definitively make a diagnosis, the gold standard remains an interview by a skilled clinician. The presence of mental illnesses, physical wounds and TBI leads to progressively worsening circumstances for veterans who have great difficulty returning to the community, highlighting the need for effective screening and early treatment.

### PTSD in the Aged: An International Perspective

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In today's world, where trauma has become part of life, PTSD is being seen more often and awareness has also increased. Presentation of PTSD varies with the cultural influence and age group. PTSD presentation in the Indian, Maori (NZ), and British context will be discussed, with an emphasis on the aged population. This presentation is based on the speaker's experiences working in different countries (including India, New Zealand, and the UK) and also based on the experience of meeting the victims of the Mumbai riots, serial bombing attacks in Mumbai and Latur, and Kutch earthquakes in India.

### PTSD in a General Hospital Setting

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PTSD is often undiagnosed or under-diagnosed in a clinic setting where patients frequently present with mood or psychotic symptoms. This presentation will illustrate our experience in an inner city teaching hospital where the high incidence of domestic violence and other trauma is well-recognized. Recommendations for screening and increased education and awareness will be made.

### Posttraumatic Disorder among United States Military Veterans

Jagannathan Srinivasaraghavan, *Southern Illinois University*  
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In the United States, among Vietnam War veterans, 30% of males and 27% of females exhibit signs and symptoms of Posttraumatic Stress Disorder (PTSD) at some point in their life. Over 1.6 million U.S. forces have been deployed to Iraq and Afghanistan, 49% former active duty troops and 51% reserve and national guards. Among those seeking care from the Veterans Health Administration, mental health care is ranked only second after orthopedic care. Improved protective gear has decreased mortality, but unfortunately has significantly added to morbidity. Among the wounded injured by blast, 62% result in Traumatic Brain Injury (TBI) and 85% of TBI's are due to closed head injuries. PTSD and TBI may coexist and are often difficult to differentiate. As of Fiscal Year 2009, 390,000 veterans receive benefits for PTSD. This presentation will outline the compensation and pension examination process, the challenges involved and the appeals process available to the veterans. Less stringent criteria to tease out the stressors, increasing caseloads limiting the time available for evaluations, and limited objective criteria have resulted in some exaggeration of claims and

have also made malingering a real possibility. Some studies estimate that malingering encompasses as many as 25% of cases.

## PTSD in Children and Adolescents

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Trauma in children and adolescents is epidemic. Wars, natural disasters, accidents, domestic violence, and abuse all offer ample opportunity for children to suffer trauma worldwide. We are becoming increasingly aware that children and adolescents are at particular risk of suffering posttraumatic psychiatric symptoms. In one prospective study, one third of children met diagnostic criteria for PTSD after a traffic accident, and nearly half suffered symptoms although they did not meet DSM criteria for PTSD. In another study, 46.3% of children screened suffered posttraumatic psychiatric symptoms after a natural disaster. We recognize this at a time when many experts in the field argue that DSM criteria miss a significant number of symptomatic children that then go undiagnosed. We will use a forensic case study as a springboard to discuss PTSD as a diagnostic entity, and provide guidelines for professionals in the evaluation and treatment of children who suffer trauma. Particular attention will be given to maintaining sensitivity to the forensic issues that often follow in a significant number of these cases, sometimes even years later.

## 92. Violence, Victims, and Mental Health

### Emotional Dysregulation as a Risk and a Prelude to Violence

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Emotional dysregulation, traditionally a central tenet of clinical psychology and psychiatry, is receiving growing attention from criminology, neuroscience, and forensic psychology.

Emotional dysregulation is the difficulty controlling and coping with emotions. It involves intense emotional shifts, mood swings, and loss of control over one's behaviour. In light of the resulting social and behavioural impairments, social and neuropsychological scientists agree that emotional dysregulation can be seen as a risk factor for violence. The scientific literature is not always consistent in the definition of emotional dysregulation, its causes, or its impact on social functioning. The aim of this paper is to explore the literature of the last 20 years and systematically evaluate the findings so as to identify: a. how emotional dysregulation is defined; b. how it is linked to criminal behaviour and violence; c. how this knowledge has influenced the professional practice of treatment of violent individuals and guided relapse prevention. It is believed that a wider understanding of the neuropsychological, emotional, and behavioural risk factors that affect the control of emotions could have implications at preventative and treatment levels, and could offer new evidence-based elements of scrutiny for assessing criminal responsibility and criminal liability in the courtroom.

## Blaming the Victim

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Victims of crime need emotional support in order to cope with their hurt and suffering. However, many victims, especially rape victims, encounter considerable difficulty in obtaining support. This can be attributed to the fact that they are often, to some extent, blamed for their own victimization. As victim blaming increases, the level of responsibility attributed to the offender and the perception of the severity of the criminal act decreases. This presentation will discuss the "need" to blame rape victims, not only among lay people and sex offenders themselves, but also among therapists, including those professionals who work with sex offenders or even rape victims. Data will be presented showing differences among therapists (victim therapists, offender therapists, those treating other populations) and lay people in attributing blame to victims, attribution of blame to offenders, and assessment of the seriousness of the crime as a function of a number of variables. Some of these variables are irrelevant to rape, such as the behavior of the victim after the rape (for example, meeting the offender after the rape, filing or not filing a police complaint, and more). These findings can inform intervention practices in work with sex offenders and rape victims, as well as raise awareness among the general public of the 'blaming the victim' phenomenon.

## Social-Emotional Detachment as Predictor of Future Aggressive and Antisocial Behaviour: A One Year Follow-Up of Children with EBD

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Background: A rise of aggressive delinquent behaviour has been observed in the last few decades among young people in the Western world. Early detection and treatment of children at risk of developing psychopathic traits may be an approach to combat this rise, as research has revealed that psychopathic offenders not only account for a disproportionate amount of crime, but also commit more violent crimes, have higher rates of recidivism, and are exceptionally resistant to treatment. In previous studies we have found that core symptoms of the psychopathic construct can reliably and validly be assessed in children, as some children in samples randomly selected from community and incarcerated populations of children showed the narcissistic, unemotional and disruptive behavioural traits associated with this construct. To avoid unnecessary stigmatization of youngsters we designated the narcissistic and unemotional dimensions as 'social detachment' and 'emotional detachment' in children. Method: An important issue for the forensic practice is whether social and emotional detachment is associated with the development of future aggressive and antisocial behaviour in children. This topic will be addressed by studying the development of aggressive and antisocial behaviour in a one year follow-up of a community sample of 135 4-to-12-year-old children attending schools for special needs education in the Netherlands due to serious emotional and behavioural difficulties (EBD). Results: In addition to predicting current aggressive and antisocial behaviour, social-emotional detachment in EBD children turns out to be a significant and substantial predictor of aggressive and antisocial behaviour at the one year follow-up in a regression analysis model. Conclusion: It is concluded that social and emotional detachment in EBD children heightens the risk of developing future aggressive and antisocial behaviour. A discussion of factors increasing and diminishing this risk will be presented, and the implications of the study are discussed.

## Assessment of Dangerous Offenders



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This presentation will discuss the assessment of dangerous and long-term offenders and will give some results from a descriptive study of a sample of delinquents assessed since 2003. The Canadian protocol concerning dangerous offenders will be summarized, and the assessment process will be described. Following a description of the study, some comments and questions will be discussed related to this kind of assessment.

### The Significance of Protective Factors in the Assessment of Risk

Charlotte Lennox, *University of Manchester*  
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Background: Few studies have explored protective factors in the assessment of risk, despite acknowledgement that protective factors may play an important role. Aim: To examine the significance of protective factors in assessment of risk using the Structured Assessment of Violence Risk in Youth (SAVRY). Hypotheses: Protective factors will be associated with past behaviour and childhood psychopathology. Protective factors will predict desistance from reoffending. Method: The SAVRY was completed on 135 male adolescents in custody in the UK. Data on previous offending and childhood psychopathology were collected. Participants were prospectively followed-up at 12 months using data from the Home Office Police National Computer (HOPNC). Results: Participants with protective factors were older when first arrested, were less prolific offenders, and had fewer psychopathological problems. The number of protective factors present was significantly higher for participants who did not reoffend during the follow-up. The total number of SAVRY protective factors significantly predicted desistance at follow-up and resilient personality traits was the only significant individual protective factor. Conclusion: Protective factors might buffer the effects of risk factors and a resilient personality may be crucial. Implications: Protective factors should be an essential part of the risk management process and for interventions with high-risk adolescents to reduce reoffending.

### 93. Developments in Victimology

Temporary Barring Orders in Domestic Violence Cases: Experiences from The Netherlands

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In order to protect victims of domestic violence, the Dutch government introduced legislation on January 1<sup>st</sup> 2009 that allows the victim to ban perpetrators from their home for a period of at least 10 days. During this period, the perpetrator is not allowed to enter his or her home or to contact any of the victims who remain in the home. This temporary ban or barring order is intended to serve a preventative goal and can be imposed when the offender's presence poses a risk to the victim's safety. The barring order is meant to prevent escalation of violence and to offer both perpetrator and victim the opportunity to accept assistance from support agencies in ending the violence. In this presentation, we will present data from the first year after the new law became effective. We will focus on the use of the barring order and the risk assessment that forms the basis for the barring order. We will discuss the types of incidents, perpetrator and victim characteristics and characteristics of the family systems that are involved in cases where barring orders are implemented. Furthermore, we will describe the aspects of the incidents that seem to be most important in deciding whether or not to impose a barring order. We will also consider whether the barring order is effective in preventing potentially dangerous situations from escalating.

### Risk for Re-victimization of Intimate Partner Violence: The Importance of Victim-Related Factors

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The last decades have shown a growing number of studies on the factors that put couples at risk of experiencing intimate partner violence (IPV), with the majority of studies focusing on risk factors related to perpetrators of abuse. But what do we know about victim related factors that may play a role in the likelihood of experiencing episodes of IPV? What victim characteristics constitute a risk for re-victimization? Although a considerable number of studies with a cross-sectional design attempted to answer these questions, little prospective research has been conducted in this area. However, knowledge about these prospective risk and protective factors may be effective in empowering victims of IPV, increasing their resilience and decreasing their risk for future IPV. In the current study, we aimed to investigate an extensive number of risk and protective factors for re-victimization of IPV using a prospective design. After the initial assessment of 166 victims of IPV, follow-up questionnaires were administered at the 2 month mark and again after 6 months. We

studied a wide range of individual characteristics, including socio-demographic factors, personal history variables (e.g. previous victimizations, childhood abuse), and various psychological characteristics (e.g. PTSD, anger, anxiety). Interpersonal factors such as relationship characteristics were also assessed. During this presentation, results of the study will be presented. Implications for risk assessment and management will be discussed, in the course of which the importance of distinguishing between static and dynamic factors in terms of victim assistance and interventions will be emphasized.

### Examining the Expression of Negative Emotions: Victim Impact Statements and the Emotional Recovery of Victims

Kim M.E. Lens, *Tilburg University*  
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This presentation deals with the influence of Victim Impact Statements (VIS) on the emotional recovery of victims. As our recent, longitudinal study shows, VIS seem to have no direct influence on the most essential indicators of emotional damage: anger, anxiety and PTSD. However, participating victims indicated that they (strongly) believe that the use of VIS has had a positive effect on their emotional recovery. Moreover, after using VIS victims scored higher on ratings of confidence in procedural justice and feelings of control over the recovery process than did victims who did not use VIS. In this presentation, I will discuss the term “emotional recovery” and give possible reasons for the above-mentioned “discrepancy” in findings.

### Vulnerability Factors in the Explanation of Workplace Aggression: A Theoretical Framework

Fanny Klerx-van Mierlo, *Tilburg University*  
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Workplace aggression is becoming a well-known problem in Western societies. The conceptualization of workplace aggression varies across different studies. In this presentation I will give an overview of the different definitions used in the literature to eventually come to a working definition of workplace aggression that will be used to construct the theoretical framework of vulnerability factors for workplace aggression in Dutch Prisons. Furthermore, I will elaborate on the hypothesized effects of maladapted coping strategies, type D personality, negative childhood experiences, Post-traumatic Stress Disorder, and Attention Deficit/Hyperactivity Disorder on the (re)victimization of

penitentiary workers in Dutch prisons. Finally, the conceptual model derived from the theoretical framework will be presented.

## Abuse and Neglect during Childhood, PTSD, and Prostitution

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In this presentation, the relationship between childhood abuse, neglect, and adult PTSD will be examined. In our research, we examined childhood abuse, neglect, and adult PTSD in a sample of 123 female indoor prostitutes in the Netherlands. In our sample, substantial numbers of prostitutes had experienced abuse and/or neglect during childhood and a substantial number were suffering from PTSD. We found significant differences between prostitutes suffering from clinical PTSD, prostitutes suffering from non-clinical PTSD, and prostitutes not suffering from PTSD in the extent to which they experienced and recalled sexual abuse, physical abuse, emotional abuse, physical neglect, and/or emotional neglect. Our findings suggest that PTSD among prostitutes is not only caused by workplace aggression or the nature of prostitution but can also be caused by recalled negative childhood experiences.

## 94. After the Big Fighting Stops: The Lingering Effects of Violence on Individuals and Social Structures

Studies of the effects of war, conflict, and human rights abuse have tended to focus on soldiers returning home after combat, or on refugees living in resettlement countries. However, most survivors of human-initiated disasters continue to live in or near the places where they initially experienced trauma. Although still relatively rare, studies of populations who continue to live in or near situations where they experienced trauma suggest even higher rates of physical and mental distress than those found among survivors of disaster resettled in more peaceable, predictable environments. Insufficient attention has been paid to social disorganization in situations of continuing unrest, and to its role in creating or stabilizing health problems and mental health outcomes such as Post-Traumatic Stress Disorder (PTSD). Disasters of human design set in motion two types of losses, human and social. In turn, these two losses set in motion mutually reinforcing processes of social disorganization and mental health problems. Social capital is a major determinant of individual mental health, and mental health is part of the human capital necessary for

community resilience. For this reason, interruption of the vicious spiral of social disorganization and disturbed mental health calls for interventions at individual as well as social levels. In the aftermath of catastrophe, paying attention to both the individual and social wounds brought about by violence and abuse is prerequisite to restoring individual well-being, and to rebuilding civil society. The panel is made up of specialists in health, mental health, and social development. Members of the panel will present research describing the human and societal effects of human-initiated disasters in different parts of the world. Other panelists will focus on individually oriented as well as psychosocial interventions aimed at restoring well-being and rebuilding civil society.

### Human-Initiated Disaster, Social Disorganization, and PTSD in the Oil Basins of Nigeria

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Violence and human rights abuse are assaults on mental health whose effects can last for years, sometimes even decades. A substantial literature, focusing for the most part on Post-traumatic Stress Disorder (PTSD), has characterized the mental health effect of disaster as a symbolic repetition of repressed traumatic memory, a process involving altered neuroendocrine or brain functioning, and as a dual assault on both brain and mind. The role of social context in creating or perpetuating PTSD has been neglected. This is probably because most studies of PTSD as a consequence of human initiated disaster have focused on soldiers returning home, or on refugees living in resettlement countries. However, most survivors of catastrophe do not become refugees, but instead are forced to live in or near the situations in which violence initially took place and which are often the settings of continuing conflict. The presentation focuses on a study of PTSD in the Niger Delta region of Nigeria, a setting in which violence reached its apogee in 1995, and which continues to be subject to persistent conflict. The paper describes the prevalence of PTSD, and its stress-related precipitants. It also focuses on sociocultural disintegration, a community-level result of violence and human rights abuses. Compromised mental health and sociocultural disorganization together create a mutually reinforcing vicious spiral of despair. Repair will probably require interventions at both the individual and community level.

### Planning, Development, and Implementation of Psychosocial Support Programs

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This paper is divided into three sections. The presentation will begin by sharing with the audience the existing international guidance for psychosocial support. Secondly, relying on examples from Central, South America, the Caribbean and Asia Secondly, the paper will outline the essential components of (a) planning, focusing on the importance of community based research methodologies to assess and define needs. While sharing examples of programs (b) development the inter-relation of beneficiary needs, international guidance, and donor intent will be introduced. (c) The implementation of psychosocial support programs will focus on a discussion of the tools necessary to develop psychological well-being and resilience. The third part will focus on lessons learned internationally and introduce a generic model for the development of a psychosocial support program.

### Trauma-Focused Public Mental Health Interventions: A Paradigm Shift in Humanitarian Assistance after War, Violence and Disaster

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Elisabeth Schauer, *Vivo International, Ancona, Italy*

Humanitarian interventions to aid survivors of war, violence, and disaster tends to be offered at the level of "social" or "economic" assistance rather than more individually-oriented psychological rehabilitation. The latter approaches have been criticized because they ostensibly "medicalize" political problems, privilege western paradigms over 'cultural and traditional' wisdom, and interfere with self-healing when 'non-interference' is called for. Such criticisms hamper the design of efficacious mental health interventions for severely affected survivors in resource-poor countries, who at times make up a sizable portion of a given population. Recent field-based studies have demonstrated the efficacy of short-term, evidence-based trauma treatment methods, which can be successfully built into large-scale service provision and applied by locally trained lay counselors. The current report is based on the authors' and their organizations' experience gathered during research interventions on the African continent, as well as Central and Southern Asia, the Balkans and through working with conflict affected populations as diverse as asylum seekers, refugees and internally displaced persons (IDPs). The paper offers a set of empirically validated guiding principles for public mental health interventions with survivors of war and disaster.

## Public Perceptions in the British Crime Survey: The Inter-Relationship between Fear, Confidence, and Quality of Life

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Public fear of crime has been on the rise, despite the fact that crime rates have been steadily dropping. At the same time, public satisfaction with the Criminal Justice System (CJS) is becoming more and more important, to the extent that in England and Wales it has become a formal part of public service agreements and performance assessments. Finally, public perceptions of local area conditions and the levels of nuisance crimes or incivilities have been shown to impact their day-to-day activities as well as both levels of fear and perceptions of the CJS. As such, addressing factors related to one problem can potentially help alleviate the others. Yet, to date, such possibilities have not been empirically tested. This study statistically assesses any predictive overlap in these outcomes by analysing BCS data from 2001-2009. It asks: 1) to what degree do the factors affecting different criminological outcomes overlap? and 2) how much do these outcomes predict each other? The analyses will take into account not only characteristics of the respondent and his/her household but also those of the larger Police Force Area (PFA) where the respondent is situated. It aims to determine whether there is scope to improve public assessments on all three fronts by identifying and subsequently addressing the predictors of public assessments of fear of crime, confidence in the CJS, and perceived quality of life.

## 95. Primary and Secondary Prevention of Child Sexual Abuse and Child Pornography Offenses in the Dunkelfeld

### Computer Assisted Telephone Interview (CATI) as a Low Threshold and First Level Diagnostic Instrument

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Having chosen a nation-wide media campaign to both inform the public about the launch of the Berlin *Prevention Project Dunkelfeld* (PPD) and entice potential participants to come forth, it was anticipated that the number of respondents would overwhelm the project's clinicians. Thus, an efficient and economic means of pre-selecting eligible participants was

required. Ideally, it would allow for the assessment of very intimate and sensitive information from individuals who were expected to be anxious and to whom the research staff were complete strangers in as short a timeframe as possible. To achieve this “screening”, a structured interview manual offering a low threshold was developed, which enabled specially trained research staff to conduct a computer assisted telephone interview (CATI). The research staff would gradually build a relationship with the caller while collecting self-reported data on demographics, mental health, sexuality, criminal history and victim characteristics and entering all data into a single data base. Upon initial phone contact, many participants reported recurrent sexual fantasies involving minors, suggesting a high prevalence of pedophilia and hebephilia. Analysis of data collected during the post-screening clinical interview revealed that 100% of those who reported in the screening that prepubescent minors dominate their sexual fantasies were subsequently diagnosed with pedophilia. More than half of a subgroup of 160 screened men feared they would sexually abuse a minor, and Dunkelfeld offenders reported 3.2 victims on average. Group comparisons revealed that Dunkelfeld offenders were more likely to perceive themselves being at risk of re-offending, compared to potential offenders. Overall, the results indicate that this CATI served as a reliable instrument to reach/achieve the presumed diagnosis, and suggests that targeting potential as well as Dunkelfeld offenders could prove a worthwhile approach in the prevention of sexual abuse of children. After briefly introducing the PPD and its media campaign, this presentation will describe the design of the CATI, report more results, and discuss the potential as well as the limitations of the method.

## Detected and Undetected CSA and Child Pornography Offenders

Janina Neutze, *Charité Universitätsmedizin Berlin*  
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For men who have reportedly committed undetected offenses, risk assessment, risk management, and treatment efficacy may benefit from increased knowledge about their particular pattern of dynamic risk factors. Though research in dynamic risk factors has increased over the past few years, the majority of the data is based on samples of convicted offenders, which limits the generalizability of the findings. Thus, to enhance our knowledge about Dunkelfeld offenders, this study investigated a sample of never detected offenders (n = 176) and compared them with a sample of offenders who were (1) currently detected (n = 86) or (2) previously detected by the justice system (n = 54). All 316 offenders met DSM-IV-TR criteria for pedophilia (or paraphilia not otherwise specified for those who were sexually attracted to pubescent children). Self-report data was collected on socio-demographic and criminological variables as well as on previously identified dynamic risk factors of CSA:



offense supportive attitudes (emotional empathy deficits, offense supportive cognitions, deficits regarding motivation), problems with sexual self-regulation (risk awareness, coping self-efficacy deficits, sexual preoccupation, coping by using sex), and task-orientated coping style deficits. Groups differed with respect to offense (child pornography, sexual abuse of children, mixed offenses), employment, age, sexual preoccupation and task-orientated coping style deficits. Findings are discussed with reference to case formulation and risk management.

### Medical Aspects of Therapeutic Prevention of Sexually Offensive Behavior in Pedophiles and Hebephiles in the Dunkelfeld

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Meta-analyses of treatment programs for sexual offenders have shown that the most promising effects on the reduction of sexual recidivism come from approaches that combine cognitive behavioral psychotherapy with medication that reduces sexual urges, including Selective Serotonin Re-uptake Inhibitors, Antiandrogens, and Gonadotropin Releasing Hormone Agonists (GnRH-Agonists). Thus, patients who voluntarily participated in the treatment phase of the Berlin Prevention Project were offered drug therapy while in a specialized, non-forensic treatment program for the prevention of child sexual offending. All men met DSM-IV criteria for pedophilia or paraphilia not referring to urges or fantasies involving peripubescent children (hebephilia). Data on risk factors was assessed using self-report questionnaires. Approximately 1/5 of the men chose additional drug treatment (according to an interim evaluation, this was 12 in 65). Clinical interviews on the effects were conducted. Medical data on side-effects of androgene depleting treatment were collected. Group and individual differences in risk factors related to the willingness to engage in pharmacological treatment will be presented, as well as the effects of the treatment. Adverse effects and the implications of long-term pharmacological reduction of sexual impulses will be discussed.

### Ethical Questions Concerning CSA-Preventive Treatment in the Berlin Dunkelfeld Project

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Child Sexual Abuse is seen as a grave offence in most societies, arousing vivid emotional reactions. It is frequently associated with a call for drastic punishment, as well as the imposition of stringent measures to avoid the possibility of recurrence. The popular demand for castration is an indication of the mix of misguided functional thinking and the punitive impulse closely associated with CSA-offences. In this prevailing climate, efforts directed at resolving the problems of the offenders may be misconstrued as unjustified, the emotional identification being clearly on the side of the victims. The practical value of primary prevention is obscured in this frame of mind, and public opinion may even assume that the offenders benefit and the victims are unduly neglected. On the legal side there are differences between various countries, which can be characterised with examples from Germany and the USA: In Germany, all professionals working with sexual offenders are bound to the requirement of confidentiality (except in the specific legal situation of supervision of conduct). On the one hand, this protects the mutual trust between the patient and those diagnosing and treating them. On the other hand, even in a situation where there is obvious risk of CSA, the professionals in contact with the offender would not be allowed to take measures beyond those inherent in the therapeutic process (unlike other serious crimes, e.g., murder). In the U.S., the legal system requires the reporting of imminent risk of CSA irrespective of the confidential relationship between the patient and therapist. An approach like the Berlin Dunkelfeld study would not be feasible in the U.S., since a relationship based on trust is not achievable within the parameters of the legal system. The implications of this fundamental difference will be highlighted and evaluated, and the historical and ethical background to it will be discussed.

## 96. Pedophilia and Sexual Offences against Children

### Treatment Center for Self-Referred Pedophilic Men in Regensburg: First Experiences

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Following the inauguration of a treatment center for self-referred pedophilic men in Berlin in 2005 (Beier, 2009), a similar institution was opened in Regensburg in the summer of 2010. The treatment protocol is cognitive-behavioral, combining single- and group-therapy

and offering supportive medication if necessary. The purpose of the treatment center is twofold: to assist in the prevention of child sexual abuse and to support the alleviation of psychological distress often experienced by pedophilic men who seek treatment. While the identity of the patients is kept confidential, they do give their permission to obtain information from the federal crime registry. This permission is indispensable, as individuals who have committed hands-on sexual offenses against children in the past are excluded from the treatment center. The therapy program has three main objectives: 1) improve one's understanding of one's personal risk; 2) teach individual strategies for risk prevention (including the abstinence from child pornography); 3) reduce cognitive distortions with regards to child sexual abuse. The presentation will highlight our first experiences within the treatment center and discuss the crucial steps in preventive therapy for pedophilic patients.

### Evaluation of the Stimulus *Virtual People Set* for Assessing Sexual Preferences via the *Bradley-Terry-Luce-Model* and Reaction Times

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The *Virtual People Set* (Dombert et al., 2010) for assessing sexual preferences consists of 108 computer-generated pictures showing people of both sexes in three age categories (1: prepubescent, 2: pubescent, 3: adolescent/adult), both nude and clothed. 110 students (50% male, 50% female) were asked to do 48 balanced comparisons, each consisting of two pictures. For each comparison, subjects had to judge which picture showed the younger person. Reaction times for each comparison were measured covertly. Statistical evaluation was conducted by testing the *Bradley-Terry-Luce (BTL)*-model (Bradley, 1984): If the data fits the model, the age categories of the stimulus set can be regarded as a measurement on a

ratio scale. Expected results: A) The data fits the *BTL*-model, with scale values of age categories ordered from prepubescent to adolescent/adult. B) We expect longer reaction times and more errors for comparisons between nude pictures than for comparisons between clothed pictures. C) We expect longer reaction times and more errors for comparisons between adjacent categories (1 vs. 2, 2 vs. 3) than for comparisons between categories 1 and 3. D) Reaction times for comparisons that involve pictures that correspond with the subjects' sexual preference will be longer than other comparisons.

## The Virtual People Set: Computer-Generated Stimuli for the Assessment of Pedophilic Sexual Interest

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Assessing pedophilic sexual interest relies on visual stimuli. Given that there are many ethical and legal concerns over the use of child material, computer-generated images are a viable option to overcome these problems. Furthermore, computer-generated images allow for the maximizing of internal validity through considerable standardization. A team of photographers and 3D-artists produced 180 virtual characters that differed in terms of gender (female/male), explicitness of the image (naked/clothed), and sexual maturity

(prepubescent, pubescent, adolescent/adult). Subsequently, the pictures were rated in terms of attractiveness, realism and Tanner stage by informed student raters ( $n = 20$ ). The final composition of the Virtual People Set (VPS) was based on the results of this rating with high values of inter-rater reliability for the different categories. The development of the VPS will be illustrated and discussed in the presentation.

## Attentional Methods for Identifying Pedophilic Sexual Interest: An Overview

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The talk will give an overview of current developments for the assessment of deviant sexual interest. Influenced by experimental paradigms from cognitive psychology, procedures such as choice-reaction time, dot probe or rapid serial visual presentation have been applied to the detection of sexual preference disorders. These attentional measures record delays in reaction times or error rates in concomitant tasks dependent on the presentation of stimuli that are relevant for the disorder (such as child images with regards to pedophilia). The measures can be differentiated as either overt or subliminal (based on the mode of presenting the crucial stimulus material). Second, the measures differ with regard to the accompanying task as either direct or indirect. Indirect measures capitalize upon interference effects between the stimulus content and the ostensible task. We take the position that indirect measures (such as choice-reaction time) are most suitable for forensic applications where many subjects are likely to deny sexually deviant interests. We summarize findings from empirical research that supports this claim. Consequently, indirect measures may become a viable option for the assessment of sexual preference disorders in cases where other methods of assessment (such as physiological measures) are either not accessible or too costly.

## 97. Prison Psychiatry

## Aspects Affecting Medical Care in the German Prison System: The Situation of Psychiatric Care

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Since 2006, the German penitentiary system has been run by the 16 local states. Medical care more generally is organized in accordance with the principles of equivalence of care and the CPT standards. About 70,000 persons are currently in German prisons. Approximately 5% are female, 10% juvenile. Due to differences in state policies, there are no uniform statistics about health in prisons. This presentation will illuminate the differences between the German states and focus on the main ethical aspects of prison health care regarding German prison regulations and the psychiatric care situation. Although state guidelines defining standards of care and medical confidentiality are similar, they are still far from standardized. The goals following release from prison are not clarified. Even in a country such as Germany with high socio-economic standards, there are limitations to health care in prisons. The group that requires the most resources is inmates with co-occurring mental illness, addiction, and infectious disease. Although this group needs intensive, specialist diagnostic care and proper treatment, psychiatric resources are limited, the ethical roles of professionals interacting with offenders are not clearly defined, and national prison guidelines for this problematic group are rare. The medical system needs to practice enhanced cooperation between guards, social workers, and psychologists. Still, it remains common practice to respond to suicide attempts with isolation. The rate of opioid maintenance treatment differs from state to state and from prison to prison. Clearly the system is severely affected by the lack of professionals, and would benefit from an increase in levels of standardization and quality of care.

## Relationships and Sexuality of Imprisoned Men in the German Penal System

Thomas Barth, *Berlin Prison Hospital, Berlin, Germany*  
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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. Prison inmates suffer not only from separation from their spouses or partners but also from sexual harassment, extortion, and the threat of rape, which has multiple implications for their mental and physical health. Forms of homosexual contact between inmates include prostitution and “protective pairing”, both characterized by the fact that they are located in the dark area of

nonconsensual sexual acts largely unexplored by science. The first German study to record data about the relationships and sexuality of imprisoned men was conducted in an adult correctional facility for long-term prisoners in Berlin-Tegel. The survey, which is based on results of a questionnaire completed by voluntary study participants, has a special focus on the occurrence of consensual homoerotic contact between heterosexual inmates. The emphasis is on the potential impact of such contact on role behaviour during confinement and sexual identity after release. The survey is also expected to reveal data on the incidence and prevalence of sexual violence and coercion within correctional facilities. First results of the survey will be presented.

### Actual Ethical Problems in Prison Psychiatry

Norbert Konrad, *Free University of Berlin (Charité)*  
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Starting with an account of the dual-role dilemma in forensic psychiatry, several ethical issues regarding expert witness duties are dealt with; these include risk assessment as well as forensic psychiatric treatment situations. Ethical challenges within prison psychiatry particularly refer to the principle of equivalence, consent to treatment, compulsory treatment, confidentiality, and research. Ethical in-depth analyses of some of the situations that arise in forensic psychiatry have not been widely described as of yet. The solution to an ethical problem will often depend on social and political factors rather than on ethical canons.

### Systematic Examination of Psychiatric Hospital Treatment in Prison in Berlin

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The psychiatric department of the Berlin prison hospital JVKB provides medical and specialist psychiatric care for all male prisoners in Berlin that require inpatient treatment. Information on this large group of patients is not yet systematically recorded. To overcome this, a database suited for research purposes was created that contains information on diagnoses, duration of stay, frequency of aggressive behavior, and sociodemographic variables. The patients' data will be assessed prospectively, as the assessment began in June 2010. The scope and frequency of psychiatric diagnoses, aggressive behavior, compulsory medication, attempted suicides, and length of treatment will be described. The association of the patients' behavior to diagnoses will be analyzed. The results of this first year of

observation will be compared to those of the general psychiatric hospital population as well as to the non-hospitalized prisoners. Predictors of aggressive behavior will be identified by regression analysis.

## 98. Correctional Psychiatry

### Correctional Psychiatry

Annette Hanson, *University of Maryland*  
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This presentation will give an overview of the American correctional system and the role of jails and prisons in the training of forensic psychiatrists. It will discuss the experience of developing a correctional psychiatry curriculum within a forensic training program. Aspects of correctional psychiatry relevant to forensic training include ethical and dual agency issues, risk management, suicide risk assessment, and American civil rights litigation. Case examples will be given that illustrate how these topics interface with American forensic training. Additionally, international standards and ethical guidelines for the treatment of prisoners will be addressed and contrasted with emerging legal trends in the United States.

### Treatment of Sex Offenders

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Twenty-one jurisdictions in the United States have enacted civil commitments laws for high risk sexual offenders since 1990. These laws have resulted in the creation of a novel and exceedingly specialized population of clients within the field of sex offender treatment comprised of extremely high risk offenders with distinct characteristics and treatment needs. Although specific to the United States, this civil population of sexually violent predators may closely resemble particularly dangerous individuals found in prison sex offender treatment programs throughout the world. Medical management of deviant sexual arousal includes treatment with Selective Serotonin Reuptake Inhibitors (SSRIs), Testosterone Receptor Blockers, Anti-Androgens, and Gonadotropin Releasing Hormone Agonist (GnRH agonist). Psychology also plays a crucial role in the assessment and treatment of this population given the frequency of Personality Disorder diagnoses in conjunction with Axis I Paraphilia diagnoses. The level of Axis II pathology creates an extremely challenging



and treatment-resistant population. This presentation will describe basic treatment and management strategies including group psychotherapy, chemical castration, and intensive community supervision.

## Supermax Syndromes: Fact or Fiction

Claudia Kachigan, *Southern Illinois University*  
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The supermaximum prison system in the United States represents the most restrictive type of segregation for convicts who have been extremely violent, even in the maximum security setting, or otherwise pose an extraordinary threat to peace and safety in lesser restrictive settings. Usually, supermax convicts spend at least 23 hours a day in their cells and are not allowed direct physical contact with others except correctional officers during transport or medical professionals for treatment purposes. Communication is also very restricted. The precise procedures vary across the country. A number of mental health and human rights advocates have proposed that these prisons cause unique effects on convicts' mental health, to the point that supermax prisons should be considered cruel and unusual punishment. This presentation will review some of the proposed mental health "syndromes" and compare these to what has been found in a specific supermax prison in southern Illinois.

## Prevention of Sexual Assaults in Prison

Angeline Stanislaus, *Consulting Psychiatrist, Saint Louis, USA*  
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Sexual assaults in prisons were ignored in the United States until a few years ago, when the Prison Rape Elimination Act was implemented. This presentation will review the literature on prison rape, identify characteristics that place inmates at high risk for sexual victimization, describe the problem with regards to staff and inmate sexual assaults, and highlight the requirements of the PREA.

## 99. Psychiatry in Prisons: A United Kingdom Perspective

### Treatment Needs of Foreign Nationals within the UK Prison Service

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Immigrant origin is one of the major risk factors for prison suicide. However, foreign national prisoners also report lower levels of mental health problems and substance use. As a result, there is the potential for their treatment needs to be overlooked. This study aimed to explore the treatment needs of foreign national prisoners by studying the referral patterns to a mental health in-reach team within a London adult inner-city prison where about 25% were foreign nationals. Data was collected on all referrals over a 4 month period, including demographics, offence profile, psychiatric history, and outcome of assessment. The findings show a gross under-representation of foreign nationals within the referral group. Foreign nationals were also far less likely to be known to community services. For asylum seekers, there were poor links between prison healthcare and immigration detention centres. Our study supports the literature finding that foreign national prisoners are referred less for mental health problems. Detection levels need to be improved by greater cultural awareness of prison staff and better accessibility to services like interpreters. Follow-up studies should include more in-depth exploration of this particular group, including face-to-face interviews to gain a better understanding of their treatment needs.

### Prison Mental Health In-Reach

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Mental health in-reach teams were developed within the prison estate in England and Wales after problems were identified with existing healthcare arrangements in the late 1990s. They were driven by four principles:

1. They should be provided by the National Health Service, rather than the prison service;
2. The acutely unwell should be diverted away from the criminal justice system, to hospital care;
3. Equivalence - i.e., that prisoners are entitled to the same range and quality of services as individuals who are located in the community;
4. They should function like Community Mental Health Teams (CMHTs).

We present research undertaken within the London prison estate that describes difficulties with the assumed model. These problems are as follows:

1. Many prison healthcare services have been outsourced to independent sector providers, with good results;
2. Diversion works for some, but fails others. It often takes too long;
3. Prisons, by their nature, are not equivalent to the community - the range of services they contain should reflect their design and purpose;
4. Prison in-reach teams operate many functions, and are unlike services as they are constructed in the community. The envisaged CMHT model should now be reviewed.

## Complex PTSD and Re-Offending Risk in Young Offenders: Risk and Protective Factors

Vittoria Ardino, *London Metropolitan University*  
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Young offenders generally have considerable histories of psychological trauma, prior to and after committing a crime. Indeed, very few studies in the forensic literature have highlighted the role of early family experiences and past victimisation in determining and maintaining delinquent behaviour. This study puts forward a model of mediating and moderating risk factors to highlight possible trajectories from past interpersonal traumas to re-offending risk in a population of delinquent adolescents. More specifically, it hypothesises that metacognition mediates and moderates trauma processing via complex PTSD and accounts for a greater risk of re-offending via a lack of information processing. 130 delinquent adolescents (mean of age: 16.36) were assessed on their past family traumas, their complex PTSD symptoms and their metacognitive abilities. Results show that complex PTSD predicts re-offending risk ( $R^2=0,240$ ;  $p<0,05$ ) and metacognition mediates complex PTSD and re-offending. Results demonstrated the need for further investigation and the putative developmental significance of the co-occurrence of complex PTSD and criminal behaviour for empirical research and youth rehabilitation outcomes.

## Prison Substance Misuse Services at HMP Wandsworth

Pamela Walters, *Springfield University Hospital, London, UK*  
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Addiction services in British prisons have come a long way since the advent of the Integrated Drug Treatment system in 2006 (National Treatment Agency, DOH). The major drivers for the provision of standardised services in prisons were essentially two-fold: harm minimisation from a public health perspective and an attempt to reduce the opiate-related

deaths post-custody. This presentation aims to provide an understanding of where prison addiction services have come from pre 2006 compared to now, and the inherent challenges that this brings with it. These can principally be broken down into the following areas:

1. Training and levels of expertise of health care staff dealing with this complex population;
2. Service provision/resource issues to run this vastly expanded service i.e., in this prison the service has expanded four fold over the past four years;
3. What have been the net effects over the past 4 years on the national drivers i.e., opiate related deaths and harm minimization;
4. The importance of greater integration with mental health services through the development of dual diagnosis service;
5. The inherent problems of railroading through a service without proper infrastructure as are so often seen in the prison health care system.

### Prevalence and Correlates of at Risk Mental State among Male Prisoners

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**Aims:** The project has two aims: i) to establish the feasibility of introducing an early detection of psychosis service to a local London prison ii) to determine prevalence of the At Risk Mental State (ARMS) among new receptions to HMP Brixton and to explore social, demographic, and behavioural factors of prisoners with an ARMS. **Background:** Previous published literature about at risk mental states in psychosis has focused on community help seeking samples. There have been no studies examining at risk mental states among prisoners. This is despite the higher prevalence of psychosis among prisoners and the potential for early detection and treatment. **Method:** A two phase sampling design was used. All new receptions from court aged 40 yrs or under with no psychiatric history were screened for prodromal symptoms. Those that scored positive at screen were assessed further by a trained clinician using a comprehensive assessment. Data was also collected on demographics, childhood trauma, alcohol and substance misuse, self harm and suicide attempts, as well as basic criminal justice system information. **Results:** Recruitment will take place over 2 years and is currently in its 2<sup>nd</sup> year. To date 512 prisoners have been screened, of which 216 have screened positive, and 70% (N=150) have been further assessed and 18% (N=26) have been found to have an ARMS.

## 100. Medicalisation in Prison Facilities

### The Convention on the Rights of Persons with Disabilities and Correctional Mental Health Litigation and Remediation

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Prisoners are the only people in the United States with a Constitutional right specifically to health care. This includes mental health care. Persons confined in institutions also have a constitutionally protected liberty interests under the Due Process Clause of the Fourteenth Amendment to reasonably safe conditions of confinement, freedom from unreasonable bodily restraints, and such minimally adequate training as reasonably may be required by these interests (*Youngberg v Romeo*). A right to care can be inferred from this. Following many years of institutional reform litigation and evolving practices in corrections, baseline conditions have improved in some jurisdictions. This, coupled with statutory barriers and decreased judicial receptivity, has created growing hurdles to success reform efforts. As inmates are entitled to care which is not “deliberately indifferent” to their “serious medical (or mental health) needs” (*Estelle v Gamble*), cases often turn on how this minimal standard

is measured. Even if not ratified, international treaties can be coherent statements of best practices. Over time, best practices may be incorporated into the understandings of basic standards of care and therefore “constitutionalized.” Ratified conventions may create new obligations as well as create more expansive readings of existing ones.

### The Medicalization of Jails and Prisons: A Two-Edged Sword

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A grievous deficiency in jails and prisons, far worse in years gone by, has been the profound and pervasive lack of sufficient medical and mental health personnel and resources in total institutions designed for criminal punishment. Eventually the realization surfaced that imprisoned criminal offenders, like other populations, are afflicted with various medical and mental disorders that need treatment. In the United States, class action lawsuits have been effective in raising the quality of health care in prisons. By the stick of lawsuits and the carrot of accreditation, many jails have substantially improved their health services for inmates. There is nonetheless a destructive edge to this sword of increased services. With increased expectations for the provision of health services behind bars but without commensurate increase in compassion for inmates, correctional facilities have taken on increasing responsibilities for health care, sometimes exceeding what can and should be delivered in such settings. Without careful ethical, legal, and clinical analysis, not driven by cost reduction efforts alone, those facilities with a surfeit of mental patients could transform into quasi mental health facilities but without the full panoply of therapeutic modalities.

### Are There Increasing Numbers of Mentally Ill Prisoners in Germany?

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The high prevalence of mental disorders in prisoners has been impressively demonstrated in recent surveys. In Germany, there is a lack of method-based studies on the prevalence of mental disorders in prison that examine a large, representative sample of a prison population with standardized diagnostic instruments, and provide a diagnosis oriented on international classification systems. One study examined the prevalence of mental disorders within a group of German male sentenced prisoners who did not pay their fine and were imprisoned in October 1999 (Konrad 2004). The large amount of persons (10%) with

psychotic symptoms in lifetime prevalence was impressive. It is problematic to explain this high prevalence only by an increase in mentally ill prisoners. One aspect is the fact that it has only recently become possible to reliably recognize psychiatric disorders due to improved diagnostic procedures. In addition, prison personnel may be more highly sensitized to (also) consider deviant behaviour as a symptom of a mental disorder. To address the lack of appropriate longitudinal, long-term studies using standardized and validated instruments that examine a larger, representative sample of a prison population under constant legal commitment conditions, we did a replication of the above-mentioned study five and ten years later. First results will be presented.

## The Medicalization of Prison Care in the Post Psychiatry Era

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The term “medicalization” has been applied for many years to the increased utilization, at times inappropriately, of medical diagnoses and treatment for behaviors and symptoms that do not meet recognized criteria of recognized illnesses and syndromes. Historically, the debate has raged around disorders like Fibromyalgia, forms of mild depression like Dysthymia, and even disorders of the temporal lobe. Medicalization of psychiatric illness is also considered in the explosion of antidepressant medication provided by non-psychiatrists, particularly, for questionable mood syndromes. The issue of medicalization rages around the increased treatment of children for Bipolar Disorder. Nevertheless, the term medicalization must also be applied to the increased neuropsychiatric diagnoses of prisoners in the judicial and correctional systems. This medicalization flows from a number of factors, including fewer mental health resources in the community, intolerable community behavior by the mentally ill, an increased ability to relate neurocognitive impairments to criminal behavior, and the courts’ recognition of the role of mental disorders as crucial factors in criminal behavior and mitigation (see *Atkins v Virginia*, et al). So, medicalization is a slippery slope, a result of increasing access to medical knowledge, often poorly applied. I would propose that medicalization is also a result of the transition to a post-psychiatric environment, where once specialized knowledge has become available to multiple institutions, economic, correctional, and pharmaceutical; with a lagging ability to apply this specialized knowledge in ways that optimize its use to the patient. Consequently, we see institutions like prisons becoming the “New Asylums,” with few tools to deal with this exploding population. My paper will address the factors which caused this explosion of scientific knowledge, instruments, and methodology; and how this explosion must be addressed to limit its impact on those most vulnerable, our patients.

## 101. Mentally Ill Offenders in Prison: The Belgian Case

### Mentally Ill Offenders in Prison: The Belgian Case

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According to the EUPRIS-study on mental health in prisons (2007), data on mental disorders in prison is scarce. This presentation aims to summarize and discuss the available information on incarcerated mentally ill offenders concerning: (1) the screening and assessment process for detecting mental health issues; (2) the psychiatric expertise needed in order to evaluate mental status; and (3) the development and provision of forensic-psychiatric treatment and care. These findings will be applied to the current situation in Belgium, which is a particularly interesting case. Belgium currently faces significant difficulties, with a large population of interned mentally ill offenders residing in correctional establishments. The implications with regards to the penal code, general or mental health legislation, screening, assessment, and treatment may provide novel viewpoints for how this problem could be tackled more effectively. The findings will be discussed with reference to the international scientific and policy debate, with a focus on ethical implications.



## The Development and Organization of a Forensic Psychiatric Centre for Interned Mentally Ill Offenders in Belgium: A Delphi-Study

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The precarious situation of the interned mentally ill offenders in Belgium has been cited repeatedly by several authors. The concept of a forensic psychiatric treatment continuum and network seems to offer promising opportunities in order to treat and care for mentally ill offenders in a continuous and co-ordinated manner. Consequently, the Belgian government opted to build two forensic psychiatric centres (FPC), where interned mentally ill offenders reside in a secure treatment and care institution. In this presentation, current treatment methods for interned mentally ill offenders in Belgium are summarized in order to formulate suggestions for the specialized centres. We focus on the differences in opinion over aspects of treatment for interned mentally ill offenders. For the elicitation of opinions on several issues regarding the content and organization of treatments in a FPC, a Delphi-study was conducted, with the objective of obtaining a consensus opinion. The opinions of fourteen national as well as international experts were repeatedly asked through a series of surveys in order to obtain shared expert ratings on 51 statements. Based on those expert opinions, suggestions for treatment in a FPC are presented and discussed.

## Treatment and Care for Persons with Intellectual Disabilities in the Prison of Ghent

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A substantial proportion of convicted prisoners and mentally ill offenders appear to have intellectual disabilities (ID). The available figures are very diverse and depend on several factors, such as the specific population studied (e.g., interned mentally ill offenders or incarcerated substance abusing offenders). A recently published systematic review (Fazel et al., 2008) demonstrated that between 0.5 and 1.5% of prisoners are 'typically' diagnosed with intellectual disabilities. In 2001, Centre OBRA, a day care centre for persons with ID, started a project for offenders with an intellectual disability in the prison of Ghent. The goal is to prepare for the offender's reintegration into society, taking their abilities and limitations into account. Activity programs are developed both inside and outside of prison. In cooperation with the prison staff, the OBRA staff members aim to construct care networks around individual offenders. This network is built on professional and social contacts, which might positively contribute to their reintegration into society. For persons with an intellectual disability for whom an integrated life appears impossible, an adjusted environment will be created in a protected setting. During the presentation, implications for practice and policy will be discussed.

### Older Mentally Ill Offenders in Forensic Contexts: An Application to the Belgian Situation

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International scientific interest in the treatment of mentally ill offenders is increasing. Mentally ill offenders are diverse; to accommodate the requirements of different target groups, a broad variety of treatment programmes have been developed. Each treatment program is generally focussed on specific subpopulations, each with specific needs. Subpopulations can be classified by criminological criteria such as risk-assessment, psychopathological criteria such as psychotic disorders, educational and pedagogical criteria such as intellectual disabilities or social criteria such as ethnic background and gender. In

addition to these commonly used criteria, gerontological criteria should be considered because Western countries are confronted with an exponential growth in the number of inmates aged 50 years and older. However, there is a dearth of research on this topic. A literature review from a gerontological perspective has been carried out to investigate which features characterize older mentally ill offenders. This paper will present and discuss the following themes: definition of aging in forensic contexts, the nature of criminal offence, chronic vs. first time offenders, psychopathology, psychosocial and physical needs and victimization. These themes will be critically discussed, leaving the door open for future research on topics revolving around the (Belgian) forensic context.

## 102. Addressing Sex in Prison: The Progeny of the Prison Rape Elimination Act (2003) in the U.S.

### Targeting the Risk Factors for Sexual Violence in Prison

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With the passage of the Prison Rape Elimination Act (PREA) of 2003, federal and state correctional institutions and federal research organizations were required to engage seriously in activities designed to eliminate prison rape. Our study was one of several that addressed various aspects of this endeavor. In designing our study, we sought to extend the literature on prison rape in three important and distinct ways. First, we chose to adapt violence risk assessment measures to study sexual violence in prison as there are no existing sexual violence risk assessment measures. This also enabled us to examine differences between violence and sexual violence risk markers among inmates. Second, we chose to examine the continuum of sexual behavior among incarcerated individuals, thus allowing us to place sexual coercion in the broader context of sexual behavior in prison. Finally, we chose a study design that would allow us to directly examine gender differences in sexual behavior among male and female inmates. As part of this presentation, we will describe the various risk models that emerged for consensual, bartered, and coerced sex in prison and comment on the relevance of these for prison programming and policy.

### Uncomfortable Spaces – Female Correctional Staff and Sex in the Workplace

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I have had a long interest in the intersections of gender, crime, and sexuality both in my professional practice as a lawyer and in my scholarly work. Much of that work has addressed the “uncomfortable” topic of staff sexual abuse of inmates, which is widely perceived as a problem of male staff sexually abusing female inmates. An area that remains relatively unmined is the role of female workers who sexually abuse persons in custody. The female corrections workers’ narrative is complicated and characterized by strategic silences and accommodations by many invested actors both internal and external to the criminal justice system – women’s rights groups, correctional agencies, and states. This paper attempts to untangle those complicated and overlapping narratives, identify the discomfort that feminist scholars and other actors (not necessarily separate) have in addressing female workers who sexually abuse adults and youth in custodial settings, discuss relevant research, and suggest a framework for additional research in this area.

### Research on Prison Sexual Assault in American Midwestern State Prisons: A Comparison of Inmate and Staff Opinions on Good Ways to Prevent Prison Sexual Assault

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The Prison Rape Elimination Act (PREA) was passed by the U.S. Congress in 2003 in part as a reaction to various reports that inmates were being sexually assaulted in American prisons and jails. The results of the Struckman-Johnson et al. surveys of inmates and staff about sexual assault in fourteen Midwestern state prisons (1996; 2000) are often cited as influencing the passage of this historic act. Professor Dave Struckman-Johnson will present an overview of the methods and findings of this research. Results of a content analysis of 1,094 inmate and 373 staff opinions on good ways to prevent sexual assault in prison will be presented in detail. Combining all responses, the top five strategies were segregation of vulnerable inmates, allowance of inmate sexuality, hiring more and better staff, having better security procedures, and avoiding inmates/situations. A new analysis that compares staff and inmate rankings of top solutions will be offered.

### Research on Prison Sexual Assault in American Midwestern State Prisons: How Findings Relate to Proposed Policy Standards from the National Prison Rape Elimination Commission

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The Prison Rape Elimination Act (PREA) established the National Prison Rape Elimination Commission (NPREC) in 2003. The bipartisan commission, whose nine original members were chosen by Congress and the White House administration, was mandated to develop a set of standards for the prevention, detection, response, and monitoring of sexual abuse in prisons, jails, and other detention facilities in the USA. In June, 2009, the NPREC released a set of 40 core standards to the U.S. Attorney General for review and possible implementation as national policy. As a member of the NPREC Commission, Professor Cindy Struckman-Johnson will discuss how inmate and staff opinions of ways to prevent prison sexual assault uncovered in research compare to the standards proposed by the Commission. In particular, she will review how one of inmate and staff's top-ranked solution – segregation of vulnerable inmates – compares to the NPREC prevention standard SC-1 for screening for risk of sexual victimization and abusiveness.

### Cultural Nature of Sexual Violence in American Prisons: A Need for Mixed Methodologies and Inter-Disciplinary Research

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Researchers' awareness and policymakers' ire toward alleged sexual violence in American prisons was intensified by the U.S. federal government's Prison Rape Elimination Act of 2003 (PREA). PREA's political impetus was federal elected officials' and advocacy groups' firm belief that thousands of prison inmates were annually "raped" in men's and women's prisons. This paper reports findings of a socio-cultural study using a randomized probability design to investigate sexual violence in 30 prisons in 10 states in 5 regions nationwide (n= 564 male and female inmates). Research had three major cultural findings. First, inmates' pre-imprisonment socio-sexual experiences enhanced by differing intra-prison circumstances and styles of interactions with staff and among inmates strongly determined inmates' perceptions of the prevalence and symbolic interpretation of inmate-on-inmate sex acts. Second, thematic analysis of more than 6,000 pages of interview narratives indicates that socio-legal standards of judicial interpretation of "prison rape" are strikingly dissimilar from prison culture's interpretation of sex acts. Third, socio-linguistic analysis finds the term "rape" was foreign to prison language and culture but was borrowed into prison vernacular and worldview concomitant with PREA's denotative codifications of "non-consensual" sex acts. These findings infer that methods used to estimate prison-based, sexual-violence

prevalence rates are not necessarily sufficient or reliable and point to the need for mixed methodologies and “true” inter-disciplinary research.

## 103. Life Without Parole: An Examination of Issues Raised by America’s Other Death Penalty

### Juvenile Murderers and America’s Other Death Penalty: Should Children Who Kill Be Eligible for a Sentence of Life Without Parole?

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The United States Supreme Court recently held that juveniles who commit murder can be sentenced to a term of life in prison without the possibility of parole (*Graham v Florida*, 2010). This paper will argue that juvenile murderers, no matter how aggravated their crimes, should never be sentenced to life without parole, a sanction that is best described as America’s other death penalty, death by incarceration. Regardless of the severity of their crime, juvenile murderers are still children, developmentally and under the law. They have a reduced culpability for their crimes and an enhanced capability of change and reform. Though murder is of course a particularly heinous crime, seen by the Court as a marker of moral depravity, murderers typically adapt to imprisonment with little or no violence; those who are released from prison exhibit recidivism rates well below that of other felons. In fact, capital murderers who have their convictions overturned and are released from death row into the regular prison population to serve life sentences, presumably the worst of the worst murderers, also adjust well to prison. Those capital murderers who are ultimately released from prison (many were resentenced to life with the possibility of parole) also exhibit low recidivism rates, significantly below that of other violent felons. Accordingly, murder per se is not a crime that should disqualify juveniles from the special consideration they are accorded for all other crimes as a result of their immaturity. It will be argued that even the worst juvenile murderers deserve a sanction that allows hope for change, reform, and ultimately forgiveness for their transgressions and a second chance at life in the free world.

## Life Without Parole: Reflections on Living and Dying in Prison Today

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Victor Hassine's *Life Without Parole: Living and Dying in Prison Today* (Oxford University Press, 2011; edited by Robert Johnson & Sonia Tabriz) takes the reader on a compelling journey into the hidden world of prison. This book draws on Hassine's personal experiences as a life-without-parole inmate in America, his social and historical observations of the prison world, and his literary talent for storytelling. Hassine's long life in confinement, spanning twenty-seven years and culminating in his suicide, offers a thorough study and insightful commentary on prisons today. We learn that life in confinement revolves around three human sentiments: fear, loss, and hope. All men in prison are vulnerable and must live in fear. All men in prison are, in the final analysis, alone and apart from the larger society, and must live with loss. All men in prison, being human, cling to hope – for a decent day, a sustaining relationship, or more ambitiously, a better life down the road, after prison. This paper will not only summarize and interpret Hassine's book, but will also reflect on the distinctive experiences of prisoners sentenced to what amounts to a term of death by incarceration.

## The Humanism Is in the Details: An Insider's Account of Humanistic Modifications to a Cognitive-Behavioral Treatment Program in a Maximum-Security Prison with an Emphasis on Mature Coping for Life-Sentence Prisoners

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The cognitive-behavioral and humanistic approaches to treatment are often considered to be inherently at odds with one another, as cognitive-behavioral programs often follow a rigid format, whereas humanistic programs explicitly accommodate the individuality of offenders. Drawing on observations from an in-depth, on-site immersion in a prison treatment program, the authors demonstrate that these seemingly disparate approaches

can be merged in practice with positive results. For this to occur, treatment techniques must be practiced in a flexible, non-didactic manner in the context of a therapeutic community wherein the inmates are actively engaged throughout the treatment process, exercise involvement in the decision-making processes that govern their lives within the program, and operate under the premise that they have the capacity for positive growth and constructive change. It is argued that the presence of inmate peer counselors and the promotion of the development and maintenance of mature coping skills significantly enhance program legitimacy and treatment results by encouraging inmate participation and providing participants with the tools to adapt to stressful situations in a constructive, nonviolent manner. The authors emphasize that the practice of mature coping skills benefits both “short-timers” and lifers by allowing each to adapt to the stresses of prison life, providing the former with the resources to cope with the problems and temptations of life in society upon their release, and the latter with the tools to live more meaningful, productive lives behind bars.

### Life Without Parole: Mental and Psychological Coping Strategies Deployed by Life-Sentence Prisoners

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Qualitative research at a U.S. prison is used to examine the experiences of lifers – those who will never be released from prison due to age, health, severity of offense, or sentence of the court. This research is of particular current relevance since the sentence of life without the possibility of parole has been offered as a viable alternative to capital punishment in the USA. Findings reported may in fact increase support for life without parole over capital punishment. We dispel the fear among the public that those serving with life without parole pose a threat to security both to the public at large and within prisons. We also address the myth that the sentence of life without parole is too soft for those convicted of capital murder. Lifers are faced with the task of making the most of a bleak and pointless existence with no hope of one day leaving prison. The paper describes daily life, hopes, and coping strategies for lifers. It also addresses concerns and views of staff managing this unique prison population. Finally we examine life without parole from a human rights point of view. Most nations that retain the sanction, unlike the USA, have formal mechanisms to provide offenders with some hope for release at some point in the future (even though they may



remain under state supervision). If we take all hope of release away, we are sentencing people to an existence that is arguably as unjust and inhumane as the death penalty.

## 104. The Death Penalty: Part I

### Mental Illness as an Exclusion from the U.S. Death Penalty

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In *Atkins v Virginia*, 536 U.S. 304 (2002), and *Roper v Simmons*, 543 U.S. 551 (2005), the Supreme Court of the United States held that the death penalty could not be inflicted upon, respectively, mentally retarded persons and persons under the age of eighteen because the mental, developmental, and psychological characteristics of those groups rendered them insufficiently culpable to justify the punishment. In response, the American Bar Association, the American Psychological Association, the American Psychiatric Association, and the National Alliance for the Mentally Ill have proposed extending the principle to mentally ill persons. This presentation will detail the contents of the proposal, its interaction with existing legal doctrine in the United States, and current developments and prospects in the field.

### Ensuring Meaningful Review for Death Row Prisoners with Mental Illness

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In the United States, prisoners sentenced to death often spend decades on death row while legal challenges wind their way through the courts. Prisoners with mental illness during this period face particular risks of wrongful execution. While these risks take their most dramatic form when prisoners with mental health problems attempt to volunteer for execution, this presentation will focus on the more insidious dangers confronted by such prisoners when they make no active effort to waive review of their sentences. Prisoners suffering from psychosis, depression, or severe anxiety are frequently unable to provide their attorneys with essential assistance in uncovering and presenting viable challenges to their convictions and sentences. After highlighting the scope of this problem, the presentation will survey how American courts have attempted to deal with the danger that mental illness poses to meaningful review in capital cases. Furthermore, it will suggest steps that attorneys, judges,

and clinicians can take to minimize the risk that mental illness will prevent the legal system from discovering that a prisoner's death sentence is unlawful.

## Litigation in the Time of Atkins: Handling the Mushroom Cloud of Scientific Literature on Mental Retardation

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In 2002 the United States Supreme court ruled that execution of "mentally retarded offenders" violates the Eighth Amendment of the Constitution. In its opinion the Court adopted the medical definition of Mental Retardation from the AAMR Red Book (now AAIDD Green Book) and referenced the DSM-IV. In that single opinion, the Supreme Court transformed Mental Retardation from a scientific diagnosis to the subject of a legal fact, finding in which the offender must prove mental retardation to a standard defined by each state. The legal implications of Atkins are overwhelming to conscientious and competent legal counsel. More than any other defense, an Atkins hearing has become a battle of the experts. The volume of scientific literature on Mental Retardation has exploded since the Atkins decision and each element of Mental Retardation is the subject of educated and divergent opinion. Court proceedings invariably delve into IQ, adaptive behavior and social history to determine whether significant deficits were manifest at an early age. Debates about the Flynn effect, standard measurement of error, practice effect, racial bias and other factors rage in the literature of IQ assessment. The true meaning of adaptive behavior and what properly comprises an adaptive behavior assessment is always the subject of litigation in an Atkins hearing. This subject is unusual in criminal proceedings in its technical complexity. The volume of scientific literature is difficult to digest and use effectively in court. Similarly for forensic mental health experts, because there is no uniform standard of proof for mental retardation, the declarations, transcripts of prior expert testimony and rulings in previous mental retardation hearings may help to prepare an expert to render their opinion with the facts of their case in their jurisdiction. This paper describes the result of the collaboration between an information scientist and an attorney to develop a database where scientific literature of Mental Retardation and the law intersect. The outcome of this project is a relational database that can be searched by subject, author, publisher, date, citation, transcript, text, and opinion. The database will be a working prototype soon.

## Naive Criminal Conduct and the Myth of the "Mastermind" in Atkins (Death Penalty Exemption) Cases

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A common expert and attorney tactic in determining whether a murder defendant is entitled to "Atkins" (mental retardation) exemption from the death penalty is to point to facts of the crime as evidence of planning and competence. While such an approach may seem to make sense on a gross level, a detailed look at the context and behavioral aspects of a homicide often shows that what looks like planning and competence may in fact demonstrate exactly the opposite. Several cases are explored to illustrate this point, including cases where a defendant was gullibly prompted to act by a more competent co-defendant, or where the killing resulted impulsively when the defendant lacked the skill to deal with a plan gone awry.

### Brain-Based (Fetal Alcohol) Disorders of Commonsense in Atkins (Death Penalty Exemption) Cases

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Defendants with Fetal Alcohol Spectrum Disorders (FASD) often have adaptive behavior deficit profiles identical to those of people who qualify as having Intellectual Disabilities (ID), but are usually denied Atkins protection because their full-scale IQ scores are 10 or more points above the clinical and legal ceiling for ID. This suggests the need for a new umbrella clinical and legal category that would encompass both ID and FASD. This impairment category would be termed "commonsense disability disorders," and it would be defined by a lack of social and non-social risk awareness which entitles subjects to a partial mitigation of criminal culpability. Illustrations from the criminal histories of commonsense-impaired homicide defendants will be used to argue for the utility of this construct for an improved theory of mitigated sentencing.

## 105. The Death Penalty: Part II

### Trauma and More Trauma: The Importance of Assessment, Treatment, and Presentation of Trauma for the Defendant in Death Penalty Cases

Lori James-Townes, *University of Maryland*  
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Most capital defendants have suffered multiple traumatic experiences and suffer from PTSD and/or other psychiatric disorders. Research shows that a history which consists of multiple traumas is more damaging and debilitating than those who might have suffered a single traumatic event. Exposure to multiple traumatic events will generally result in a psychiatric disorder and/or is often associated with aggressive or violent behavior, suggesting a direct association between childhood trauma and aggression. Repeated exposure to traumatic experiences can lead to psychological and development problems that can last throughout the person's lifetime or even affect generations to come. The presenters will share the importance of understanding this paradigm shift and its significance in the legal process, and share creative examples of ways to present trauma history.

### The Importance of Assessment, Treatment, and Presentation of Trauma for the Defendants in Death Penalty Cases

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Trauma exposure, especially repeated trauma, is extremely damaging. Capital defendants have typically experienced multiple traumas. Literature has indicated that exposure to multiple traumatic events will generally result in a psychiatric disorders and/or is often associated with aggressive or violent behavior, suggesting a direct association between childhood trauma and aggression. Trauma assessment, intervention, and treatment, can be altered in the forensic setting. Expert witnesses, case consultants, and mental health professionals working in the forensic setting should be aware of how it differs from trauma work done in the traditional mental health setting. The presenters will demonstrate ways to assess for trauma and examples of how to effectively and creatively present trauma in the forensic arena; including interviews, and demonstrative aids.

## The Death Penalty in the United States - A Social Delusion and Negation of Human Rights

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In 1972 the United States Supreme Court in *Furman v Georgia* declared capital punishment unconstitutional in violation of the 8th amendment to the constitution because the sentencing judge or jury had no guidance on how and when to sentence someone to death, producing “arbitrary and capricious” results. The *Furman* court left open the notion that, should a legislature enact a sentencing statute that met constructional standards, capital punishment might be revived. In 1976 in the case of *Gregg v Georgia* the United States Supreme Court reinstated the death penalty as a potential punishment by approving a sentencing statute designed to individualize punishment by reserving it for the “worst of the worst.” However almost 25 years later to date, such statutory schemes serve as a delusion to the legal system and the public; the application of capital punishment statutes do not delineate the “worst of the worst” offenders and continues to be arbitrarily and capriciously applied. The death penalty discriminates against poor people and people of color. Studies show that 40 percent of those executed suffer from serious mental illnesses. No studies support that the institution of capital punishment results in any sort of deterrent effect. It is considerably more expensive to execute rather than house offenders. Courts overturn approximately 40 percent of death penalty cases on appeal often based upon the ineffective assistance of counsel, and in some cases prosecutorial misconduct. Additionally, courts have exonerated more than 140 individuals sentenced to death in the 25 years since its reinstatement. Although the United States no longer executes the mentally retarded or juveniles, the United States Supreme Court has not resolved whether it is constitutional to execute the mentally ill or whether it is permissible to restore a mentally incompetent person to competency by the forcible administration of drugs. Capital punishment violates the most basic and fundamental of human rights and often serves political agendas.

## A Program to Introduce Mental Health and Mitigation in Capital Cases in Pakistan

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This presentation will discuss preliminary findings of a review of the role of mental health evidence in capital cases in Pakistan. With more than 9,000 people under sentence of death in Pakistan's civil and Sharia courts, human rights advocates initiated a campaign to introduce mental illness as a mitigating factor that should be considered in capital sentencing decisions. Pakistani law allows courts to consider mitigating factors in death penalty cases, but the bar does not have a standard of care for investigating, assessing, documenting, and presenting mitigating evidence related to mental health issues. The nation's first conference for attorneys representing capital clients in death penalty cases was held in February 2010 with an emphasis on expanding the scope of mitigation presented to trial and appellate courts. Attorneys, law students, mental health professionals, and human rights investigators joined forces at the conference to work in multidisciplinary teams on selected cases to develop an effective protocol for investigating and presenting mitigating evidence on behalf of capital defendants. The presentation will focus on overcoming cultural, religious, ethnic, and practical barriers that impede full presentation of relevant mental health issues in capital cases.

### Competency Issues in Federal Capital Post-Conviction Proceedings in the United States

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The United States's Constitution's due process requirement demands that a criminal defendant be competent at every critical stage of his or her legal proceedings. In at least some federal judicial circuits, this requirement extends to post-conviction, or habeas corpus, proceedings in capital cases. To test the constitutionality of a conviction and capital sentence, post-conviction counsel must initially assess their client's competency both before and during the time of trial. During the course of post-conviction proceedings, however, a separate set of interesting and unique psycholegal issues, some presenting ethical or moral dilemmas, often present themselves. Post-conviction counsel must grapple with a range of competency assessments with most clients, from the mentally disordered who, due to psychosis, delusions or other severe mental impairments, are wholly incapable of rationally communicating with and assisting counsel; to clients who may appear competent, but who irrationally insist on directing litigation strategy or seek to dismiss counsel; to those who will be found incompetent to be executed only if they make the painful decision to discontinue the medication which stabilizes their psychic turmoil; to those who insist on foregoing post-conviction proceedings altogether in an effort to hasten their own execution. This

presentation addresses these unique challenges of practicing federal capital post-conviction counsel.

## 106. The Death Penalty: Part III

### Challenges in Diagnosing Mental Retardation in Death Penalty Cases: Perspectives from the Mississippi Delta

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Following the United States Supreme Court's landmark decision in *Atkins v Virginia* (2002), courts have come to rely heavily upon mental health experts in making a determination of whether or not capital murder defendants have intellectual disability (mental retardation). Although there is no other type of psychodiagnostic assessment in which the stakes are higher or the consequences of mistakes are greater, the field is only beginning to develop formal standards of practice to guide clinicians, attorneys, and courts in making a determination of MR/ID in these cases. In addition, there is considerable controversy in the field regarding a number of critical issues related to the assessment of MR/ID within a forensic context. This presentation will address the some of the challenges associated with conducting these evaluations, with particular emphasis on a population of capital murder defendants from underprivileged, rural areas in southern states.

### Dead Man Walking: Defending the Mentally Ill in a Rural State

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The United States Census Bureau estimated in 2009 that the population for the state of Arkansas was 2.9 million people. Of these people, 25% do not have a high school diploma, 576,000 report a disability from the age of 5, and 17% are living below the poverty level. The State is divided into 23 Judicial Districts and has 23 separate Prosecuting Attorneys who decide whether or not a case is a death penalty case. Although the United States Supreme Court has said the death penalty is to be reserved for the worst of the worst, Prosecuting Attorneys in different districts are free to decide whether to seek the death penalty on a case by case basis. For example, a case in the eastern delta with an African American male charged with capital murder might result in a negotiated plea for a term of years while a

similar fact pattern in the northwest part of the state would be forced to trial. The relationship between mental illness and violence is complex. Very few of our capital clients present with easily identifiable symptoms that provide a concise diagnosis. More often than not, our clients present with multiple problems that further complicate any clear diagnosis. These problems of the client become the problem of the defense attorney trying to connect it to the crime and possibly convince a Prosecuting Attorney not to seek death. The ethical dilemma that unfolds with such a client is often when and how best to use mental health evidence.

### Life History Narrative in Death Penalty Sentencing Trials

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The life history narrative of a defendant and the intergenerational history of his family based on the biopsychosocial assessment conducted by clinical social workers is used in death penalty sentencing trials and post conviction hearings in the United States to shed light on the behavior of the defendant. Through testimony and visual aids such as documents, photographs, and research theories, the jury is provided with family, childhood, adolescent, and young adulthood developmental stories. In the context of the defendant's life, issues such as mental illness, mental retardation, trauma, head injury, poverty, abuse, neglect, and many other themes are exposed. Within the environment of socio-economic status, education, gender, sex, culture, and many other dynamics, the defendant's life is described to the jury.

### Death Row Phenomenon on Guantanamo

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The prisoners designated as "High-Value" detainees by the U.S. were held incommunicado and subjected to torture for three to five years before being imprisoned on Guantánamo in September of 2006. Since then they have been in pretrial detention anticipating a capital trial and death sentence. Psychological questions raised by torture in the context of a post-torture legal defense include the extent to which torture permanently or profoundly disrupts the person, negatively affects memory and relational faculties, and renders unreliable the pretrial narrative, thus affecting virtually all significant trial rights. The addition of four years or more of Death Row Phenomenon raises additional questions in these cases: can forensic



examiners obtain a reliable assessment of past and present functioning in light of the sheer quantum of assaults and the duration of the mistreatment? Can a court be confident that the decision of a defendant to represent himself or forego trial is not the product of Death Row Phenomenon or duress? Apart from the obligation to refrain from participation in psychological mistreatment, are there affirmative obligations of mental health professionals in these extraordinary cases?

## 107. Prison Suicide

### Suicide in German Prisons between 2000 and 2010: A Sign of Trouble?

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Between 2000 and 2009, 846 prisoners in Germany committed suicide. This number is the result of a study that is being conducted by the Criminological Services Unit of the State of Lower Saxony. Is this a high figure, signaling problems in prisons? The presentation addresses the following topics: (1) Problems of comparing suicide rates between the general public and prisoners and (2) the situation of remand prisoners, which are particularly susceptible to suicidal developments.

### Crisis Line for Prisoners: A Pilot Project in Prisons of Lower Saxony

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Nearly 100 remand prisoners were given the opportunity to speak with a pastor over the phone during the night. The project intended to test whether having this option helped to alleviate some of the emotional trouble typically experienced after initial offender intake to prison. In this presentation, the conceptualization and realization of the project will be discussed. The presentation also addresses first results concerning the frequency of calls, the reasons for the calls, and the experiences of prisoners and pastors.

### Suicidal Ideation in Prisoners - What Do We Know?

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While dealing with the prevention of suicide in prisons, we must often cope with the fact that the person has usually already taken their life. Thus, the deceased will never provide an answer to the important question of, “what could have been done to prevent your suicide?” Usually, scientific attempts to prevent suicide run backwards and try to find out what might have been the reason for the accomplished suicide. Although we can find out something about the reasons and circumstances of the act by only taking into account accomplished suicides, it sheds no light on the number of living prisoners who have suicidal ideation or about the factors that prevent suicides. Therefore, we planned our project in Lower-Saxony’s prisons a different way; we asked prisoners about suicidal ideation 14 days and then 3 months after imprisonment. Our goal is to find out about protective factors and features of high-risk suicidal groups.

### Architectural Aspects for Suicide Prevention in Prisons

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Most of our lifetime is spent in an artificial environment that influences our behavior and sensations. Architecture can hinder suicide prevention, but can also support and enhance it. Human needs and scales should be of primary concern when creating designs for the environment, as should the relationship between humans (the users) and the rooms, buildings, and surroundings. The basic needs of the users for health and comfort are mainly determined by a series of parameters including air, warmth, lighting, acoustics, nature of materials, color, and aesthetics. The requirements of architecture are thus derived from: a) Basic needs b) Concept specifications c) Constructional suicide prevention. Different architectural aspects that incorporate realised and planned solutions, leading to a high quality of architecture, will be presented.

## 108. Contextualizing Law and Psychiatry Research in Community

### Settings

## **“From the Prison Door Right to the Sidewalk, Everything Went Downhill,”: A Qualitative Study of the Health Experiences of Recently Released Inmates**

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Background: Due to state budget constraints, some states are releasing prisoners early to save money. However, prior studies have demonstrated elevated mortality rates in the post-release period, including deaths from overdose and suicide. Little is known about the broad range of health experiences of former inmates in the transition from prison to the community. Objective: To understand the health-seeking experiences, perceptions of risk, and health and mental needs of former prisoners in the first two months after release from prison. Design: Qualitative study. Participants: Twenty nine former inmates 18 years and older within the first two months after their release from state prison to the Denver, Colorado area. Approach: Trained interviewers conducted individual, in-person, semi-structured interviews exploring participants' experiences with health, mental health, and health care since release. Interview transcripts were coded and analyzed utilizing a team-based constant comparative method of inductive analysis. Key Results: Twenty men (69%) and nine women (31%) with a mean age of 39 years (range 22-57 years) participated. Eleven (38%) participants described themselves as African American, 10 (34%) as Caucasian, 5

(17%) as Latino, and 3 (10%) as American Indian. Health-related behavior occurred in the context of a complex life experience with logistical problems exacerbated by significant emotional distress. Major themes included 1) transitional challenges; 2) cognitive responses including perceptions about personal risk, knowledge, and priorities; 3) emotional responses including pronounced stress, fear, anxiety, disappointment; and 4) health behaviors. Several participants described the transition experience as worse than prison. Conclusions: Former inmates faced multiple challenges, poor preparation, and inadequate or absent continuity of mental and physical health care in the context of significant emotional distress and anxiety. Improved release planning, coordination between the health, mental health, and criminal justice systems may reduce the risk of poor health outcomes for this population.

### The Social Context and Politics of Community Reentry for Incarcerated Women in Rural New Mexico

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We draw on qualitative research conducted in New Mexico to examine the plight of incarcerated women returning to resource-poor rural communities upon their release from prison. The high prevalence of psychiatric disorder within this socially marginalized population overwhelms the capacity of prison officials and community reentry planners to appropriately prepare these women for the typically arduous transition process. We utilize a case study approach that integrates the perspectives of former inmates, their friends and family, criminal justice professionals, and mental health providers to illuminate the range of social contextual factors that can compromise successful reentry. We illustrate how discordant state and local policies, cultural clashes between criminal justice and mental health personnel, insufficient social support, and community-based stigma and discrimination exacerbate the struggles of recently released women. Such factors undermine the women's ability to secure safe housing and reliable employment, and to

proactively address their often complex mental health needs. Finally, we consider community reentry from Amartya Sen's capabilities framework and discuss how this model lends itself to development of multi-level interventions that account for the lived experience of the women and the political and social characteristics of rural environments that place them at risk for recidivism or otherwise set them up for failure.

### Context Matters: CIT in Four Chicago Police Districts

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The goals of Crisis Intervention Team (CIT) programs include improving safety in encounters between police and persons with mental illnesses, diverting persons with mental illnesses away from the criminal justice system, and increasing referral and access to mental health services. A limited, but growing body of research suggests that CIT may be influencing at least some of these outcomes. However, no research to date has considered the context in which CIT programs are implemented. In this paper, we present research on CIT in four Chicago police districts that vary in terms of two contextual factors hypothesized to influence the impact of CIT training on how calls involving persons with mental illnesses are resolved. Using both qualitative and quantitative data, we consider the impact of mental health services availability and CIT saturation (the percentage of district personnel that are CIT certified). Findings are used to elaborate a model for future research on CIT that considers the various policy, organizational, and community contexts that CIT programs are

being implemented in and how context specific factors may enhance or impede the success of CIT programs in improving outcomes for police, persons with mental illnesses, and the larger community.

### Case Managing Mortality in Prisoner Reentry for Men with Mental Illnesses

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Managing risk in prisoner reentry has traditionally meant managing the risk of reoffending, and criminal justice based reentry programming has focused on the services and supports that address those risks having to do with employment, criminal behaviors, associates, and positive social support. However, recent findings indicate that there are other risks associated with prison release, such as real heightened risk of illness and death during a stressful transition. This is made more complex when those reentering are identified as having mental illness. People with mental illnesses are also a population at a greater risk of early mortality when compared to those without mental illnesses. This paper reports the extent to which co-morbid non-psychiatric physical illness further complicates reentry services for men with mental illnesses leaving prison in the U.S. Data are from case file reviews from 54 cases that are part of an ongoing randomized controlled trial of Critical Time Intervention for prison reentry. These cases are examined in the larger community context of the randomized trial. Cases reveal a wide range of chronic health concerns associated with poverty, addiction, and stress. These health concerns complicate psychiatric service delivery, housing, and healthy community integration. Services and treatment for this population needs to include ready access to physical health care that is integrated with psychiatric and social care. However, the policy and community environments to which the men return are often challenged with inaccessible health care and few supports for addressing serious health concerns.

### 109. The Public Health Policy Context for Mental Services in the Criminal Justice System

## The Public Health Implications of UK Offender Healthcare Policy: A Holistic Approach to Achieve Individual and Societal Gains

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In 2009, two seminal documents were published by the UK government concerning healthcare services for offenders. The *Bradley Review into diversion for people with mental health problems and learning disabilities* emphasised a need to improve offender health, not least because of the high economic costs to society as a whole resultant from unresolved mental illness, physical ill-health, and substance abuse commonly experienced by offenders. *The Bradley Review* made wide-reaching recommendations for change requiring strong partnership between health and justice agencies at both central government and local level. A framework for the delivery of Bradley's recommendations has been set out in *Improving Health, Supporting Justice*, the Department of Health's offender health strategy which sets out the direction of travel for the next 10 years. This paper will discuss the reality of working toward improving health services for this marginalised group in the context of both the current straightened global financial climate and its influence on the allocation of resources to publically funded healthcare in the UK; it will examine the historically based, and widely held, belief in the principle of "less eligibility" within our society, whereby there is much public and media resistance to allocating resources to improving care for offenders when other, more "deserving" groups are seen to be in continuing need.

## Examining the Impact of Mental Illness and Substance Use on Recidivism Rates in a County Jail

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Purpose: This analysis describes the recidivism rates over a 4 year period for a cohort of people admitted to a large U.S. urban jail system in 2003, and analyzes how these rates vary based on presence of mental illness and substance abuse. Methods: Jail detention and behavioral health service records were merged for all admissions to a large urban jail system in 2003 (N=24,290). Descriptive statistics were used to analyze the recidivism patterns for people admitted to jail in 2003 (N=20,112) over a four year period. Recidivism rates of people without mental illness or substance use disorders were compared with people with serious mental illness, substance abuse disorders, and dual diagnoses. Results: Over half of the people who returned to jail during the 4 year follow-up period did so in the first year. This finding did not differ by any diagnostic category. Analysis of the number of people readmitted to the jail found that people who had a diagnosis of mental illness alone had the lowest number of readmissions to jail in the 4 years after release with 50% having at least one readmission after their initial release. People with dual diagnoses, in contrast, had the highest number of readmissions to jail during the study time frame, with 68% having at least one readmission during the 4 years after release. Conclusions: Substance use is a driving force behind the recidivism of people with mental illness leaving a U.S. urban jail. These findings illustrate the importance of developing interventions that provide timely access to intensive co-occurring substance abuse and mental health treatment during the immediate period after release that are capable of addressing both individual and environment factors that promote the return to drug use after release.

### Beneficence and Justice: The Next Step in Ethical Research Involving Prisoners in the U.S.

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Since the 1970's, the legacy of Tuskegee, Nuremburg, and prison experiments in Philadelphia and other locations set in motion a new framework of regulation of research, with special emphasis on regulating research on prisoners. This framework, laid out in the Belmont Report in the U.S., is built around the individual subject who voluntarily and knowledgably consents to being a participant in research. Other than the principle of beneficence, the current framework does little to expand regulatory authority to address forces of racism, sexism or social exclusion that impact the ethical conduct of research involving prisoners. Arguably, social injustices in the broader context explain the rise and persistence of notorious research abuses much more than the hubris of medical professionals and the expediency of overlooking individual consent to research. This paper examines the implications of the larger social context for research on prisoners, specifically



for people of color in the context of prison research in the U.S. To what extent should systematic injustices and responses to structural violence be considered in the ethics of research on incarcerated people? How might this incorporate the related concerns of mental disorder and substance abuse? The author concludes that the ethical conduct of research for people with mental illnesses and substance use disorders in prisons in the U.S. should be expected to outline direct, specific benefits to the populations impacted by incarceration.

### Matching Consequences to Behavior: Implications of Failing to Distinguish between Noncompliance and Nonresponsivity

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Neither punitive nor therapeutic approaches alone are effective at addressing the dual public health and public safety concerns associated with managing criminal behavior perpetrated by people who have psychiatric and substance use disorders. The optimal solution may instead require the integration of both criminal justice supervision and treatment. Using problem-solving courts (PSCs) as a model, we focus on one dimension of this integrated approach, distinguishing between behavior that stems from willful noncompliance with supervision and behavior that results from nonresponsivity to treatment. First, we discuss the public health and public safety consequences of using singular approaches to address the criminal behavior of this population. We then present lessons learned from PSCs that distinguish between noncompliant and nonresponsive behaviors in making treatment and supervision decisions. Finally, we consider how the concepts of nonresponsivity and noncompliance may be extended, via policy, to probation and parole settings as well as mental health and substance abuse treatment services outside the criminal justice setting in order to enhance public health and safety.

## 110. Care Processes

### Care Processes in Forensic Psychiatry: Part I

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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 Scania. 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. 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. Predictive models will be sought and life-charts drawn to illustrate time dynamics for the different forms of negative events. Furthermore, a nursing care perspective will be applied, discussing ways of dealing with complications during this kind of high-security treatment.

## Care Processes in Forensic Psychiatry: Part II

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The aim of this study is to describe the care process for patients in court-ordered forensic psychiatric treatment. Factors influencing the duration of in-patient and out-patient involuntary treatment will be identified. Medical records for a population-based total cohort of patients sentenced to involuntary forensic psychiatric in-patient treatment have been scrutinized. Baseline data include multi-axial psychiatric diagnostics, social investigations, and crime-related data. The duration of forensic psychiatric treatment, permission to leave the hospital, discharge from in-patient treatment, and end of involuntary treatment will be presented in relation to the base-line data. The issue of the effects of court decisions on the duration of treatment will be discussed from an ethical perspective. Social factors, such as housing and occupation, will be compared to the time spent in court-ordered involuntary treatment.

## Violent Crime and Autism: The Impact of Self Disturbance on Dangerous Behavior among Patients with Schizophrenia

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People who suffer from schizophrenia are at elevated risk compared to the general population to become engaged in violent crime. When people with schizophrenia are committing violence, it is often associated with the presence of psychotic symptoms such as paranoid delusions or delusions of external control. However, a subgroup of schizophrenic offenders, here called the Self Disturbed Non-Emotional Schizophrenic Offender (SDNES-Offender), are characterized by being driven by motives that are completely emotionally disconnected to the context and without relation to positive psychotic symptoms. The SDNES-offender is disconnected from the context. He is autistic. He does not feel that he is a part of his surroundings; he watches reality as if it were a movie or a computer game. It is a consequence of his illness that he feels disconnected from normal interaction. He feels outside the context, not connected and not responsible. The offence is often spontaneous, totally arbitrary, and very difficult to predict. It is often very serious. It seems unmotivated in a normal sense. The offender's own explanation is concrete and non-emotional, e.g., "I wanted to know the sound of a knife stabbing in human flesh" or "I just wanted to stop the annoying sound of her oppressed respiration". This presentation introduces a description of the concept of the SDNES-Offender supported by evidence from three homicide cases.

### Reduction of Violence among Mentally Ill Offenders in Denmark Using Structured Risk Assessment Tools

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The number of mentally ill offenders in Denmark has increased dramatically within the last 20 years. Several studies have established a robust relationship between major mental disorders and the risk of committing violent crime. However, little is known about the actual recidivism rates for violent crime in this population in Denmark. We know little about whom, why, and when mentally ill offenders re-offend and how to best prevent it. The purpose of the current Ph.D. project is to evaluate whether two structured risk assessment tools, the Short-Term Assessment of Risk and Treatability (START) and the Historical Clinical Risk Management-20 (HCR-20), can predict and reduce the risk of violence in a sample of Danish forensic in- and outpatients at a regional forensic psychiatric ward. The following questions will be pursued: 1) Does the implementation of START and HCR-20 reduce the prevalence, severity, frequency, and/or the rate of violent episodes among mentally ill offenders? 2) What is the predictive validity of the START and the HCR-20 in terms of assessing risk of violent recidivism among mentally ill offenders? 3) Which items in the START and the HCR-20 correlate with risk of violence (positively or negatively)? 4) What is the interrater reliability when using the START and the HCR-20?

## Developing a Violence Screening Instrument for Patients with Schizophrenia

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Clinical guidelines recommend that violence risk be assessed in schizophrenia, although current approaches may be costly and lead to high rates of false positives. The aim of the present study was to develop a simple tool for screening violence risk in individuals with schizophrenia. A national cohort of 13,806 individuals with two or more hospital discharge diagnoses of schizophrenia was followed-up for up to 33 years for violent crime. A range of demographic, socio-economic, and clinical risk factors were analysed using Cox regression to develop a screening tool, the predictive validity of which was measured using four outcome statistics. The instrument was calibrated on 6,903 participants and cross-validated using three independent replication samples of 2,301 participants each. Whether employing an item weighting strategy or including item interactions as items increased predictive validity was explored. The resulting instrument was able to identify those at low risk of violence with high accuracy. Screening out patients who are not at risk of violence appears to be an alternative approach to risk assessment in schizophrenia that would benefit from further research.

## 111. Patterns of Arson

### Psychological and Psychiatric Background of People Who Are Suspected of Arson and People Suspected of Other Crimes

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Edwin Geerts, *Groningen University*

Only few studies have investigated the psychological and psychiatric background of people who have committed arson or compared these backgrounds to people who have committed other crimes. We compared a random sample of psychological and psychiatric pro justitia reports of 40 adults who are suspected of having committed arson to those of 36 adults who are suspected of other crimes. We investigated historical and dynamical risk factors and the object of the crime. At the time of the crime, people suspected of arson were older

then those who are suspected of other crimes. This was also true for the age of the first crime committed. People suspected of arson scored higher on alcohol abuse and dependency and on personality disorders than those suspected of other crimes. The object of the crime was more often self-related in arson, whereas in other crimes the object of the crime was more often a human being. Compared to people suspected of other crimes, the arsonists demonstrated more internalizing problems. The findings contribute to a better insight in differences in psychological and psychiatric factors between people who are suspected of arson and those suspected of other crimes.

### Arson from a Legal Comparative Perspective

Anouk Jagt, *Utrecht University*

Joseph van Mulbregt, *Utrecht University*

Research on international comparative criminal law shows remarkable differences and similarities in the definition of arson, its specificity, and criminal law sanctions in cases of arson. Internationally, the role and position of forensic mental health expert in cases of arson differ widely. In this presentation we will further discuss trends in Dutch criminal law jurisprudence, with special attention to the mental condition of the accused person and the consequences this holds for the verdict and its sanction.

### Patterns in Motives and Mental Condition of Arsonists

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In The Netherlands in 2008, 14,000 indoor fires took place: 50% in apartments / homes, and 11% appeared to be arson. Of the 29,000 outdoor fires that occurred, at least 44% were considered to be arson or vandalism. Comparable tendencies are to be seen internationally. When only a part of the arson cases is solved, this certainly has to do with the fact that in several cases the physical evidence is destroyed by the fire. Investigators must then rely on other sources. In cases of fire, the dark number (statistically and most literally) of arson cases remains uncertain, but is nevertheless probably high. As far as offending history and reoffending are concerned, arson is more akin to property offending rather than to violent offending. Internationally, arson has a relatively high dark number; however, limited attention is paid to this offence in terms of research. In this presentation some characteristics of firesetters are given in terms of gender and age pattern. Single arson is

compared with serial arson. Patterns of motives and mental condition of the perpetrators are presented and illustrated with case vignettes. Different approaches to the classification of arson are discussed.

### WICAP (Wildfire Criminal Analysis Program): A Criminal Analysis Software to Improve Investigation in Wildfire Crime

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The Wildfire Criminal Analysis Program (WICAP) is a three year long preventative crime project financed by the European Commission (Directorate General, Justice, Freedom and Security), undertaken in conjunction with the Italian Forestry Police and the forensic agency (Centro Scienze Forensi). The general objective of the WICAP is to build a national data information centre responsible for collection, collation, and analysis of forest fires in order to assist criminal investigations. This paper will outline the data-driven 'expert systems' model constructed in order to assist law enforcement officers in conducting investigations, through information regarding features such as an offender's characteristics, geographical profiling, and prioritization of likely suspects.

## 112. Point of Entry into the Mental Health System: Quality and Safety

### Factors Influencing the Categorisation of Urgency in Mental Health Triage

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*Background:* Mental health triage (MHT) is the first point of contact with mental health services for all potential consumers, or people seeking assistance on behalf of a person

thought to have a mental illness. MHT services operate seven days a week, 24 hours a day across Australia to provide assessment, support, and referral for people experiencing mental health problems. The key role functions of triage include initial mental health screening assessment to determine whether the person has a mental health related problem, the urgency of the presentation, and the most appropriate service response. Categorising the urgency of mental health presentations is complex, especially in telephone only assessment, yet accurate assessment is crucial to ensuring that the service-user receives timely, appropriate care commensurate with their clinical need. *Aim:* The aim of this presentation is to raise discussion on the factors influencing the categorisation of urgency in regional MHT. The presentation draws on findings of a Program Evaluation of a regional MHT service which involved an analysis of 875 occasions of triage, and consultation with 6 emergency departments, the MHT staff, and intake staff of Child and Adolescent MHS, Aged Persons MHS, and Adult MHS. *Methods:* Program Evaluation methodology using mixed method design. *Results:* The categorisation of urgency in MHT is influenced by multiple competing demands which impact on the clinician's decision-making. The unique challenges associated with afterhours MHT service provision in regional and rural areas further complicates what is already a demanding and highly complex clinical task.

### Identifying the Core Competencies of Mental Health Triage: An Observational Study

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Mental health triage is the first point of contact with public mental health services for all potential consumers. Mental health triage services operate 7 days a week, 24 hours a day across Australia to provide assessment, support, and referral for people experiencing mental health problems, and these services may be located within the Emergency

Department of the general hospital, in the community mental health clinic, co-located at the psychiatric unit, or in a telephone call centre. The majority of all initial mental health triage occurs via the telephone. Mental health triage (MHT) is identified in the literature as complex, requiring a high degree of knowledge and skill. At present, there is no standardised method for determining whether clinicians are competent to perform the triage role. Using an observational design, through a series of structured observations on 150 occasions of MHT, the research team identified and articulated the key role tasks, skills, knowledge, and responsibilities (competencies) MHT clinicians are required to be competent in to perform safe and effective triage. The outcomes of this research include a framework and process for testing clinician competency in performing MHT.

### What is the Role of the Aged Psychiatric Assessment and Treatment Team (APATT) in Assessing, Managing, and Monitoring of Health in Aged Mental Health Consumers Living in the Community?

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The aim of this study was to investigate the role of the Aged Psychiatric Assessment and Treatment Team (APATT) in the assessment, monitoring, and management of health issues in aged mental consumers living in the community. The study investigated the extent of the role of Aged Psychiatric Assessment and Treatment Team (APATT) clinicians in monitoring health conditions, the practical issues facing APATTs in effectively monitoring and managing health issues, the multi-disciplinary clinical team members' attitude, and confidence of Aged Psychiatric Assessment and Treatment Team (APATT) in health monitoring. Using an explorative descriptive design, the project reviewed 300 episodes of APATT care, and multi-disciplinary clinicians from 3 sites within NorthWestern Mental Health were surveyed and interview about their practices related to monitoring and managing physical health care needs of aged mental health consumers living in the community.



## Mental Health Triage in Children and Adolescents: In or Out of the Scope of Practice for the Adult Mental Health Triage Clinician?

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This paper explores the categorization of urgency in paediatric populations by adult mental health triage clinicians in comparison to specialist Child and Adolescent Mental Health Service (CAMHS) clinicians. The results provide insight into some of the inherent difficulties experienced for clinicians who typically have had very little education and training in CAMHS assessment. Child and Adolescent Mental Health services (CAMHS) as a specialization within mental health triage has received no attention in the literature to date, despite the critical role it plays in service provision to children and families. Children are an inherently vulnerable population, and the presence of mental illness increases the risk of harms. It is imperative that psychiatric triage assessment in paediatric populations is guided by evidence-based frameworks that aim to improve the quality and consistency of triage-decision making, thus optimizing the potential for improved patient outcomes. Recent Australian studies into psychiatric triage have highlighted the need for ongoing research to further develop the evidence base for mental health triage mental health practitioners. The valuable insights gained from research into current centralized triage practice inform and improve the quality and consistency of the psychiatric triage of children.

## Facilitating Access and Coordinated Care for People with Severe, Unremitting Mental Illness

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Consumers with severe, unremitting mental illness have complex care needs that are often unmet through mainstream community based psychiatric services. Poor life skills, co-morbidity, substance abuse, high levels of disability, challenging behaviours, and homelessness are common problems within this population, and these problems severely

impact on the consumer's ability to access services. In addition, multiple agency involvement also complicates the coordination of care. Point of entry to mental health services is often hampered by a lack of coordination of service delivery, as multiple agency involvement at times creates confusion as to where the responsibility for the consumer's care rests. This presentation discusses a project that aimed to address the care coordination, access, and psychosocial needs of this population. The presentation describes the project, and outcomes to date.

## 113. "Sakura": To Seclude or Not? A Glance from Finland and Japan:

### Part I

#### What is "Sakura"? An Overview of the Project

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The "Sakura" is a research project (2008-2011) set up to increase knowledge on the use of seclusion and restraint (S/R) in psychiatry. The study consists of multiple branches: 1) Administrative aspects (amount S/R is used, structure of wards including staff allocation and architecture, and legal system and rule related to S/R); 2) Staff perceptions of coercive measures, aggression and stigma; 3) Outline of nurses' decision making process that guides start and cessation of S/R, and content of nursing care related to S/R; 4) Medical and medication aspects of S/R; 5) Risk factors for non-cessation of S/R, using the Visual Analogue Scale for Seclusion and Restraint (VAS for S/R); 6) S/R patients' perception of their treatment (PPT) assessed using the PPT questionnaire, a new structured instrument developed by Sakura; 7) S/R on adolescent wards. The most distinctive element of the project is that two countries, one European and the other Asian, are applying the same protocol to deepen understanding through cross-cultural comparison. By providing new knowledge of S/R, some universal for both countries and some specific for each nationality, the "Sakura" research will enable the development of effective strategies to reduce S/R.

#### Does the Decision to Discontinue Seclusion or Restraint Depend on the Clinical Status of the Patient?

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In Finland, the median duration of seclusion (S) is less than 20 hours and for restraint (R) about 7 hours. In Japan, the median duration of both is considerably longer, although the length of use of S/R varies between institutions and even wards. Little is known about how, when and why the decision to end S/R is done. As a part of the Sakura study we collected detailed information about the S/R patients' actual status and about the nurses' intuition as to what would happen if S/R was ended. In Finland, data was gathered from three different institutions between September 1<sup>st</sup> 2009 and June 30<sup>th</sup> 2010; in Japan, the data collection occurred between January 1<sup>st</sup> and April 30<sup>th</sup> 2009 on six acute wards. The nurses' descriptions of the S/R patients' status were very similar, but their intuition as to the level of danger the patients represented were very different. In general, a fairly long stable period was required to end S/R. Detailed results will be presented at the congress.

### How Do We Decide to Start and Stop Seclusion and Restraint?

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Japanese regulations offer only a general statement as the guideline for the start and stop of seclusion and restraint (S/R); they do not provide any specific standards on several crucial factors involved in the decision to begin or end S/R. Nurses decide to halt seclusion by judging the patients' symptoms, the degree of acceptance of their treatment, their relationship with their care attendants and their relationship with other patients. However, the particular importance assigned to each criterion varies between facilities. The survey's objective is to clarify the factors nurses focus on when making their decision to start or stop S/R. Twelve nurses on acute psychiatric wards were interviewed, and questioned as to how they judged when to start and stop S/R for each of the following situations; patient is at risk of self-injury and hurting others; patient deterioration is induced by interpersonal stimulus, patient is experiencing co-morbid somatic illness, patient is demonstrating lack of compliance with medication, and patient is experiencing polydipsia. The audio-taped interview was transcribed word-by-word and put into qualitative content analysis. We expect that the survey will reveal the actual judgments made at the start and stop of S/R,

and support the elaboration of a standard questionnaire for decision-making. This effort will lead to the prevention of unnecessary S/R.

### Seclusion of Psychiatric Patient – Is it Really Intensive Care?

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The use of seclusion and issues related to it are central challenges in present-day psychiatric nursing. Professionals disagree on whether nursing staff is responsible for instituting seclusion to assist the patient or if it is just a means for staff to gain control over the patient. Existing research on nursing care during seclusion is scant. The aim of the present study is to describe the content of nursing care during the process of seclusion. Study material includes focus group interviews with nurses in Finland and Japan. Study material is analyzed using inductive qualitative content analysis. Preliminary results: Finnish nurses describe nursing care during seclusion process as psychiatric intensive care. It includes assuring patient safety by continuous monitoring, keeping in contact, and evaluating their well-being. It requires special skills with emphasis on the safety of the patient, staff and other patients during the seclusion process. Nursing care during seclusion requires extra resources. Special attention has to be paid to allocating resources, planning and distributing nursing care during seclusion. In Japan, nurses' focus while caring for a secluded patient is the establishment of a favourable therapeutic relationship to secure release more quickly. Nurses sense the change in a patient's condition and quickly determine what support is appropriate. Japanese nurses tend to be guided by their own intuition and know-how rather than by a standard manual for nursing care.

## 114. “Sakura”: To Seclude or Not? A Glance from Finland and Japan:

### Part II

#### Are Sakura Patients Somatically Well?

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Within this substudy, 202 cases of seclusion and restraint (S/R) were monitored in the emergency unit and the acute adult psychiatric wards of the Aurora hospital of Helsinki in 2009-2010. Of the 202 S/R patients, only 21% gave informed consent; the number was limited by the ethically challenging nature of the subject. Hence, the case records from 43 separate treatment periods were examined. We found two groups: 33 cases involved schizophrenia spectrum diseases and mania (77%), and 10 cases involved substance (alcohol and drug) induced psychotic disorders (23%). In addition, 65% of all patients had a substance use disorder as their primary or secondary diagnosis. Half of the patients were female. In the first group, the mean numbers of antipsychotics and all psychiatric drugs were 2.6 (1-5) vs. 1.2 (1-2) and 5.12 (2-9) vs. 3.4 (2-7), resulting in polypharmacia. In the second group, hospitalisation time was short: 1.7 vs. 32.0 days, all patients were in restraint, and somatic measures such as blood pressure and pulse were used less often (50% vs. 97%). Somatic complications in the first group included pneumonia, dehydration, and use of restraint due to overmedication. In the second group, we found only one case of untreated dehydration. The results of this substudy are still preliminary, as more data continues to be collected.

#### Visual Analogue Scale for Seclusion and Restraint - Why?

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The use of seclusion or restraint (S/R) varies widely between countries. The differences can be explained by examining the varied length of time patients experience S/R. However, too few time-series studies on S/R and patients' psychiatric conditions exist to determine the optimum timing to cease S/R. The Visual analogue scale for S/R (VAS for S/R) is a tool developed by Finnish Sakura members, and is designed to assess the "severity" of seven focused behaviours, including hurting self or others, and the "probability" of restarting those behaviours if S/R is stopped. The Sakura project aims to provide an international comparison of the patient's status under S/R using this VAS for S/R. As a preliminary survey, VAS for S/R was introduced to six psychiatric acute care units in Japan. 58 patients were subjected to S/R during the survey period (Jan-Apr 2009), and 1,376 VAS forms were collected. As a result, while the medium score of "severity" sharply dropped by half after 8 to 12 hours, the medium score of "probability" decreased gradually by half after 4 to 7 days. It suggests that an exploration of alternate approaches for patients who are not demonstrating severe behaviours but are still considered to have high potential risk could diminish the use of S/R.

### How Patients Feel about their Treatment Following Seclusion and Restraint

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Patients' perceptions of seclusion and restraint differ from that of the staff. Patients believe that seclusion is often used as a means for staff to exert power and control, while nurses view seclusion as necessary and therapeutic, but not punitive. Patients generally express a desire for greater participation in decisions about their psychiatric care. This study focused on the patients' subjective perceptions of their treatment after seclusion and/or restraint and their level of participation in the decision-making process. The secondary objective was to extrapolate the PPT from Japanese to European settings and explore its feasibility in a dissimilar culture. The data was collected in acute psychiatric units in Finland and Japan. Secluded and restrained patients were asked to complete the Patients' Perception of Treatment Questionnaire. The questionnaire includes 11 items related to collaboration with staff members and the patient's opinion on whether or not it was necessary to use seclusion or restraint. Results: In Finland, data collection during 2009 produced 73 participants. In Japan, data collection lasted four months and produced 56 participants. We will compare the results of Finnish and Japanese data in the presentation.

### What Drives a Youngster into the Restraint Room?

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In Finland, about 40% of adolescents have experienced some type of restraint during their inpatient treatment period. To avoid the most restrictive forms of treatment and to support preventive treatment attitudes in adolescent care, it is important to develop adolescent psychiatric inpatient aggression management programmes. The aim of the survey was to describe the quantity and nature of restraint procedures used in adolescent psychiatry. The annual restraint reports from the psychiatric adolescent wards of one Finnish Hospital District were collected. In 2009, there were 143 reports. The following variables were evaluated: the legal position of the adolescent patient, gender, age, psychiatric and somatic diagnoses, medication, length of hospitalisation before the restraint procedure was started, and the patient's clinical condition before, during, and after the restraint period. The following questions will be answered: How frequently was restraint used? What were the main reasons for restraint? How long were the periods of restraint? What characterizes the adolescent patients who were restrained? The study will also produce information to aid the further development of high quality restraints procedures in the field of adolescent psychiatry.

## 115. Program Development and Evaluation

### Insight and Aggression in Chronic Psychotic Inpatients

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The treatment of chronic psychotic patients in FPC de Kijvelanden primarily consists of antipsychotic medication. When their psychiatric condition has been stabilized, patients also follow a treatment program which comprises six Liberman-modules. The module "Symptom Management" focuses on the improvement of insight into their condition by providing psycho-education. Chronic psychotic patients were measured twice within an interval of one year to study (1) the relation between insight, psychotic symptoms, aggressive behavior, and personality traits, and (2) possible changes during that year in insight, psychotic symptoms, and aggressive behavior. For these two studies we used measures including structured interviews, an observation scale and self-report questionnaires. Results of both

studies will be presented and recommendations for further treatment of chronic psychotic patients who stay in a forensic psychiatric hospital will be made.

### A Program for Forensic Psychiatric Inpatients Who Have Committed Sexual Offenses

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Recently, a new treatment program for forensic psychiatric patients who have committed sexual offenses was implemented in FPC de Kijvelanden. One of the modules of this program is about distorted cognitions. The framework of this treatment program and, more specifically, the content of the module “Cognitive Distortions” will be described. For the evaluation of this module, we developed the Kijvelanden Questionnaire about Sexuality (KVS) that measures distorted cognitions in both rapists and child abusers. We will describe the development process of the KVS, provide the psychometric properties of the definitive version of the KVS, and mention its relation with other instruments. Finally, we will present preliminary results from our study about the possible effects of the “Cognitive Distortions” module.

### An Effective Treatment Program for Violent Forensic Psychiatric Patients

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This presentation will discuss our Aggression Control Therapy treatment program for violent forensic psychiatric patients. We developed a short version with 18 sessions for outpatients who display a conduct disorder or a cluster B personality disorder. It is based on Arnold P. Goldstein’s Aggression Replacement Training which comprises modules on Anger Management, Social Skills, and Moral Reasoning. For inpatients with a cluster B personality disorder, we designed a long version comprising 38 sessions. This version consists of the three aforementioned modules and five new modules, namely Prosocial Thinking, Character Formation, Prosocial Network, and Dealing with Women. All these modules focus specifically on the dynamic criminogenic needs of violent forensic psychiatric inpatients. Recently, psychomotor therapy has been added to Aggression Control Therapy. During psychomotor therapy, patients learn to recognize the first bodily sensations of arousal that may eventually result in aggressive behavior. Subsequently, they learn how they can control



these sensations. During the presentation we will discuss both versions of Aggression Control Therapy, and our results with violent forensic psychiatric out- and inpatients.

## A Treatment Program for Domestically Violent Offenders in a Forensic Outpatient Clinic

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Although anger and aggression management is very well studied in several populations known for their violent behavior, relatively little is known about the effectiveness of such interventions in domestically violent offenders with or without psychopathology. Data prove that batterers represent a heterogeneous population and that different interventions may be necessary for different offenders, depending on how they regulate attachment distress and problems such as substance abuse or other mental illnesses. The main goal for the treatment of intimate partner violence is to minimize the offender's risk of future domestic violence by gaining insight into the offender's history, into his criminogenic needs, and into his risk of reoffending, whether within the same relationship or within a new relationship. Domestic violence programs have utilized a combination of cognitive behavioral techniques and education including time-outs and anger journals. In this presentation, recommendations are made for adapting anger and aggression intervention techniques to the specific needs of domestically violent offenders. First, specific issues in regards to treatment needs are examined. After describing the content of a treatment program, special attention is given to the clinical experiences of a group of domestically violent offenders in a forensic psychiatric outpatient clinic.

## 116. Treatment and Programs in Forensic Psychiatry

### L-lysine Treatment in Forensic Psychiatric Patients with Schizophrenia: A Novel Treatment Approach Targeting the Nitric Oxide Signaling System

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Schizophrenia is a chronic, serious brain disease that currently does not have a cure. Preclinical and clinical studies indicate that an imbalance in the nitric oxide (NO) signaling

system of the brain may contribute to the pathophysiology of schizophrenia. In addition, there is accumulating evidence that supports the involvement of the NO system in aggression in both mice and men. One way of affecting the production of NO is by treatment with pharmacological doses of the amino acid L-lysine. In a recently conducted pilot study, an add-on treatment of 6 grams of L-lysine/day for four weeks was given to 10 patients with schizophrenia. The results showed that four weeks of treatment increased L-lysine blood concentrations significantly without inducing any adverse side effects. Furthermore, L-lysine treatment had positive effects on psychotic symptoms and deficits in sensory information processing. In order to further evaluate the effects of L-lysine on psychotic symptoms, sensory information processing and aggression, a placebo-controlled, double-blind, cross-over study will be conducted in 28 forensic psychiatric patients with a diagnosis of schizophrenia. Patients will be treated with L-lysine (9 grams/day) and placebo treatment for 8 weeks, with a two-week wash-out period in between. Symptoms, cognition, sensory information, and aggression will be assessed at baseline, and after 8, 10, 18 and 20 weeks. This study is the first to investigate L-lysine as a treatment of schizophrenia and aggression and is an important step in bridging preclinical research with clinical treatment trials, an important yet underrepresented scientific research field.

### Quality Markers for Forensic Psychiatric Treatment

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A new nation-wide quality control register, RättsspsyK, has been introduced in Sweden and currently includes about 1,100 psychiatric patients out of a total of 1,400, with coverage for most participating clinics at above 80%. The register has been built up over the past two years and first analyses are now underway. This presentation will discuss the register as an international resource for research on treatment process and outcome in forensic psychiatry.

### Integrated Treatment of Forensic Patients in General Psychiatry

Patrick Debbelt, *Hans-Prinzhorn Clinic, Hemer, Germany*  
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For the past 15 years, forensic patients have been treated in general psychiatric departments. This lecture intends to describe the peculiarities concerning the therapy of forensic patients being treated in general psychiatric departments, with a specific focus on

the diagnosis and treatment course. A case report shall be used to present a typical treatment course at our own psychiatric hospital.

### Effects on Recidivism of a Re-entry Program for Persons with Severe Mental Illness

Stephanie Hartwell, *University of Massachusetts at Boston*  
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This presentation addresses the emerging public mental health crisis of truncated continuity of care for individuals with severe mental illness involved in the criminal justice system in general and exiting corrections in particular. Combining five administrative databases, we evaluate the effectiveness in reducing recidivism of a statewide re-entry program for people with serious mental illness exiting corrections. The Massachusetts Department of Mental Health Forensic Transition Team (FTT), a case management based re-entry program, has been in existence for over 10 years but no scientifically rigorous study has evaluated its outcomes; only descriptive studies have documented favorable short-term outcomes. We present results of an empirical evaluation of the FTT program using a case-control/quasi-experimental design framework. Individuals with serious mental illness who re-entered the community after incarceration but were not eligible for FTT program form the control group with propensity scores to reduce selection bias. We will conduct both “between” and “within” group analysis of the FTT program to understand disparities in community re-entry outcomes. Major strengths and innovations of the project are: (a) using existing databases which can be harmonized to answer research questions; and (b) providing an evaluation of a unique state-wide re-entry program serving voluntary participants that has been in existence for over 10 years.

### Effects of Treatment Modality versus Dose, Psychosocial, and Criminal Justice Characteristics on Mental Health Court Graduation, Remand, and Rearrest: A Two Year Post-Completion Follow-Up Study

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Over an eight year period, 770 adults were diverted through the Bronx Mental Health Court into community-based treatment targeting mental health and co-occurring addictive disorders. Outcome differences were found in the length of treatment rather than type. Individuals receiving primarily residential or primarily outpatient treatment both graduated

successfully at nearly the same rate with a median length of treatment of 20-21 months. Among several significant predictors, those who attended 94 or more outpatient sessions were likely to graduate successfully, while those with less than 94 sessions were likely to fail in treatment. Individuals who attended less than 195 outpatient sessions, and less than 52 self help groups were more likely to be remanded, and those in residential treatment had a higher risk for remand than those who received primarily outpatient treatment. One and two year post discharge, there were no significant differences on rate and number of arrests and convictions between those who were treated in residential versus outpatient treatment. Both treatment groups showed significant reductions in arrests and convictions one and two years post-discharge. However, while those who received primarily outpatient treatment were at a higher risk for re-arrest than those in residential treatment, those in residential who received less than 237 days of residential treatment were more likely to be re-arrested than those who received more residential treatment days. An initial period of engagement and opportunity for significant treatment exposure contributed to reduction in recidivism.

## 117. Schizophrenia and Personality Disorders

### Forensic Psychiatric Health Care Services in North Rhine-Westfalia

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North Rhine-Westfalia (NRW) is the most populous federal state of Germany. This province has reduced the number of psychiatric hospital facilities by half over the past 15 years, and as a countermove to this development, the capacity of forensic hospital beds has increased. This surge seems to be caused mainly by the shift of schizophrenic patients from general to forensic psychiatry. The federal state developed several strategies to manage this increase. Today there is an intense forensic after-care program, and new forensic hospitals have been built. The long-term intention is to create a number of local and regional forensic psychiatry centers. As a result, the largest forensic hospital, formerly responsible for the whole region of Westfalia, will be downsized and integrated into a network of hospitals. Furthermore, the transfer of information and know-how between forensic and general psychiatry has been intensified to prevent high risk patients from embarking on a criminal career. This presentation will discuss the ongoing changes in forensic psychiatric health care services in North Rhine-Westfalia.

## Risk of Violence and Schizophrenia

Ulrich Trenckmann, *Hans-Prinzhorn Clinic, Hemer, Germany*  
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The question of whether schizophrenics have an increased risk for delinquency and violent behaviour has given rise to much controversy. In the present study, conducted with a sample of approximately 130 schizophrenic offenders, a new approach and investigation was used, evaluating risk factors for mild and severe delinquency, violence, and homicide among schizophrenics. The risk of delinquency and violent behaviour was much higher in schizophrenics than in the general population. The risk of schizophrenics committing a crime increases with the severity of the illness and, compared to the general population, is substantially higher for homicide. Risk factors for violent behaviour (and, in the worst case, for homicide) are correlated with a life-long pattern of aggressive behaviour, co-morbidity with drug abuse and alcoholism, social depravation, loneliness, and with a bad course of the schizophrenic illness. A long duration of untreated psychosis is associated with a worse criminal prognosis, an increased risk of suicide and homicide, and may be linked to other forms of serious violence. The severest expressions of violence can be interpreted, at least partly, as a direct consequence of the illness. The association between schizophrenia and criminality seems to be indirect, mediated through increased vulnerability for general criminogenic factors in part caused by the illness such as poverty, social depravation and substance abuse, and intensified by deficits in modern mental health care.

## Patients with Schizophrenia in Forensic Psychiatric Hospital (§ 63 German Penal Code) in North Rhine-Westphalia

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Our presentation will show the results of two studies dealing with the increasing number of patients with schizophrenia in detention (§ 63 German Penal Code) and their characterization in North Rhine-Westphalia. The first study examined patients with schizophrenia ( $N = 531$ ) by using a standardized questionnaire given to the attending psychiatrists or psychologists. Over the past 12 years, the number of patients with schizophrenia in forensic hospitals in North Rhine-Westphalia has increased threefold,

whereas the number of patients with other diagnoses has only doubled. The patients with schizophrenia showed high rates of psychiatric co-morbidities (substance disorders and personality disorders), previous inpatient treatment, and previous convictions. Almost half of these convictions were for violent offences (e.g. assault, homicide). The second study is ongoing, and compares patients with schizophrenia in forensic detention with a matched control group of patients with schizophrenia treated in general psychiatry as inpatients. This study focused on treatments occurring before their current period of detention or inpatient treatment.

### Treatment Response in Sub-Types of Borderline Personality Disorder

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Based on the frequently noted heterogeneity in symptom representation and treatment resistance amongst clients with borderline personality disorder (BPD), this study sought to investigate whether a sample of 77 people with severe personality disorder, primarily BPD ( $n = 74$ ), could be grouped into clinically meaningful subtypes. A follow-up question was whether the subtypes would respond differently to a specialist intervention. Participants were public mental health clients referred to a specialist residential treatment programme in Victoria, Australia. Using an existing data set, cluster analysis was applied in order to identify subtypes based on various demographic, clinical and psychological variables. Post-treatment analyses were carried out to investigate change in self-harm, suicide attempts, depression and dissociation. Three subtypes were identified, namely: withdrawn–internalizing, severely disturbed–internalizing and anxious–externalizing. Furthermore, the subtypes responded differently to the treatment, with the withdrawn–internalizing subtype showing reduced levels of dissociation and the anxious–externalizing subtype responding by large reductions in levels of depression. The severely disturbed–internalizing subtype did not improve significantly on any of the outcome measures in this study. These findings suggest that subtypes can be identified amongst clients with BPD, and that the subtypes may be related to treatment outcomes.

## 118. Forensic Evaluations and Decision Making: Science or Junk

Science?

## A Comparison of Expert and Layperson Assessments of Forensic Psychiatric Case Vignettes

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120 laypersons and 35 forensic experts were compared in terms of their judgment process with regards to forensic psychiatric case vignettes containing descriptions composed of three components: social history, psychiatric history, and criminal offense. We constructed 18 case vignettes with different combinations of positive (good, lack of pathology), negative or absent psychiatric history, social history, and serious or minor criminal offences. The ratings were done using a 7-point Likert scale. Significant differences emerged in terms of how the experts and laypersons used information to rate insanity ( $p = .008$ ), risk ( $p = .024$ ) and the need for treatment ( $p = .009$ ). A deeper analysis showed that the experts emphasized the importance of *all* case components, while laypersons emphasized fewer components as important. All groups gave lower ratings of risk and the need for treatment when the vignette began with a positive description. More professional experience was related to lower insanity and treatment ratings and higher risk ratings. The professionals reported less confidence in their judgments than the laypersons. Thus, professionals and laypeople appear to evaluate forensic material differently.

## A Taxonomy of Bias

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The presentation will address a fundamental problem in forensic work, namely, the problem of potential bias affecting the desired objectivity of the forensic expert. The different sources of bias will be explored in the form of a taxonomy, divided into external sources and internal sources. Among the external sources are: money (financial bias); bias from an inappropriate treater perspective; entrepreneurial bias; attorney pressures; political bias; seeking the "limelight"; the presence of an extra-forensic relationship; hindsight bias; and

confirmatory bias, where the expert focuses on data that confirm a previously-formed opinion. Internal sources of bias include: advocacy instead of objectivity; narcissistic factors; competitive strivings; gender bias; bias derived from wishes to publish or do research; ideologic bias; and moral/religious bias. The presentation will cover approaches that may be useful in dealing with the problem of bias.

### Attitudes, Beliefs and Clinical Experience Related to Dissociation and Dissociative Identity Disorder: A Survey among Finnish Psychotherapists

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Alleged trauma-related symptoms, especially dissociative amnesia (DA) and dissociative identity disorder (DID), have raised controversy in the field of clinical and forensic psychology and psychiatry over the past two decades. There is no empirical evidence for DA, and DID has been seen as an iatrogenic condition based on the fact that the number of diagnosed cases varies between clinicians, countries and time periods. Nevertheless, in Finland, both DA and DID continue to be diagnosed, training for clinicians to identify these conditions is still provided, and, in some child abuse cases, some experts still testify in court claiming that DA and DID should be taken into consideration in legal decision-making. In this explorative study we will investigate attitudes, beliefs, experiences and practices related to DA and DID. Participants will be Finnish licensed psychotherapist with different occupational backgrounds (psychologists, medical doctors, nurses, social workers, and clergy). A three-part questionnaire is now under construction. The first part will contain questions about beliefs related to the field of trauma, DA and DID. The second part will contain questions about clinical experience with trauma-related disorders, therapeutic methods used for helping patients with such conditions and experience with testifying in court regarding these issues. The third part will contain questions about awareness of scientific research and controversies in the field as well as about attitudes and subjective opinions related to these controversies. The effects of occupational background, training, and demographic data on beliefs, practices, awareness and attitudes will be explored. Furthermore, the effects of awareness of scientific research in the field as well as attitudes on beliefs and practices will be investigated. Finally, the variance in diagnosed cases of DID will be explored and we will discuss to what extent beliefs and attitudes can explain this variance.



## The Assessment and Management of Dynamic Risk and Protective Factors for Recidivism in Offenders with an Intellectual Disability

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The present study explores the extent to which a new structured professional judgment tool (the ARMIDILO-g) predicts short term risk of recidivism amongst offenders with an intellectual disability (ID) and how it can be used to manage risk. The ARMIDILO-g is a fourth generation risk and needs assessment tool that has been designed to inform risk management in community settings for people with an ID. The study examined the tools predictive accuracy over 6 months using a sample of 140 people with an ID who had recently exited custody and were being supported by NSW's Community Justice Program for people with an ID. Predictive accuracy will be discussed along with general issues related to the management of risk of recidivism amongst offenders with an ID in the community.

## Actuarial Risk Assessment for Juvenile Offenders: Lessons from an Australian Normative Study

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Actuarial risk/need assessments are used widely in juvenile corrections to assess risk of re-offending and guide intervention. Typically, a total score is obtained based on evaluation of well-established risk factors. The total score is used for classifying offenders as low, medium or high risk. The current paper will describe research conducted in NSW Australia where the Youth Level of Service/Case Management Inventory – Australian Adaptation (YLS/CMI-AA, Hoge & Andrews, 1995) is used routinely by the Department of Juvenile Justice. Inventory scores and re-offending data relating to 4297 juvenile offenders were used to derive 4 risk/need categories to guide case management decisions. The rationale and methods used to determine these categories will be described and normative data presented. There are a number of factors that need to be considered when using this instrument, in particular, the risk of incorrect classification, how to classify offenders close to a cut-off point, the problem of differences between sub-groups (e.g. sex and ethnic status), and ensuring sufficient staff

training to ensure consistent administration. For these reasons it will be argued that risk/need inventories should only be used for so-called 'low stakes' decisions.

## The Admissibility of Offender Profiling in the Courtroom: A Review of Legal Issues and Court Opinions

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What's the future of Offender Profiling? Is it an important field of forensic science or is it only a glamorous art? Following the trilogy of U.S. court rulings in "*Daubert-Joiner-Kumho*" and in the wake of the 2009 revision of the *Federal Rules of Evidence* (F.R.E.), U.S. opinion on the admission of scientific evidence appears to have changed, including differentiation between hard and 'soft' science. The gatekeeping role of the Courts in deciding whether evidence such as Offender Profiling is 'scientific' and warrants admission is an important one. This paper reviews the more significant Court rulings from the USA, Canada, UK, and Australia about reliability and admissibility of Offender Profiling. The paper suggests how and when an expert witness on offender profiling can and should be admitted into evidence.

## 119. Actual Aspects of Forensic Psychotherapy

### Ethical Issues in Forensic Psychotherapy

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Forensic psychiatric practice in penal and corrections poses particular ethical dilemmas. The psychotherapist working in prison is obliged to overcome their moral revulsion of the crime attributed to the prisoner and proceed with an ethical approach to treatment despite having feelings to the contrary. It is critically important that the forensic psychiatrist not lose sight of the fundamental principle of confidentiality, and carefully consider each request for disclosure on its own merit and weigh whether such a request is justified. Regardless of the ethical principles and scholarship that may be applied in individual countries or health systems, there is a great need for international humanitarian law, which serves both to protect vulnerable prisoners and to shield health professionals who treat prisoners with respect and dignity from abuse or penalty. Such laws should be reaffirmed, and the rare occasions on which the rights of individuals are overridden should require justification by

appeal to principles. Finding the right balance between protection from exploitation and access to research that will be beneficial to prisoners must be considered an objective of the utmost importance.

## Outpatient Treatment for Violent Offenders with a Migration Background

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The “Zentrum für Integrative Psychiatrie (ZIP)” provides the only outpatient treatment program for violent offenders with a migration background in Schleswig Holstein, Northern Germany. The program is funded by the European Union and primarily aims to prevent recidivism, thereby protecting potential victims of violent offences. Intervention methods are based on recent empirical studies of offender therapy and include psychological diagnostics, various modules of group therapy, and individual therapy. Participation may be voluntary, or on the basis of legal sanctions (e.g. as condition of probation). The program stresses the importance of taking into account the individual needs of each patient, and seeks to put special emphasis on their cultural background. The current presentation introduces the results of the diagnostic procedure and elaborates the therapeutic methods of the group- and individual treatment modules. Furthermore, the clinical experience acquired during the first year of the program and the challenges in evaluating the program will be outlined and discussed.

## Macrostructural Factors Contributing to Suicides in European Prisons

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Suicide is a common cause of death in correctional facilities in Europe. The risk of suicide in a correctional setting is 7 times higher than in the general population in Europe. It contributes to approximately 36% of the mortality in prison. To determine macrostructural factors influencing prison suicide, a time-series-cross-sectional analysis of pooled data from the Annual Penal Statistic of the Council of Europe (SPACE 1) from 1997 to 2007 for all countries of the European Union was used. Autocorrelative measures between the independent variables, correlations and finally a multivariate regression analysis were

elaborated to identify which macrostructural factors were potentially influential. Regression analysis indicated a weak, but stable relationship between prison suicides and suicides in the general population, prison density, and the indicator “prisoners not serving a final sentence”. No associations could be shown between prison suicides and prisoners sentenced for violent crimes, length of sentence, time in prison, rate of entries, young prisoners, and staff parameters. Thus, prison suicides may reflect cultural parameters in the general population. On the level of aggregated data, overcrowding and uncertainty of the sentencing are risk factors for successful suicides in prison. Further quantitative and qualitative comparative studies are necessary to investigate cultural effects and to specify aggregated parameters.

### Treatment of Forensic Patients in a Psychiatric Outpatient Clinic

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The tasks of the Psychiatric Outpatient Clinic II (PIA II) of the Vivantes Humboldt-Clinic include treating patients with serious and severe, usually chronic or chronically relapsing mental disorders. Due to the nature, severity or duration of illness, such patients require complex service, characterized by a continuous treatment by an interdisciplinary team. The treatment spectrum of PIA II includes services that are not part of statutory medical care. A major focus in the work of the Outpatient Clinic II is the treatment of forensic patients. These are mostly people who have been in custody and have been released on probation under regulatory treatment requirements. For the forensic psychiatric patients treated in the PIA II, schizophrenic disorders are the most common, followed by personality disorders. In reviewing certain typical cases, we may gain insights into such treatment. For example, a 33-year-old patient was taken into custody according to § 63 of the Criminal Code for six years due to dangerous behavior. The patient was found to be not criminally liable for reason of mental illness and was acquitted of the charge of predatory serious theft pp. by the Berlin District Court. The patient was subsequently diagnosed with a combination of schizoaffective disorder and cannabis abuse, although is currently drug-free due to protective surroundings.

## 120. Forced Treatment of Anorexic Patients

### European Convention on Human Rights: Implications for the Treatment of Anorexia Nervosa

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Article 3 of the European Convention on Human Rights provides that, 'No one shall be subjected to torture or to inhuman or degrading treatment or punishment.' Article 3 case law has elucidated that medical treatment that is demonstrated as being therapeutically necessary is unlikely to violate Article 3. Similarly, degrading and inhuman treatment definitions have arisen from case law, and there is a threshold of severity in which to engage Article 3 whereby ill-treatment must attain a minimum level of severity. Assessment of this minimum is relative and all circumstances of an individual case need to be considered. More recent case law has further elucidated that poor conditions of detention and failure to provide requisite medical care can also violate Article 3. Patients are protected by the Convention irrespective of their level of capacity to consent to treatment. In the treatment of anorexia nervosa, Article 3 may apply to complaints about detention, control (e.g. the kind and quantity of food to be consumed and the amount of exercise allowed), restraint (e.g. to ensure that tubes and drips are not removed), and seclusion (e.g. as withdrawal of a privilege or because of bed rest to ensure weight gain).

### Involuntary Treatment of Anorexia Nervosa

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The legal aspects of anorexia nervosa are often debated when patients refuse treatment. The Israel Mental Health Law (1991) authorizes compulsory hospitalization only when a patient is psychotic. Is anorexia a psychotic illness? The Law for the Protection of Patients' Rights (1995) also authorizes compulsory emergency treatment in life-threatening situations if three doctors support issuing an order for involuntary care. When danger is not imminent, the Ethics Committee, a quasi-judicial body with legal authority, can determine whether compulsory treatment is warranted. The law does not deal with prolonged treatment and has no executive powers in the event of patient discharge. The third possibility is an appeal to the court to appoint a legal guardian who can determine the need for compulsory hospitalization for a fixed period of time. The guardian is usually a parent of patients who are 18 years or older. The parents find themselves in an untenable situation where they must decide on a procedure which is contrary to the wishes of their child, but necessary for their child's well-being. The legal foundation should be laid to provide necessary compulsory

treatment and to enable optimal care for the anorexia nervosa patient at all stages of the illness.

## The Pros and Cons of Using Compulsory Treatment for Severe Eating Disorders in Adolescents

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In England and Wales the compulsory treatment of young people with severe eating disorders is controversial. There is a concern that such treatment may impair patient autonomy and negatively influence outcome. In this study, based in a specialist hospital, we compared patients treated under parental consent with those detained under the Mental Health Act: their characteristics and outcome up to 12 months after discharge. Results: 34 patients were informal (treated under parental consent) (age: 16.2±1.3), and 16 were treated under the Section 3 of the Mental Health Act (age: 16.2±1.1) in a 3-year period. Detained patients had an earlier age of onset (12.2±1.5 vs. 14.3±1.8), and more previous hospitalisation. On admission, their psychosocial functioning (CGAS: 13.6±2 vs. 26.9±9; HONOSCA: 41.7±5 vs. 31.9±5) was worse than voluntary patients', they had a higher level of co-morbid depression (BDI: 38.1±15.6 vs. 26.6±12.4) and a higher rate of suicidal behaviour. All physical and psychosocial measures improved substantially and clinically significantly by discharge and there was no statistically significant difference at this stage between the two patient groups. Two informal patients died within a year after discharge (6.3%), but there were no deaths amongst the detained patients. Comments: In contrast with previous findings in adults, the outcome for detained patients was similar to that for informal patients, despite the former having more severe presentation on admission. There was no evidence of higher mortality in the detained group.

## Anorexia as a Passion

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Could anorexia be understood as an affective disorder? The question makes little sense today. Contemporary psychopathology of affectivity is primarily limited to disorders of mood, and anorexia does not appear to be a mood disorder (though of course it may be accompanied with depressive symptoms or pathology). However, if we turn to the history of

affective psychopathology, there are other affective theoretical terms and posits that help make better sense of our question. The concept of “passion” is an especially promising candidate. It is well known that the fear of becoming fat (an emotional state), is a driving factor in anorexia. Recent clinical studies by Dr Jacinta Tan and other collaborators at Oxford, suggest that the all-consuming hold that such pathological values and emotions can have over people with anorexia goes further, and is more fixed, than is normally seen in mere emotions (Tan et al. 2006). I have endorsed and developed this suggestion (Charland 2006). However, I now believe that that the terminology of “passion” is more appropriate for this new hypothesis, than the contemporary terminology of “emotion.” In this presentation, I explore the meaning, significance, and implications, of this new hypothesis, that anorexia can be understood as an affective disorder in passion.

### Recent Empirical Research about Forced Treatment of Anorexic Patients

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Attitudes and laws regarding the rights of patients and the duty of physicians are changing and confusing. The first comparison of compulsorily detained adolescents and those treated under parental consent in the UK shows mainly advantages in the short and medium term of using the Mental Health Act. An Australian record analysis found in coercive vs. informal hospitalisations more previous in-patient treatments, co-morbidities, a lower BMI at admission, but no significantly different weight gain. In Germany, 25 anorexic women with an admission BMI of 12.09 kg/m<sup>2</sup> gained 12.44 kg. Twenty were treated involuntarily, 22 received tube-feeding, 20 of them via transdermal duodenal tube, four of them as voluntary patients. Qualitative interviewing of 29 women with current or recent anorexia nervosa revealed more informal than legal coercion and complete acceptance of either for saving lives. Central was a trusting caring relationship with professionals and family rather than capacity to consent to or refuse treatment. As full recovery is possible in life threatening anorexia nervosa detention is justifiable and may be necessary. This does not imply forced or tube-feeding. Highly skilled nursing seems preferable. For this it might be better to admit before the BMI drops below 13 kg/m<sup>2</sup>.

### Forced Treatment of Anorexic Patients

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One approach to the ethics of enforced treatment is based on the idea of competence (or capacity) to refuse treatment. According to this approach if a person refuses treatment and is competent to do so then that refusal should be respected even if the person is at high risk of serious harm and even death. Another approach relevant to anorexia nervosa is to override treatment refusal in the patient's best interests simply on the grounds that the person is suffering from a mental disorder, even if she is competent. This latter approach is unsatisfactory because it appears to discriminate against the mentally disordered. There is something missing in this latter approach: it invites the question of what it is about the mental disorder that justifies overriding the treatment refusal of a person who is competent. I will argue, based on the accounts of patients with anorexia, that there are several ways, other than through affecting competence, in which patients' autonomy is compromised by anorexia. Respecting a person with anorexia may sometimes require overriding her apparent wishes.

## 121. Addictions and Mental Health

### Cannabis, a "Soft Drug" with Hard Outcomes? Cannabis Use, Mental Health and Crime among Young People in Australia

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Cannabis use remains a significant problem among young people who come into contact with the criminal justice system. Often regarded as a "soft drug", early, heavy, and sustained cannabis use has been linked to a range of negative outcomes including increased involvement in crime and poor mental health, particularly among vulnerable young people with multiple and complex needs. This study explored crime, cannabis use and mental health among 303 criminally involved adolescents aged 14-21 years from New South Wales, Australia. Preliminary results indicate that cannabis initiation occurred at 13.2 years of age, with 79% of participants using at least 3 times a week by age 14. Days of cannabis use in the past month was related to age of initiation, higher Kessler 6 scores, higher Severity of



Dependence Scale scores, and increased involvement across four major offence types. One-third of participants had previously been diagnosed with a mental health disorder, while 40% had received some form of AOD treatment. These early results highlight how increased efforts to reduce early and heavy use of cannabis among young people involved in the criminal justice system will assist in reducing a number of negative outcomes.

### Integrated Emergency Care for People with Addictions and Mental Health Disorders in Toronto, Ontario, Canada – The Challenges of Privacy Legislation

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The Mental Health and Addiction Emergency Department Alliance (MH&A EDA) is a unique, new and innovative partnership of five (5) Toronto Central LHIN Academic Health Science Centres (AHSCs) and the University of Toronto's Department of Psychiatry. Two Community Affiliated hospitals are also involved in the Alliance. The goal of the MH&A EDA is to provide the right emergency mental health and addiction care, in the right place, at the right time in a respectful, client-centered manner across the Toronto Central LHIN region. This goal is being accomplished through a collaborative process aimed at reforming and optimizing the use of the Toronto Central LHIN's existing acute mental health and addiction service capacity. Implementation of a multidisciplinary standardized Assessment Form has improved the consistency of approach to clinical assessment and data collection across TC-LHIN EDs, but has produced challenges related to the sharing of the collected information across partner hospital sites. This presentation places the issue of privacy of health information in a contemporary social and legal context, reviews relevant areas of privacy law, discusses the standard of care, and uses the practical principles of risk management to aid in decreasing liability in emergency psychiatry.

### Native American Youth Receiving Mandated Dual Diagnosis Treatment

Michael Charles Harlow, *University of South Dakota*  
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Among American Indian youth mental illness looms as a public health crisis. Studies indicate the most prevalent mental illnesses include depression, anxiety, alcohol abuse, and polysubstance dependence. In one study of Great Plains Native American youth, 23% met criteria for a mental illness and 9% met criteria for two or more disorders. While studies of mental illness in Native American adolescents have revealed high levels of psychiatric

pathology, such studies are relatively few in number. The impact of Native American adolescent culture on respective mental illnesses has yet to be clearly defined. The co-morbid Native American adolescent stressors of substance abuse, mental illness, and life frustrations manifest themselves in increased criminogenicity. This paper presents the findings of a preliminary investigation of the relationship between traditional values, substance use, criminal behaviors, and psychiatric diagnoses in 203 American Indian adolescents. The relationship between substance abuse disorders, criminal history, and psychiatric illness in Native American adolescents receiving judicially mandated substance abuse treatment will be examined. In this retrospective data analysis, study subjects' results on the Millon Adolescent Clinical Inventory (MACI) and the Substance Abuse Subtle Screening Inventory (SASSI), with criminal risk sub-scales, and the Michigan Alcohol Screening Test (MAST) were correlated for significance.

## 122. Treatment, Stigma, and the Japanese Forensic Reality

### The Problems of Treatment Systems for Drug Abusers in Japan Clarified by the Research on Families of Drug Abusers

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In Japan, the main measures put in place to reduce drug abuse are imprisonment and primary prevention. Only self-help organizations and a few hospitals are engaged in rehabilitation for drug dependence, and public assistance is limited. The purpose of this report is to show the problems with the Japanese addiction treatment system based on the data from the 2008 National Addiction Families Survey (N = 553). The results show: 1) It takes more than two years to get a consultation from the time a family first notices drug abuse, because of insufficient resources, poor information, and social prejudices. 2) Even if family members could get the addict to medical or health facilities, most of them would still not get sufficient support. 3) Most often, family members bear the burden of long-term support for recovery, as well as any ensuing physical, mental and economic problems. 54.7% of family members supporting an addict were estimated to be in a high stress state by the GHQ12. 41.7% of families with drug abusers were found to be supporting the living expenses of the addicts; the average amount was 1,400 dollars/month. These findings show that, to reduce the burden placed on the family, it is necessary to build a comprehensive addiction treatment system that includes not only self-help organizations, but also medical, health, and welfare facilities.

## Treatment Program for Substance Use Disorder under the Medical Treatment and Supervision Act of Japan

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Violent behavior is the most critical symptom in clinical practice of forensic psychiatry. Substance Use Disorder (SUD) is widely known to be one of the risk factors for violent behavior. Co-occurrence of SUD and mental disorders may further increase the risk of violent behavior. This indicates that treating SUD is one of the most important interventions in forensic psychiatry. In Japan, the Medical Treatment and Supervision Act has been in effect since 2005. The enactment of this law allows the forensic psychiatric system to exempt individuals with mental disorders from criminal liability. This system was intended to treat schizophrenia. No treatment programs for SUD were prepared, as SUD was not considered likely to be the reason an individual was exempted from criminal liability. However, it was unexpectedly discovered that 30% of the inpatients have co-occurring SUD and mental disorders. In this presentation we will outline the new SUD treatment program in forensic psychiatric practice in Japan, and discuss the possibilities and limitations. Furthermore, we will report on the “denial of SUD” found among Japanese mental health professionals.

## Intervention by NGO for Drug Addicts Who Are in the Criminal Justice System in Japan

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As of today, there is no drug court system in Japan; only punishment exists for drug addicts who find themselves involved with the Japanese criminal justice system. First-time offenders convicted of drug use or small possession charges generally receive suspended sentences. It is not compulsory for offenders to attend specialized drug recovery programs. As a result, many go on to commit additional drug crimes, and are subsequently incarcerated. Recidivism is especially high amongst methamphetamine users (58%, 2009). Moreover, drug addicts have no sense of the “disease” and seldom go to treatment facilities or mental hospitals on a voluntary basis. However, once arrested and prosecuted, defendants often realize it is necessary to stop using drugs and wish to change their lives for the better. It is very important to take advantage of this limited opportunity; access to a

recovery program for offenders on bail, probation and parole should be provided. Since July 2000, our NGO, the Asia Pacific Addiction Research Institute (APARI) in Tokyo, Japan, has been providing drug treatment programs for defendants on bail, probation and parole, in partnership with DARC (Japanese private drug addiction rehabilitation centers) and some mental hospitals. This presentation will discuss APARI's intervention methods for drug offenders on bail, probation, or in prison.

### Therapeutic Community, Psychotherapy, and Cognitive Behavioral Therapy as Clinical Treatment for Substance Abuse in Japan

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This presentation will provide a brief overview of the typical treatment models now available in Japan. The Drug Addiction Rehabilitation Center (D.A.R.C.) exists as a network with 53 facilities nationwide. Given that government and medical opinions on the best course of action for addition differ considerably, and coupled with the lack of licensing or regulation in the industry, there is considerable variation in the standards of substance abuse treatment in Japan. A short example of a Japan Therapeutic Community model will be presented, along with the Gumma D.A.R.C. approach to Psychotherapy and Cognitive Behavioral Therapy.

## 123. Substance Abuse

### Treatment Patterns among Offenders with Mental Health Problems and Substance Use Problems

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Research on treatment utilization among offenders with mental health and substance use problems (i.e., the 'triple troubled') is scarce. The aim of this study was to contribute to the general knowledge of treatment patterns/treatment utilization among the triple troubled. This register-based study explored treatment patterns during three years of follow-up among 157 Swedish offenders with substance use problems who had undergone forensic psychiatric assessment. There were three subgroups of treatment users: low treatment users, planned substance abuse treatment users in combination with substance abuse emergency room visits, and users of planned psychiatric treatment. About 40% of the participants displayed a stable treatment pattern (i.e., they remained in the same subgroup for the duration of the study). Outcomes were less successful for those participants displaying a non-stable treatment pattern. Conclusions: Allocation of treatment resources should take into account the associations between treatment patterns and recidivism into criminality. Also, it would be valuable for clinicians to gather information on treatment history in order to meet various treatment needs.

### Risk Management in Forensic Psychiatric Community Services in Sweden: Degree of Coercion and Control

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Today, risk management of forensic psychiatric patients is an activity mainly taking place in the community. To provide safe care in combination with protecting public safety in the

community poses challenges different from those related to in-patient treatment. The aim of this project was to describe clinical practice and explore nursing interventions planned to enhance medication-compliance and prevent substance abuse in forensic psychiatric care when the patient made the transition from hospital care to community care. The aim was also to study the degree and intensity of control in the nursing interventions planned for the forensic psychiatric patient. A cohort of formerly treated forensic psychiatric patients (n=79) was followed monthly during one year after discharge. Nursing interventions aiming at a) medication compliance, and b) substance use control, were described and recorded. The number of interventions was higher during the first phase of the follow-up period and decreased with time. Those receiving more interventions were not necessarily those who had been assessed as high-risk patients at discharge.

### Validation of the AUDIT and the DUDIT in a Swedish Sample of Suspected Offenders with Signs of Mental Health Problems: Results from the MSAC-Study

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Substance abuse is common among offenders. One method widely used for detection of substance abuse is screening. This study explored the concurrent validity of the Alcohol Use Disorders Identification Test (AUDIT) and the Drug Use Disorders Identification Test (DUDIT), screening tools used in relation to a) substance abuse and dependency diagnoses and b) three problem severity domains of the 6<sup>th</sup> version of the Addiction Severity Index (ASI-6).

The study sample consisted of 181 suspected offenders with signs of mental health problems. The screening tools showed moderate to high accuracy for identification of dependency diagnoses. The AUDIT was associated with alcohol problem severity whereas the DUDIT was associated with drug- and legal problem severity. Administering the screening tools in the current population yields valid results. However, the suggested cut-off scores should be applied with caution due to the discrepancy between present and previous findings.

## Problem Load Profile among Offenders with Mental Health Problems: A Cluster Analysis

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Background: Offenders with mental health problems and substance use problems (the ‘triply troubled’) are of great concern; they cause suffering to the victims of their crimes, are costly for society, and they may also display patterns indicative of lifelong difficulties adapting to society. Aim: The aim of the present study was to explore problem load in a sample of ‘triply troubled’ individuals in Stockholm (N = 207). Specifically, we wished to explore possible subgroups. Method: All participants were interviewed with ASI-6. The ASI is a semi-structured interview instrument, designed for the assessment of seven functional life domains (housing, medical health, employment/support, drug/alcohol use, legal situation, family/social relations, and psychiatric health (McLellan et al., 2006)). Register data on

psychiatric status and index crimes were also acquired. To find natural groups within the sample, a cluster analysis was used. Results: Preliminary analyses demonstrate distinct subgroups among the participants, each with its own unique pattern of problems in the various life domains. Discussion: The 'triplely troubled' constitute a heterogeneous population with highly individualized treatment needs.

## 124. Community Treatment Orders: Part I

### Exploring Review Board Member Experiences with Community Treatment Orders (CTO): What are the Challenges, the Benefits, and the Surprises?

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Passage of community treatment order legislation occurred in Ontario, Canada in June 2000. Many jurisdictions around the world had similar legislation prior to that and several have adopted similar legislation since the Ontario legislation was introduced. The literature has documented issues of coercion, ethics, abuse of civil rights, perceived positive and negative outcomes for the subjects of this legislation and their families, and perspectives of several stakeholders including physicians, families, service providers, and the subjects of CTO's and other forms of legislation themselves. The debates of whether improved outcomes are associated with legal compulsion or better service provision continue. One stakeholder perspective we have not found in the literature as yet is that of the individuals who serve on mental health tribunals. These custodians of the legal process surrounding the legislation are able to view the issues from a unique perspective. A qualitative study consisting of in-depth interviews with the lawyers, physicians, and lay persons that serve on these boards was conducted in London, Ontario, Canada in 2010. This presentation will report on the



results of this study and contrast and compare findings with the perspectives of other stakeholders.

### Brian's Law: Legislative and Clinical Lessons from the Killing of Brian Smith

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In 1995 Jeffrey Arenburg shot and killed Brian Smith, a popular sportscaster and ex-National Hockey League player. There were widespread calls for the introduction of community treatment orders (CTOs) when the media reported that Arenburg shot Smith in response to psychotic symptoms that had previously led Arenburg to assault a radio station manager. The coroner's jury that investigated Smith's death recommended the introduction of CTOs. The Ontario Government amended the provincial Mental Health Act in 2000 - introducing CTOs and broadening the civil commitment criteria - and called the legislation Brian's Law in Smith's honour. It was therefore puzzling to read in 2007, 12 years after Smith's killing and 7 years after the introduction of Brian's Law, that Arenburg was under arrest for assaulting a U.S. Border guard in New York State. Was it possible that Arenburg had been set loose, untreated, on an unsuspecting public? To answer this question we used public documents to elucidate the circumstances leading to the assault at the border. Based on this research, we conclude that Arenburg, like his previous victims, was not afforded protection by current mental health law and clinical practice.

### Important Issues Related to the Use of Community Treatment Orders in London, Ontario, Canada

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This panel presentation will look at important issues related to the use of community treatment orders in London, Ontario, Canada. Community treatment order use is strongly supported by local psychiatrists; hospital based mental health clinicians, community mental health agencies and the city police force. We will review the perception of community treatment orders and some of the elements of success from a variety of stakeholders' perspectives as well as data collected in a program evaluation of the community treatment order usage in our area. We will review the hospital readmission and criminal recidivism rate for individuals placed on community treatment orders.

### TJ in Swedish Courts – Outpatient Compulsory Treatment as an Example

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The idea that an offender suffering from a mental disorder should receive special treatment in the penal process is deeply rooted in most societies. However, the Swedish system does not have an insanity defense (i.e. a person who has committed a crime under the influence of a severe mental disorder is not exempted from legal responsibility). If a person commits a crime under the influence of a severe mental disorder, the court may sentence him or her to forensic psychiatric care. New regulations (since 2008) allow persons sentenced to forensic psychiatric care to get outpatient compulsory treatment under certain conditions, but only if a psychiatrist applies for it. The goal of outpatient compulsory forensic psychiatric care is to reduce relapse in criminal behavior and improve transition to society. There must be periodic reviews every sixth month, but in theory this form of care could be indefinite. The criteria are vaguely formulated, and, in practice, their interpretation is left to the community of psychiatric experts. In my presentation, I am going to discuss the importance of the role of the judge when the aim is to enhance compliance in periodic reviews concerning outpatient compulsory treatment. From a Swedish perspective, this reform means a new and changing role of the judge, and, in the long run, an improving power of therapeutic jurisprudence in Swedish courts.

## 125. Community Treatment Orders: Part II

### Community Treatment Orders and Law Reform in Victoria, Australia

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This research explored good practice with people on Community Treatment Orders. A mixed methods approach was undertaken to identify five principles for good practice with people on CTOs: 1) use and develop direct practice skills, 2) take a human rights perspective, 3) focus on goals and desired outcomes, 4) aim for quality of service delivery, and, 5) enhance and enable the role of key stakeholders. These principles will be discussed and then applied to case studies in order to consider their potential relevance to practice. People on CTOs, their family/carers, and service providers are a diverse community of people who have a range of problems, needs and preferences in relation to either being on a CTO, or supporting someone on a CTO. The implementation of CTOs is influenced by social and structural issues that need to be considered in developing any recognition or understanding about what represents good practice. These principles have been identified at a time when Victoria is experiencing a review of the Mental Health Act 1986. The features of the new Act will be discussed in relation to the findings and recommendations.

## Revocation of Community Treatment Orders

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Community Treatment orders are used frequently in Victoria, Australia, with at least 3,000 people at any one time required to co-operate with involuntary treatment in the community or risk having their CTO revoked and being readmitted to the local inpatient unit. Research has tended to focus on the effectiveness of CTOs and the experience of consumers, carers, and services providers. The revocation of CTOs is identified as being relatively under-investigated but important in terms of the significant impact this process has on consumers, families/carers, and service providers. The revocation of CTOs can be both distressing and resource intensive. It is anticipated that knowing more about what happens when CTOs are revoked, to the extent that this can be interpreted from the data available, may assist in

working towards reducing the number of CTO revocation episodes. This paper will report on an investigation of revocation episodes undertaken by the authors. The findings have identified opportunities for improving policy and practice, particularly in relation to reducing the amount of coercion experienced by people on CTOs.

### **“Experience Is the Best Teacher.” Community Treatment Orders (CTOs) among Ethno-Racial Minority Communities in Toronto: A Phenomenological Study**

Magnus Mfoafo-M'Carthy, *University of Toronto*  
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Community treatment orders are described as a treatment option that legally mandates a person to follow through with the established treatment plan or “risk sanctions for non-compliance such as potential involuntary hospitalization and treatment.” This study explores CTOs from the perspective of ethno-racial minority clients who have participated in CTOs as part of their outpatient treatment in the city of Toronto, Canada. Interviews for the study were conducted with 24 individuals (comprising 15 females and 9 males) of different ethno-racial minority background. The participants were between the ages of 18 – 65 years old. The study involved a semi-structured interview intended to explore the lived experience of these individuals who had been on CTOs. The interview was recorded with the consent of the participants and eventually transcribed with the assistance of a professional transcriptionist and analysed. The transcripts were analysed using the empowerment, anti-oppressive and post-colonial frameworks. The participants discussed many aspects of their treatment, most of them positive based on their experience. The participants described aspects of the treatment they deemed coercive, stigmatizing, and inhibiting. The study suggests that the view of ethno-racial minority clients play a significant role in the treatment of minority clients. The experience of the participants shed light on the importance of ethno-racial minority clients and its impact on the Canadian health care system.

### **Fusing Mental Health and Capacity Legislation: Stakeholders’ Views of the Proposed New Law in Northern Ireland**

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Jim Campbell, *Queen's University Belfast*  
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In Northern Ireland, a devolved region with the UK, it is planned to replace the current Mental Health (Northern Ireland) Order 1986 with a new law to be enacted in 2012-13. This presentation will outline the main components of the proposed legislative framework. The new law will represent the first attempt to replace mental health law with a non-discriminatory capacity-based legal framework which applies to everyone regardless of the cause/s for their impaired decision-making capacity (Dawson and Szmukler, 2006). The consultation process about the new law is underway and there are a number of key issues being considered. These include: how capacity is to be assessed and by whom; the introduction of compulsory powers to settings beyond the hospital; the role of independent advocacy services; advance statements; and application to the criminal justice system. The authors will report upon a study of stakeholders' (psychiatrists, social workers, nurses, lawyers, service users, carers) views on prospective strengths and weaknesses of this novel approach to the mandatory care and treatment of people with mental health problems.

## 126. Community Treatment Orders and Integration

### Rehabilitation in the Community of Persons with Mental Disabilities Law of Israel: Challenge and Opportunity in a Turbulent Environment

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This presentation is focused on the Israel Law for the Rehabilitation in the Community of Persons with Mental Disabilities (RMD) enacted in 2000, and its role in reforming the mental health service system in the country. This legislation may be considered as an incremental change toward a comprehensive reform of the mental health services system in Israel, attempting to transfer the locus of treatment and care from the mental health hospital system to the community, undertaken since the early 1970s. The RMD law entitles persons with mental disabilities to receive a package of rehabilitation services. The composition of the package is based on professional assessments. During the decade following the enactment of this law, the number of persons receiving rehabilitation services in the community increased by four times and the budgetary allotment for these services in the community grew by tenfold. Objectives: The study objectives were to assess the challenges and opportunity of the RMD law in affecting major changes in the system and to review the risks that may affect this law and fail its potential to contribute to a comprehensive mental health reform in Israel. Findings: 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 indicated a significant reduction in the number of psychiatric beds, changes in budget allocations, and a remarkable increase in psychiatric rehabilitation services. However, ambulatory services suffered a set-back, and efforts to transfer mental health services to general health-care providing organizations, required by the legislature, failed. Interest groups and major issues related to the RMD law as well as to the implementation of the planned comprehensive reform are assessed. Discussion: Based on the findings, factors that endanger the viability of the RMD law and its role in bringing about a major mental health reform in the country are discussed. Strong opposition composed of the some of the old guard of the mental hospitals system, some professional groups concerned with their autonomy and monopoly on mental health services, some members of families of mentally disabled fearing decrease of services, and state's treasury bureaucracy concerned with unexpected increasing demands for services leading to budget deficits, may hinder the mental health reform efforts. The paper concludes with comments on what may be necessary in order to protect the RMD law, and facilitate the required changes in the mental health system. Lessons from the Israeli experience that can be learned by other jurisdictions are discussed.

### Forced to Comply: The Enactment of Mandatory Community Treatment Orders in Alberta, Canada

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Risk reduction has become a central concern of criminal and legal discourses in many liberal democratic societies. However, there is limited understanding about how risk is constituted within civil processes. Mandatory community treatment orders have emerged internationally as a response to the failure of deinstitutionalization to properly manage “revolving door” clients. However, most research on community treatment orders focus on the effectiveness or the ethical implications of these orders once they are in place. To date, there has been no systematic examination of how these laws come into being. This paper critically examines the legal rationale and the underlying connection between risk-based thinking and the governance of a select group of people with mental disorders. Using the 2007 enactment of community treatment orders in Alberta, Canada, as a case study, this paper will examine how and why governments have moved toward forced compliance orders for individuals who are “likely to cause harm to the person or others” (Government of Alberta, 2007). Community treatment orders are a tool used to govern mentally disordered individuals based on their constituted status as risky and perhaps dangerous.

Compliance, under these conditions, is required in order to reduce the risk associated with certain psychiatric classifications.

### Community Corrections: Incorporating Specialized Clinical and Treatment Programs for Offenders with Mental Health, Substance Abuse and Co-Occurring Disorders

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In recent years the criminal justice system in the United States has seen an increase in and acknowledgement of the presence of offenders with mental health, substance abuse and/or co-occurring disorders. Consequently, the ability to appropriately address these needs becomes vital to enhance their ability for success. This presentation will focus on providing an overview of treatment and clinical programming for correctional clients within the continuum of community correctional supervision. The discussion will include why it is imperative that community corrections offer clinical and treatment options at the various levels of supervision, what treatment and clinical options have been shown to be effective, and why it is vital for community collaborations to exist to provide these effective clinical and treatment options.

### 127. Moving the Agenda Forward on Services for Parents with Mental Illness and their Children

#### Attachment or Separation? What is in the Best Interests of Children of Parents with Schizophrenia?

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When adults with severe mental illness have children, society must balance the best interests of children along with the rights and responsibilities of parents. The child's attachment to the parent, long-term well-being, and safety in the home, are at risk, but what approach should be taken by social services to this situation? The present research inquired into the experiences and needs of children of parents with schizophrenia, and we can deduce from such research findings what kind of social and familial environment would

be in the best interests of the child, while also recognizing the rights and duties of parents. The UN Convention on the Rights of the Child is used as a guide. It is concluded that the child of a parent with schizophrenia need not be separated from the parent simply because of her or his mental illness; but public services should ensure that the child is not socially isolated or stigmatized, has regular and close contact with a mentally healthy adult, preferably a family member, and is given age-appropriate information about the parent's mental illness.

### Through the Eyes of a Child: How Children of Parents with Mental Illness Perceive Stigma

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In Canada, one in five people are affected by mental illness. Recent estimates state that 15% of Canadian children live with parents who have a mental illness. Stigma, defined as a mark of disgrace or discredit, from which stereo types, prejudices and discrimination may arise affects parents living with mental illness. Goffman's classic work identified that courtesy stigma occurs from association with a person who is marked by a stigma. Children of parental mental illness may therefore experience courtesy stigma by association with their parents. Stigma towards mental illness exists within Canadian society as evidenced by the recent launching of a 10 year anti stigma campaign to educate society on mental illness. This exploratory study investigates how children between the ages of 6 to 16 years and living with parental mental illness experienced stigma in their daily lives. An interpretive hermeneutic phenomenological approach informs this study. To date, ten children have been recruited by purposive sampling and interviewed using a semi structured interview guide with some children interviewed twice. Sample recruitment is ongoing. Preliminary data analysis using the hermeneutic circle analysis process suggests that younger children are aware of stigma and social exclusion within their daily school experiences. Older children increasingly become aware of stigma related to mental illness and the mental illness of their parents. Children who themselves have a mental illness experience stigma related to their behaviours. Preliminary analysis suggests that children face multiple stressors within their social settings related to diverse sources of stigma.

### Young Carers in the UK: Parental Mental Illness and Children's Caring Experiences

Jo Aldridge, *Loughborough University*



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This paper will explore the evidence on children's experiences of caring for parents with serious mental health problems. Two important studies in the UK have investigated children's needs when they act as carers for parents with mental illness and a number of outcomes for children have been highlighted. For example discrimination and bullying from peers, stigma by association, poor school performance, and lack of formal support from health and social care professionals. Positive outcomes have also been observed, including enhanced parent-child relationships. Using qualitative methods (including visual techniques) with vulnerable children, these studies have helped to inform health and social care policy and practice in the UK and have helped to transform the lives of families affected by parental mental illness. However, adopting qualitative approaches - in particular visual participatory methods - with vulnerable children and families pose a number of ethical challenges. Such challenges include gaining informed consent from children and young people; potential child protection issues; issues of confidentiality and data security; and the consequences of raising painful memories. These issues will be explored in this paper in order to offer both reflexive and practical guidance to researchers, scholars, and practitioners who work with vulnerable children and families.

### A Comparative Approach Concerning Law Reforms Regarding Children with a Parental Mental Illness

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In a law reform dated 1 January, 2010, the Swedish government has made it compulsory to increase the cooperation between Health Care Services and Social Services concerning the situation of children who have a parent with severe mental illness. Staff working in the public sector have an obligation to pay attention to the children's needs of information, assistance and support when there is an adult or parent with a severe mental illness in the family or the surrounding. Our research has for several years predominately focused on the situation of children with a parental mental illness. In accordance with the new law reform, we are continuing the research adding a comparative aspect in an interview study which will illuminate the children's own experiences of the situation before and after the law reform. The result of this comparative approach will be presented.

### Vulnerability and Resilience Children of Parents with Mental Ill Health and Immigrant Background

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Background: Research has shown that parental mental ill health can affect the lives of dependent children significantly, both directly and indirectly. Despite a considerable amount of research concerning these children in general, little has been done regarding immigrant children in particular. The aim of the study was to investigate the situation of immigrant children living with at least one parent suffering from mental ill health. Method: Semi-structured interviews were conducted with 12 children of parents with mental ill health and immigrant background. The children, aged 10 to 18, were recruited through psychiatric clinics and community programs. Results: Few children knew what their parents were suffering from; neither parents nor professionals had ever spoken to them about it. Several children took a large responsibility for their ill parent, their siblings, and the household. They worried about the family's socioeconomic situation and described how they guided their parents in the "new" country, helping out with interpretation, sometimes even in treatment situations. Many of the children showed strength and happiness, and all talked about their parents with love. Conclusion: These children are often neglected by society. Recognizing their needs will make future support possible, which in turn could improve their social and psychological health.

## The Role of Private Healthcare in Mental Health

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The role of the private sector in mental health services has traditionally been universally funded out of the public purse. However, as economies shrink and demands for healthcare services expand, particularly amongst baby boomers, triaging of funding has begun in earnest. Services provided to the most vulnerable are often the first to be cut. As mental health services are dramatically reduced, governments attempt to fund segments of these services through targeted funding envelopes; for example, in Canada the Mental Health Commission was set up even though such funding is not within the Federal domain. What has not been evident in this area of healthcare in contrast to the provision of diagnostics and physical healthcare is the contribution from the private sector because investors and entrepreneurs don't see the opportunity to profit by putting funds into what they view as the bottomless pit of mental illness. This paper will examine creative private sector

opportunities to invest in mental health that will result in profits while providing a safety net for our most vulnerable populations.

## 128. New Family Forms

### Reproduction and Regret: The Might-Have-Been Family

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The Supreme Court's 2007 opinion in *Gonzales v Carhart* has attracted substantial scholarly criticism for invoking women's "abortion regret" as a reason to uphold the federal "Partial Birth Abortion Ban Act." This essay seeks to situate in the wider legal frame of reproductive decisionmaking *Gonzales's* treatment of abortion regret as both an "unexceptionable" phenomenon and a doctrinally meaningful variable. Because *Gonzales* cites neither empirical authorities for the former nor precedents for the latter, the opinion presents abortion regret as a free-floating notion, in isolation and out of context. Yet, *Gonzales* is not the first time when a court has confronted such matters. Departing from the confines of *Gonzales*, this essay reviews a series case of studies depicting the intersection of the consequences of a reproductive decision or episode, on the one hand, and the legal treatment of a feeling or experience plausibly termed "regret," on the other. The case studies include litigation about adoption, surrogacy arrangements, parental obligations, alternative insemination, and the disposition of frozen embryos. All of these case studies play out in the shadow of a "might-have-been" or counterfactual family – the shape or size of the family that would have existed but for the reproductive decision central to the dispute before the court. How do courts treat this might-have-been family and the regret it sometimes inspires? Regret emerges as sword and shield, emotional reaction and rational response, discomfort to be avoided and pain appropriately endured. The erratic salience of reproductive regret across these case studies calls for a closer look at the work performed by this idea its own right and the extent to which it serves as a proxy for other assumptions and normative commitments. Several distinct, yet often entwined, ideas animate the cases and help to organize their apparent inconsistencies: first, the enforcement of traditional family gender roles; second, an emphasis on the burdens rather than the benefits of autonomy; third, the uncritical acceptance of a baseline of private family support that allows courts to ignore the government's own participation in constraining individual choices and prompting subsequent regret; and finally, the law's assumptions about the pleasures of sexual intercourse and its impulse to exact a price for such presumed pleasures. This

analysis helps unmask regret's legal functions, while deepening our understanding of how the law conceptualizes sex, gender, reproduction, and family.

## Opposite-Sex Cohabitation: Intersecting Legal and Mental Health Issues

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Over the last several decades, the number of opposite-sex cohabiting couples has skyrocketed in the United States and in most other developed countries. Social scientists who study cohabitation have reported less satisfaction, more emotional distress, and insecurity among cohabitants than among married couples and have explored whether these differences are the result of selection effects of the institution of cohabitation itself. Studies from the United States, Canada, and Australia have also shown higher rates of domestic violence among cohabitants than among married couples. Moreover, cohabiting unions are shorter in duration than marriages, creating potential psychological problems for the children who live in these households (about 40% of cohabiting couples have children in the household.) This paper will describe the social science findings concerning these differences between cohabitation and marriage, explore possible explanations for them, and present conclusions about what the implications are for how the legal system should treat cohabitation.

## Should New Definitions of Legal Parentage Cause Us to Re-Evaluate Traditional Definitions?

Melanie B. Jacobs, *Michigan State University*  
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Given the increase of nontraditional families - including families headed by gay and lesbian parents, single parent families, and even multi-parent families - courts have been required to look beyond the traditional bases of biology and the marital presumption when determining the legal parents for a child. Often, courts look either to intentional parenthood or functional parenthood as a means to establish parentage if biology or a marital connection are not present. Intentional parenthood generally involves an ex ante review of the party's or parties' involvement with the child; i.e., if a couple paid a sperm and egg donor and a gestational surrogate because they intended to parent the child, their intent should determine legal parentage, even in the absence of a biological connection. Functional parenthood generally involves an ex poste review of the party's or parties'

actions: did s/he do take on responsibility consistent with that of a legal parent and is s/he deserving, then, of the status of a legal parent? As courts embrace alternate methods of parentage establishment, it begs the question of whether biology and the marital presumption still serve a purpose in establishing parentage. Are intent and function proxies for biology and the marital presumption or are biology and the marital presumption mere proxies for intent and function? If so, perhaps all parentage should be decided on the basis of intent and function. This paper will explore the relationship between biology, the marital presumption, intentional parenthood, and functional parenthood and suggest ways in which courts should determine legal parentage in the future.

## The Reluctant Parent

Laura Kessler, *University of Utah*  
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This presentation, to be a chapter in a book on nontraditional families and care practices, discusses the legal rights and regulation of people in the United States who do not want to be caregivers. Specific topics may include grandparents who have guardianship thrust upon them by the child welfare system; fathers who learn that the children they helped raise are in fact not biologically related to them; women who are pressured to care for children and/or elderly parents by the absence of legal, societal, and family support; fathers who do not wish to pay child support; and access to contraception and abortion.

## Disrupting Domesticity

Laura Rosenbury, *Washington University School of Law*  
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Family law in the United States continues to focus on partners and their children, ideally living in one home together. This paper sets aside that ideal, instead considering family forms organized around connections other than stable domesticity. This presentation begins with living apart together (“LAT”) arrangements, then moves to friendships not defined by sexual interaction, and finally considers sexual relationships in non-monogamous settings. In the end, this presentation argues that family forms need not always be home-based, sexual/procreative and exclusive, but instead can thrive with any combination thereof, as well as outside of those parameters. This presentation thus challenges the very definition of family, rejecting a narrow vision that regulates dependency and sexuality in favor of more diverse conceptions of care and attachment.

## Regulating Assisted Reproductive Technologies and Keeping Up with the 'Sciences': Influences and Developments in Australia

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The regulation of Assisted Reproductive Technologies (ART) in Australia represents a mix of different statutory models and national professional regulation. ART statutes are constantly lagging behind medical science as regulators struggle to develop principled based models which balance social benefits with diverse moral views in this area of rapid scientific and social change. Issues such as eligibility for ART treatment and surrogacy have been strictly controlled by law in some jurisdictions and regulated through professional guidelines in other jurisdictions with inevitable cross border and international activity when treatment is denied in one place but available in another. This presentation will examine three different ART statutes recently passed in the states of Victoria, South Australia, and New South Wales. The Victorian ART statute is essentially a criminal model; the South Australian ART statute has a prohibitive element combined with a Code of Practice; and the NSW has a prohibitive element combined with Professional Guidelines. This presentation will also discuss the principles and concerns underpinning the passage of these laws, the impact on service delivery and equity issues based on reports of interviews with clinicians, scientists, and counsellors who have worked within the regulatory frameworks, regulators who can provide insights into legislative developments and ethicists and patient advocates who have informed the public debate.

## 129. Mental Health in Correctional Settings

The Indiana Women's Prison: Treatment of Behavioral Health Issues

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The state of Indiana has a guilty but mentally ill verdict that is widely used. Further, the Indiana Women's Prison (IWP) is the oldest women's prison in the nation, and is now a special needs prison. As a result 21 percent of the women live in psychiatric units and with a blend of traditional and progressive practices. At the time of data collection for this study, 45 percent of the women in the IWP were legally responsible for at least one death and 19 percent killed between two and six persons. This research focuses on the treatment and practices IWP offers inmates. It profiles the psychiatric units population along socio demographic and offense data. Finally, women's voices provide examples of what they experience as they live their lives in prison with serious behavioral health problems and violent felony convictions.

### Gender Differences in Behavioral Health Matters for Women Returning Home from State Prison

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A three-year study of problem solving courts in a Midwestern U.S. city focused on participants with co-occurring behavioral health problems and drug-related felony convictions. The purposes of the court programs are (a) to treat women and men within the community, (b) reduce the likelihood of repeated criminal behavior, and (c) increase the quality of life for participants and the general population within the community. Participant-judge dialogues, taken from court transcripts, are used to illustrate gender differences in participants' experiences. Regression analysis examined the probability of participant recidivism as a function of gender, prior criminal and mental health history, and items taken from the Addiction Severity Index (ASI), and the Level of Services Inventory Revised (LSI-R). Court-mandated employment, housing, mental health, and drug addiction programs were used to transition offenders from prison to the community; or, to divert persons from incarceration. Results show gender differences in program needs and a significant decrease in the risk of recidivism for problem solving court participants. How to go to scale across communities remains problematic.

### Electronic Monitoring and Community Corrections: Reconsidering the Role of Technology to Promote Offender Change

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Evidence-based research reviews of U.S. criminal justice correctional programming are making an important contribution to the field through identifying programs that work, those that don't and those that show promise. The purpose of this presentation will be to summarize current evidence investigating the effectiveness of electronic monitoring. A particular emphasis will be placed on the challenges and prospects associated with using evidence-based research reviews as a basis for promoting offender change. My analysis reveals that evidence based reviews have considered electronic monitoring as a tool for offender surveillance and control. Little attention has been given to the role that electronic monitoring may have in promoting rehabilitation. A historical examination of electronic monitoring suggests that the initial intention of this technology was to support behavioral change. The idea of using electronic monitoring technology to promote change has been embraced by new application models known as persuasive technologies that are premised on the notion that it is possible to intervene at the right time and place in real time. Examples of how this model may work with offenders will be described. The conclusion will focus on using what we have learned about electronic monitoring from past reviews to inform the next generation of behavioral technologies in ways that promote change rather than control.

### Psychiatric Symptoms, Psychological Distress, and Somatic Co-Morbidity among Remand Prisoners in Switzerland

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Objective: To determine the prevalence of psychiatric symptoms and complaints among remand prisoners in Switzerland and to analyze the relationships between psychiatric symptoms, physical health and substance abuse problems in this population. Method: The medical files of all detainees attending the prison health service in 2007 were reviewed. Identified health problems were coded using the International Classification of Primary Care (ICPC-2). Descriptive statistics and measures of association were computed. Results: A total of 1'510 files were analyzed. Several associations between psychological symptoms (anxiety and insomnia) and physical health problems (skin, respiratory and circulatory) were observed. Substance abuse was also frequently associated with somatic health problems. Conclusions: These data provide the first comprehensive description of the mental health of



detainees in Switzerland's largest remand prison. Our findings emphasize the need for coordinated health care services in detention settings.

## 130. Women and Mental Health

### Characteristics and Predictors of Self-Mutilation: A Study of Incarcerated Women

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Background: Research on self-mutilating behaviour in incarcerated adults has found that nearly 50% of people in prison participated in it. This is an enormous liability for the criminal justice system as well as a human concern. Aims/hypotheses: The research question for this study was to explore whether a history of childhood abuse in a sample of incarcerated women would increase their likelihood of self-mutilation. Methods: Participants were 256 female inmates from five prisons in a large southern state in the U.S. who volunteered to attend a 12-week trauma and abuse psychosocial intervention group. The participants were evaluated for childhood abuse, criminal history, risk taking behaviour, and self-mutilation. Data are presented regarding individual, criminal, abuse, family and risk-taking behaviours comparing self-mutilators (n =109) with non-self-mutilators (n =147). Results: The self-mutilation group was more likely to report higher rates of emotional, sexual and physical abuse and on clinical significance scales of anxiety, depression, dissociation, impaired self-reference, anger, tension reduction, and intrusive experiences. The self-mutilation group was also younger and was more often white. The results of the regression model suggest that a history of suicide attempts, emotional abuse, sexual abuse, bingeing and vomiting, and impaired self-reference are predictors of self-mutilation.

### In Search of Coherence about Incapacity: Post-Natal Mental Disorder Case Law

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Cases across the five common law jurisdictions of Canada, U.S., UK, Australia and New Zealand featuring postpartum mental disorder include those where mothers have acted criminally in a psychotic state, but many others have acted in the context of fragile mental health in combination with desperate social and economic circumstances. Mental health

and legal professionals grapple in these cases with difficult determinations of rationality, intention, balance of mind, and appropriate disposition. This presentation locates these cases within prevailing legal understandings of insanity and diminished responsibility, health sciences research on postpartum illness, and the social contexts within which early mothering occurs. It argues that postpartum mental disorder is treated in law with an ambivalent mix of compassion, dismissiveness and outrage. This incoherence with respect to the mentally disordered state of new mothers leaves women's actions and mental states open to severely restrictive interpretations of incapacity and the imposition of narrative authority by others.

### The Meaning of 'Serious Disability' in the Context of PGD and Abortion: The Perspectives of Regulators and Health Care Professionals in Australia

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There is no clear demarcation of "serious disability" in the context of abortion and PND with the result that there is little in the way of substantive guidance for practitioners and members of the community about its scope and application. Legal and policy responses consist of an assortment of ethical guidelines, specific legislative frameworks, and longstanding provisions of the criminal law, some of which were neither enacted nor developed with these medical practices in mind. Regrettably, this leaves service providers, families wishing to utilize (or avoid utilizing) diagnostic technologies and the broader community uncertain about appropriate moral and legal limits. This presentation presents some preliminary findings from an empirical study with regulators and providers of PGD and abortion services in Australia about their understandings of 'serious disability.' A clearer understanding of this concept, arrived at through a process of broad consultation, would enable governments and regulators to address the concern that legal constructions of serious disability do not accord with social constructions.

### Evaluation of Relationship between Depression and Victimization of Sexual Violence in Iranian Elderly Women

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In the present study, we evaluated the effects of victimization of sexual violence on the prevalence of depression in Iranian elderly women. We also tried to find the relationship between the severity of depression and victimization of sexual violence. In this cross-sectional study, Geriatric Depression Scale was used. The random sample (N=120) includes elderly women all aged over 60. The sample were divided into two groups with 60 participant in each (N=60). A questionnaire based on demographic characters of the victims was used. There was a significant relation ( $P < 0.05$ ) between depression and victimization. Victims who were cared for in the rest house were infected with major depression 6.67%, moderate depression 62.13%, mild depression 23.33%; victims who were settled in their own dwelling houses were infected with major depression 3.33%, moderate depression 18.33%, and mild depression 45%. Dependency to carers, vulnerability, and fear of re-victimization were causes of more rates of major depression. Victims who were cared for in the rest house had more dependency to their health care workers, were adjacent to their offenders and experienced more fear of re-victimization. These factors exacerbated their depression to a great extent.

## 131. Intimate Partner Abuse

### The Therapeutic Relationship and Program Completion in a Program for Men Who Are Abusive with Intimate Partners

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A major focus of the Reaching for a Good Life Program (RFGL) has been the engagement of participants in the therapeutic process. Each participant completes the Outcome Rating Scale (Duncan & Miller, 2000) before each weekly group session and Group Self-Rating Scale (Duncan & Miller, 2007) following each session. The ORS asks participants to rate how well they are doing (low to high levels) on four dimensions: a) personal well-being; b) interpersonally; c) socially; and, d) a general sense of well being. The GSRS surveys the participant's perception of the relationships with the facilitator and other group members, the goals and topics of the session, the "fit" of the approach or method used in the session and overall satisfaction with the session. The therapists in the program use the data dynamically to adapt the group content and process to meet the expressed needs of participants and to support their sense of progress. Continuous monitoring of scores provides feedback on the effectiveness of the intervention for the individual. Scores reflecting a lack of change are a signal to "do something different" to support the individual

client. The implications for the use of these tools to support individual change and group program completion are discussed.

### Reaching for a Good Life – An Application of the Good Lives Model of Offender Rehabilitation with Men who are Abusive in Intimate Relationships

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Reaching for a Good Life (RFGL) is a program for men who are abusive within an intimate relationship. RFGL has 4 components: a weekly orientation group, individual intake interview, the 16 week group program and the exit interview. Engaging men in the therapeutic process begins with the weekly orientation session. Participants experience a brief explanation of how violence progresses in intimate relationships and are engaged in a discussion of the process. This process allows participants to make an informed choice about their fit with the group content and process. Consent forms are signed and intake assessment tools are completed at this session. Participants meet with an individual therapist who creates a Good Life Plan with participants. In the individual interview the results of the testing are discussed with the participant and the therapists hears the man's experience that brings him to therapy. Participants then begin one of the weekly group sessions at the start of the next modules. The group itself is comprised of 4 – four-session modules. These modules are Self-awareness and Arousal Management; Emotional Communication and Conflict Management; Ethical and Moral Decision Making; Consciousness Raising: Power and Control. This presentation will describe the RFGL program.

### Preliminary Outcome Data for the Reaching for a Good Life Program for Men Who Are Abusive with Intimate Partners

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The Reaching for a Good Life Program (RFGL) began in October 2009. The program is based on the Good Lives Model of offender rehabilitation. This presentation will describe the psychological profile of the group participants and the shifts observed in that profile as participants complete the group program. The description includes demographic and personality data as measured by the Personality Assessment Inventory (PAI). Group participants also complete the Behavior Rating Inventory of Executive Function-Adult

(BRIEF-A) self report, a measure of executive function, and the Buss-Perry Hostility Inventory as both pre and post-program measures. Group participants complete the pre measures on their first night of the group orientation. Post measures are completed at the end of the participants last session of group. Exit interviews commenced after completion of all other aspects to the program. Qualitative data from the exit interviews with the participants from the first three cohorts finishing the program will also be presented. Presently data collected has shown significant positive shifts for the participants in the program. Details will be provided base on these shifts and patterns that have arisen out of the data analysis.

### Domestic Violence Treatment of Male Offenders in a Northern Alberta Community: Program Enhancement and Expansion

Sheila Mellon, *John Howard Society of Grande Prairie, Grande Prairie, Canada*  
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The transformation of an existing psycho-educational group based model to more holistic client centered treatment services including group and individual therapeutic supports will be explored. Our existing group program was developed in the early '90s with influences from the approaches of stages of change (Prochask, Norcross & Diclemente, 1994), the Duluth Model (Pence & Paymar, 1993) and other cognitive-behaviour instruction and practice. Our recent investigation led us to current research in the field and to treatment programs throughout Canada. We sought to enhance our program with supports that took into consideration the impact of the following on our clientele: individual emotional regulation, personality of the offender, history of trauma, role of shame, social investment, and relational dynamics. Understanding and working with the 'whole' client in the therapeutic process was essential to assist men to take responsibility for their abusive behaviour and begin to build the relationships they prefer with their partners, children and community. Expanding our practice included enhancing assessment practices, adding case management and individual therapy supports as well as safety checks and educational supports for partners. We have embedded processes from Tod Augusta-Scott's (2008) Narrative Therapy: Abuse Intervention Program into our existing practices resulting in a treatment program which emphasizes the importance of identity and collaboration in the therapeutic relationship.

### Discoveries of Engagement in Reaching for a Good Life, a New Program for Men Who Are Abusive with Intimate Partners

Claire Johnson, *The Family Centre, Edmonton, Canada*  
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In the Reaching for a Good Life program, four modules have been designed to address the range of abusive behaviours men use towards their intimate partners. The module topics include Self-awareness and Anger Arousal Management; Interpersonal Communication and Conflict Resolution; Values and Ethical Decision Making; and Power in Relationships. The group format is process-oriented which allows group facilitators to be responsive to the needs and interests of group members. Several methods are utilized to engage participants in the program: biofeedback and experiential learning; brief explanations in plain language of information relevant to the module; a values questionnaire; audio-visual components; humour; role-playing; small group work; rituals; and group processes of discussion, sharing information, and problem solving. Group members engage on several levels: physically, mentally, and emotionally. As participants struggle with their values and their identity, the group process supports them to take responsibility for their actions and their future “good life.” Men in the Reaching for a Good Life program express relief from their anger, value their new skills in self-regulation and communication, and appreciate their increased understanding of self and relationship dynamics. Group members often evolve from sceptic to convert to promoter of the program.

## 132. Honor Killing

### Child Labor in Pakistan

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International Labor Organization (ILO) defines child labor as, “work that deprives children of their potential and dignity, and is harmful to their physical and mental development.” Child labor is a global public health problem with about 218 million child laborers around the world. Asia-Pacific region continues to rank highest among the world with 122 million child workers, with Pakistan alone having anywhere from eight to nineteen million. Child Labor industries include farming, manufacturing, trash picking, begging, domestic servants, etc. In Pakistan millions of children are forced to work under a bonded labor system that includes advanced payment of bonded money or “peshgi” to the parents, who in exchange provide the child to work off the debt. Underage work not only deprives children from getting a basic education but also places them in hazardous conditions. The minimum age for

employment under the Pakistan Child Labor Law is between 14 and 15, the precise age varying with the type of employment. There are penalties for anyone who violates these conditions and hires underage workers. Financial constraints, lack of manpower, and limited knowledge continues to hinder the implementation of these laws. Moreover, poverty, general acceptance, and lack of awareness are other contributing factors in the continued use of child labor in Pakistan.

## A Comparison of Family Violence among Women in Saudi Arabia versus Women in the United States: Differences in Culture and Law

Caroline J. Easton, *Yale University*  
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Family violence is a international health concern and both the World Health Organization (WHO) and United Nations (UN) are working to help decrease violence towards women. Across the globe, violence towards women continues to grow. Much of the intimate partner violence that occurs is male to female. Within the United States, the rate of male to female violence ranges from 85-95%. In the United States, 1 in 5 women experience physical violence from their male partner; this increases to 1 in 2 when substance abuse is involved. Within the United States, laws exist to hold men accountable for family violence towards women and children. Although the United States contains couples from different racial, ethnic and cultural groups, the laws are universally applicable and designed to punish aggressors, prevent future incidences, protect the female victim and, at times, divert the male into treatment. However, not all countries and cultures have laws to punish perpetrators of family violence. It may be acceptable within the culture to punish women who have brought shame upon the family. For example, women may be abused if they drive a car, do not dress in culturally appropriate attire, or to protect the family's honor if another male member of the family has violated tradition. This presentation will discuss male to female family violence and compare law and traditions between women in Saudi Arabia and women in the United States.

## Honor Killing

Sadaf Hashmi, *Brown University*  
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Honor crime is an act of violence, usually murder, committed by male family members against females for bringing dishonor upon the family. A woman can be targeted for: refusal

to enter into an arranged marriage, being the victim of a sexual assault, seeking a divorce or committing adultery, etc. The mere perception that a woman has brought dishonor upon her family is sufficient to trigger an attack on her life. Killing for reasons of honor is ancient in origin, but this act has occurred more frequently in recent years in both the Middle and South East Asia. There have also been some cases among the Muslim refugee and immigrant communities in Western countries, and even among Sikhs and Christians. The United Nations Population Fund estimates that the annual worldwide total of honor-killing victims may be as high as 5,000. Modern Islamic religious authorities prohibit honor killings, since they consider the practice to be more of a cultural issue. However, the legal system deals with these crimes with extraordinary leniency, providing loopholes for the perpetrators. As a result, the tradition of honor killing remains unbroken.

### **'Harmful' Traditional Practices: Interventions to Address Gendered Forms of Violence against Women and Girls**

Aisha Gill, *Roehampton University*  
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Harmful cultural or harmful traditional practices (HTP) have been a concern for the violence against women movement and the criminal justice and health profession for a number of years. These forms of violence include so-called 'honour'- killings/'honour' based violence (HBV), prenatal sex selection, child marriage, forced marriage and female genital mutilation (FGM). They are not individual, isolated cases of violence, but expressions of discriminatory social, cultural and religious norms that define women's subordinate position in the family, community and society and enforce control over women's freedom, including their sexuality. By focussing on the panoply of expressions of HBV, particularly those relating to marriage and FGM – practices which unfortunately still impact on many women in the UK - I will draw international attention to the HTP in the name of which women continue to be subjected to violence. To date, most laws enacted to address HTP have consisted of amendments to national criminal laws. These amendments have certainly condemned violence against women, and thereby constitute an important step towards ending the impunity enjoyed by its perpetrators. However, these measures do not provide for victim support or require specialist preventative measures to be taken. Health professionals in FGM cases, for example, often have first contact with a victim/survivor of a 'harmful practice' only if there has been a medical complication. It is therefore imperative that these professionals are trained to identify violence and sensitively treat its victims/survivors. Citing findings from the UK Labour Government consultation paper, *Together we can end violence against women and girls* in 2009, I offer recommendations related to these



practices and call for more regular and systematic training for all professionals – particularly those working in the criminal justice system, education and health – in assisting those affected by harmful traditional practices.

### Honour Killing: Origin, Dynamics and Psychopathology

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It has been estimated by the UN that 5,000 women are killed in the name of 'honour' every year around the world. The magnitude of such crime has increased over the years and is being reported both from the developing and the developed world. This presentation describes the origin of honour related crimes, from where it was reported first and how it spread from its focal point. It also describes the dynamics of such crime, profiles of perpetrators and victims, labelling, planning, stages of victimization, and related consequences. It was observed in a number of studies that there is a subtle psychopathology among the perpetrators. This paper also examines the underlying psychopathology, and makes suggestions as how to address this serious problem.

### 133. Sex Workers in the UK

#### Beyond Rehabilitation: The Importance of Community Cohesion Strategies for Street Sex Workers in the UK

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This presentation provides an overview of recent legal reforms to eradicate street sex work from the community in England and Wales. In particular, it discusses the introduction of 'engagement orders' in April 2010 which aim to steer sex workers into the hands of support services. The court orders are designed to identify the causes of sex work and to develop exit routes out of sex work. However, drawing on recent empirical data collated from interviews with street sex workers in one Welsh City, the presentation highlights the need for sex workers to be recognised as community members and not simply offenders in need of rehabilitative assistance. It discusses the violence faced by sex workers by both clients and members of the wider community, and the impact of this violence with regard to mental and physical health and general wellbeing. Overall, it argues for the development of

more comprehensive sex worker strategies which focus on improving community cohesion to build up social networks and social capital for sex workers within the community.

### Mental Health and Female Street Sex Work: Can Research Make a Difference?

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The health of female street sex workers in the United Kingdom has been the focus of concern and continuing debate for policymakers and feminists for over a hundred years. Historically however, legislation and policy has merely sought to limit the nuisance associated with street sex work and on occasion, has targeted the sexual health of sex workers in an attempt to protect the morality of British society. Indeed, it is only in recent years that attention has been drawn to the mental health of female sex workers. This paper is based on empirical data collated from a case study in Wales; it also draws on the personal reflexivity of the researcher. It has two aims: firstly, to discuss the service provision for street sex workers which provides practical support (such as the provision of condoms and personal alarms) and pathways into some services. However, it is suggested that the mental health of sex workers remains subsumed within the drug/alcohol dialogue. Second, although researching sex work has been identified as potentially difficult in terms of the emotional 'strains' on the researcher, this paper argues that investigations conducted from an Action Research standpoint can promote positive change in localised policy development.

### Substance Abuse, Personality and Criminal Problems Related to Inconsistent Condom Use among Male Sex Workers

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Male sex workers (MSWs) are characterized by multiple sexual partners, unsafe sexual relations, alcohol and drug misuse, criminal history, poor education, and low socio-economic level. MSWs are a hard-to-reach population and this has delayed the development of a prevention program. Condom use can reduce the incidence of HIV, but studies on the psychological and psychiatric aspects that influence condom use are still

scarce. This cross-sectional and observational study was carried out by the Ambulatory for the Treatment of Sexual Disorders of the ABC Medical School - Brazil, and compared MSWs that reported consistent condom use with those that revealed inconsistent condom use with their clients. It evaluated personality traits, impulsiveness, alcohol and drug consumption, depressive symptoms, criminal history, and socio-demographic data. Eighty-five MSWs were evaluated in face-to-face interviews. MSWs with inconsistent condom use showed more alcohol and drug problems, higher reward dependence levels, and more frequent history of suicide attempts and criminal activities. Conceptualization of MSW psychological characteristics may be required where HIV risk is not only attributed to sex work per se, but to other aspects such as personality and alcohol and drug misuse. Health programs should include rigorous evaluation of these characteristics.

## 134. eCourse for the Management of Distressed and Disturbed Patients in Psychiatric Care: ePsychNurse.Net

### ePsychNurse.Net: What is behind this eCourse?

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The professional competence of psychiatric nursing is a central factor affecting the quality of patient care. The education that psychiatric nurses from different nations receive in preparation for their work varies widely in terms of length of the programme, the body responsible for awarding certification, and overall quality. The guidelines concerning what level and type of training is required are also diverse. The lack of standardised vocational and higher education programmes is detrimental to the quality of health care services and research, and causes problems for the labour market. Additionally, health care service providers are required to manage increasing levels of patient aggression. To address this demanding task, it is important to be aware of the educational needs as well as the educational provisions currently available in various European countries. In this presentation, an international curriculum development programme will be described. The curriculum seeks to enhance nurses' skills in the management of distressed and disturbed patients in psychiatric hospitals and inpatient units. The development of this programme involved six European countries (Finland, Ireland, Italy, Lithuania, Portugal, England) and was supported with funding from the European Commission (Leonardo da Vinci).

### Educational Needs in Seclusion and Restraint Practices

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In psychiatric care, vulnerable patients' self-determination may be violated due to treatment methods such as seclusion/restraint. It is sensible to maintain staff's ethically appropriate and therapeutically effective interventions. Continuing vocational education is needed to support the management of aggressive and disturbed patients. Nurses' (n=22) and physicians' (n=5) experiences regarding educational needs in seclusion/restraint

practices were explored through focus group interviews. Data was analysed with inductive content analysis. Participants recognised a need for on-ward and problem-based education and infrastructural and managerial support. The declared high ethical principles were not in accordance with participants' reliance on manpower and the high seclusion/restraint rates. Moreover, we explored psychiatric inpatients' suggestions for improvement of seclusion/restraint practices and alternatives to seclusion/restraint. The data were collected by theme interviews (n=30) and analysed with inductive content analysis. Improvements (e.g. humane treatment) and alternatives (e.g. therapeutic community) to seclusion/restraint suggested by the patients have not been largely adopted in nursing practice. Future educational programs should bring together written clinical guidelines, education on ethical and legal issues, and the staff's support. Staff needs to be encouraged and educated to: (1) listen to patients' voices, (2) empower patients without compromising wards' security; and (3) use alternatives to seclusion/restraint.

## Content and Learning Methods of eCourse ePsychNurse.Net

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The WHO has identified that care for mental health patients experiencing coercion is a major challenge. The use of coercion within mental health care presents complex dilemmas related to patients' right to self-determination, human rights, and the legal and ethical responsibilities of staff. There is, therefore, a need for continuing vocational education for psychiatric nurses. The aim of the eCourse is to enhance psychiatric nurses' knowledge and skills in caring for distressed and disturbed inpatients in ethically and therapeutically effective ways. The course content features six learning units; legal issues, ethical issues, influences of behaviour, self awareness and therapeutic relationships, teamwork, and integration of knowledge and practice. The learning methods are based on problem-based learning and include compulsory readings, additional reading, a discussion forum, reflective journal, assignment, virtual patients and self-awareness exercises. Psychiatric nurses participating in the eCourse during the spring of 2009 (N=35) completed an evaluation form related to the course content and learning methods. Data were analysed using statistical methods. This presentation will introduce the content and learning methods and discuss preliminary evaluation outcomes. It is important to enhance psychiatric nurses' knowledge and skills in managing distressed and disturbed patients in an ethically appropriate and therapeutically effective manner.

## eCourse ePsychNurse.Net in Practice: Arrangements in Organisation

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E-learning offers effective educational opportunities to increase mental health workers' skills and knowledge. To achieve these benefits, the implementation of the e-courses in clinical practice needs to be considered. Practical arrangements in organization are described regarding a preparatory phase and practical support during the e-course. The preparatory phase includes information sessions and ensuring adequate operating conditions. The information session is needed to motivate students and ensure managerial support by providing general information on the e-course and learning methods. The adequacy of operating conditions is established by ensuring there is sufficient equipment and that it is accessible. Availability and workability of computers, Internet access and the e-learning platform should be checked. There is also a need to ensure there are quiet places for students, so they may study without being disturbed by other staff or patients on the ward. Moreover, there is need to determine the number of working hours that can be used for study. During the e-course, tutors will provide e-support for the students in relation to the technical questions and content of the e-course. However, practical face-to-face support by a contact person in the organisation should be organised. We conclude that adequate practical arrangements play an important role in ensuring a user-friendly learning experience for the students, and this will in turn help to motivate them. Therefore, the delivery of e-course should be carefully planned.

## Outcomes of ePsychNurse.Net: Alternative Methods to Seclusion and Restraint

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Although coercion is in certain situations needed to manage aggressive patients in psychiatric care, it should be the exception, used only in very specific circumstances. Alternatives need to be made the priority when treating aggressive patients. In Europe, rates of coercion vary remarkably. Finland is one of European Union countries where coercion is used relatively often. In Finland, the development of alternatives to coercive measures (e.g. seclusion and restraint (S/R)) has become imperative. The Hospital District of Southwest Finland in collaboration with the University of Turku has developed a project to look for alternative strategies in S/R situations. As a result of this project, guidelines for action and an evaluation form were developed for use in nursing practice. The guideline's purpose is to increase the use of alternative methods to S/R, including close observation, timeout and calming area. Through the evaluation form, nurses can evaluate the effectiveness of these alternative methods. Data will be collected using an evaluation form (N=200). In this presentation the alternative methods will be introduced, and outcomes from the evaluation form will be discussed. We conclude that an organization-inspired development process can influence the use of coercion.

## Towards Service User Involvement in the Management of Distressed and Disturbed Patients

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In health care, personal liberty is a core right of the patient. In psychiatric care, the management of distressed and disturbed patients is one situation where patients are

occasionally deprived of their personal liberty, although according to Finnish legislation this can only be done when it is in the best interest of the patient. If the patient refuses a certain treatment, they must be cared for in another medically acceptable way, if available, and in a way that ensures mutual understanding between patient and treatment provider. Based on the existing literature, psychiatric patients' perceptions of being deprived of their liberty are mainly negative, and patients have reported traumatic and harmful experiences. Thus, it is important to encourage patients and service users to play a more active role in the planning and delivery of inpatient services. There is a need to develop systematic ways of increasing personal liberty during involuntary care. For example, 1) patients' ability to communicate with those outside their ward needs to be secured with personal contact and modern technology, 2) seclusion and restraint needs to be handled in collaboration with an independent evaluator, 3) all restrictions on patients' personal liberty should be based on their individual needs only, and 4) patients' knowledge level about their rights needs to be increased.

## 135. Team Care Model to Mental Health

### Team Care Model – Evaluation of a Shared Approach to Mental Health Consumers' Health and Wellbeing

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The Team Care Model of Hunter New England Mental Health Service (HNEMH) Australia was first presented at the IALMH New York Congress. Since then there has been a systematic approach to the implementation and management of the guidelines which embody a conceptualisation of collaboration between Public Health clinicians and the Non Government Organisation (NGO) sector, and the health and wellbeing of mental health consumers. This conceptualisation represents a balance between treatment by the clinicians providing appropriate care according to need, and the non clinical support by the NGOs promoting individual autonomy of mental health consumers in their recovery journeys. This presentation examines the results of last two years surveys which have increased HNEMH's understanding of the issues, at times complex and value-laden, experienced by the two sectors in the implementation of Team Care Guidelines. This presentation demonstrates how the efforts by both sectors of resolving these issues have led to a collaboration that produces more effective care strategies for mental health consumers.



## Team Care Model – Development from Guidelines to Policy and Procedure

Barbara Stacy, *Hunter New England Area Health Service, Newcastle, Australia*  
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This presentation traces the development of the Team Care Model guidelines from an idea of HNEMH Clinical and NGO non-clinical staff to production of the first guideline booklet presented to the New York Congress. It focuses on the need that arose from presentation of the first model to the community clinicians and community support staff to then further develop the concept, as prescribed by front line service delivers, to a more concrete model which can be used to develop Policy and Procedures.

## Team Care Model – The Non-Government Organisation Perspective

Tim Fong, *Psychiatric Rehabilitation Association, Sydney, Australia*  
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The Non Government Organisation (NGO) program in New South Wales has experienced unprecedented growth in recent years. This has necessitated the innovation of best practice models in non-clinical mental health care in community settings. This growth has also provided opportunity for collaborative model of care arrangements to be formalised with public mental health services. This discussion draws upon the experience of Psychiatric Rehabilitation Australia (PRA) in establishing share-care arrangements with Hunter New England Mental Health services. The efficacy of the partnership is presented. The future of collaborative mental health care between clinical public mental health services and NGO non-clinical services in community settings is also explored”.

## Team Care Model – Clinical Aspects

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Over the past decade the development of the NGO sector, both in quantum and quality, has delivered many exciting opportunities for service reform and improvement. These reforms have been instrumental in delivering new opportunities for rehabilitation and recovery for

many people with challenging low-prevalence disorders. To promote sustainable recovery, socially valued roles are critical. To achieve this goal, clinical recovery must be supported by relevant skill development and supports. The interface between clinical and non-clinical services/government and non-government sectors has brought into sharp relief factors that have been instrumental in driving mental health service delivery. Identifying common ground for effective and efficient collaboration around evidenced based practice has presented a number of challenges and raised many questions about the respective positions and approaches.

## The Role of Private Healthcare in Mental Health

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The role of the private sector in mental health services has traditionally been universally funded out of the public purse. However, as economies shrink and demands for healthcare services expand, particularly amongst baby boomers, triaging of funding has begun in earnest. Services provided to the most vulnerable are often the first to be cut. As mental health services are dramatically reduced, governments attempt to fund segments of these services through targeted funding envelopes, for example, in Canada the Mental Health Commission was set up even though such funding is not within the Federal domain. What has not been evident in this area of healthcare in contrast to the provision of diagnostics and physical healthcare is the contribution from the private sector because investors and entrepreneurs don't see the opportunity to profit by putting funds into what they view as the bottomless pit of mental illness. This paper will examine creative private sector opportunities to invest in mental health that will result in profits while providing a safety net for our most vulnerable populations.

## 136. Group Needs and Team Teaching

### Broadening the Focus of Healthcare from the Needs of the Individual to the Needs of the Group

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The United States spent \$2.5 trillion on health care in 2009 the vast majority of which was spent on biomedical care, i.e., care directed to diagnosis and treatment of individuals. The predictions about costs are that they will continue to rise unabated unless we are willing and able to make the hard decisions about cost containment. If not, the growth rate of health care costs in America will continue to grow from 17.3% of gross domestic product in 2009 to an unsustainable 38% of GDP by 2075. As many health economists and policy experts continue to stress, the key to the long term viability of the health care system is lowering the rate of cost growth often referred to as “bending the cost curve.” The \$64,000 million (or trillion in the case of health care) question is how. The drivers of health care costs are varied but there is general agreement that one of the key drivers is an unremitting demand by both physicians and patients for high-tech, high-cost individual health care. With little evidence that high-cost treatments produce substantially better outcomes, paying for them is rational only for those providers who benefit under the current reimbursement scheme and those fortunate patients who benefit as recipients of the treatments. The real harm of non-evidence based treatment is to the American public who bears the burdens of unnecessary and unnecessarily expensive treatments and who may well suffer from a scarcity of health care resources should they become ill. The new Patient Protection and Affordable Care Act (ACA) creates a regime of almost-universal health insurance. In spite of its private market approach, the Act depends on the acceptance by the public of the solidarity principle, i.e., that all Americans are entitled to protection against the risks of ill health and expensive health care costs. However, since the ACA was intended primarily as health insurance reform, the existing delivery and reimbursement schemes that tend to reflect the traditional individual patient-provider dyad continue to prevail. One of the big challenges of the future will be to broaden the perspective of patients and providers to include the needs of the entire population when making individual health care resource decisions.

### Enhancing Law Students’ Attitudes toward Teamwork and Interdisciplinary Collaboration

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Despite law firms' demand for first year associates who can work collaboratively, there is little, if any, teamwork taught in legal education. Law students are typically reluctant to engage in teamwork, particularly if their final grades are dependent on the final product, rather than individual activity. Law professors who are unfamiliar with teamwork theory and practice, are unlikely to take on a teamwork approach to engage students in their learning. As a result, law schools continue to graduate students who are unfamiliar and uncomfortable with the concept of working in groups, particularly interdisciplinary groups. In our courses, *Problem Solving in Healthcare*, and *Community Organizing and Problem Solving*, interdisciplinary teams of physicians, social workers, and attorneys teach teamwork with the explicit goal of increasing students' knowledge, skills, and attitudes toward working in teams and with professionals from other disciplines. These courses reflect and support our attempt to change the legal education paradigm of student isolation, in hopes of nourishing students' intrinsic values and healthy attitudes towards group work. This presentation describes the purpose of teamwork, its history in the legal profession, the theory underlying these teaching techniques, and how teamwork is taught in this course including formation, team-building, and dealing with team conflict.

### Measuring the Effects of Teaching Teamwork on Law Students' Knowledge, Skills, and Attitudes

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In two recurrent Law School courses, *Problem Solving in Healthcare*, and *Community Organizing and Problem Solving*, interdisciplinary teams of professors (physicians, social

workers, and attorneys) teach teamwork. The goal is to increase students' knowledge, skills, and attitudes toward working in teams and with professionals from other disciplines. A number of techniques are used to teach this topic: specific assigned readings, class instruction focused on how to work in teams and what to expect, one group experience that is a project that lasts the duration of the entire course, and faculty mentoring throughout the course. Without a formal evaluation of the effectiveness of this course, it is difficult to know which, if any, of these teaching modalities has the most impact on student outcomes. By definition, long-term outcomes (use of teamwork in one's practice) cannot be measured at this stage, short-term outcomes (i.e., factors that increase the likelihood that students will be effective in the future) can be measured through surveillance. We measured and will present the extent and direction of change in students' knowledge, skills and attitudes towards working in groups, including interdisciplinary groups. Data to be presented will include an analysis of which aspects of the course most influence these changes.

### Group Training of Mental Health Officers in the Exercise of Discretionary Powers

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In Scotland, Mental Health Officers (MHOs) are qualified social workers who have undertaken appropriate training to carry out duties as prescribed by S32(2)Mental Health (Care & Treatment)(Scotland) Act 2003 (Scottish Executive, 2003). A central function of the role is to make decisions about the necessity for care and treatment to be provided to people with 'mental disorder' on a compulsory basis, including hospital detention. An action research study, undertaken with trainee MHOs in 2010, explored the need for critical reflection to be incorporated as a central teaching/learning strategy on the post graduate certificate course. Informed by social constructivist theories of learning, the study examined the benefits of group critical reflection in enabling students to make sense of the complex legal knowledge required to perform the MHO role and its application in practice. Critical reflection's key concern, of identifying power relations through analysis of practice, was central to the study's design, with the potential to offer MHOs a means of using statutory powers anti-oppressively. Group critical reflection was found to offer students significant learning experiences, particularly about each other's practice, assist in the management of student anxiety around role expectation, and viewed as a distinct and effective pedagogic method.

## 137. Guidelines for Forensic Science and their Relevance to Psychiatric Experts

### Research on Violence Risk

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In February 2009, the U.S. National Academy of Sciences published recommendations for improvement in the validity and reliability of forensic evidence presented in legal proceedings. Although behavioral sciences were not specifically addressed in the report, guidelines for the assessment of scientific rigor in testimony will likely have an impact on the practice of forensic psychiatry, through existing case law that has established broad criteria applicable across disciplines. This paper situates psychiatry within the broader scope of forensic sciences, highlighting features that psychiatry has in common with other disciplines, as well as points of divergence. The assessment of risk for future violence will be discussed as an example of the application of scientific standards to behavioral and mental health issues in legal proceedings. In contrast with the analysis of physical evidence (e.g. DNA or ballistics), violence risk assessment involves an object of study that may change over time in the context of the individual's life circumstances, symptoms or attitudes. Research methods have evolved to account for the dynamic characteristics of violence risk, and these approaches have commonalities with as well as notable differences from methods in other forensic sciences.

### Standards in Psychiatric Diagnosis

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The practice of forensic psychiatry requires the assignment of a diagnosis in keeping with scientific nomenclature and professional consensus. The diagnosis must be both reliable and valid, and presumably should have a known error rate. In the United States, forensic psychiatrists are generally expected to make psychiatric diagnoses using criteria from the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders, fourth edition* (DSM IV-TR) to promote reliability. This paper discusses the contributions of scientific research and as well as social and political factors (such as clinician preference and

the input of patient advocacy groups) to the evolving standards represented in the DSM, and their practical implications for quality in forensic evaluations. The current process of DSM revision for the fifth edition raises questions that are strongly relevant to the future practice of diagnostic assessment in the forensic practice setting.

## Training Experts to Meet the Requirements of Science

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Over a decade ago in Germany, discussions regarding errors in forensic psychiatric evaluations received attention in the mass media. This public debate included discussion of errors in risk assessment, particularly with regard to individuals discharged from forensic psychiatric hospitals. In subsequent years, a number of initiatives were introduced to improve the training and certification of forensic psychiatrists and forensic psychologists, in particular through the introduction of the DGPPN-certificate "Forensic Psychiatry" and a psychological certificate "Rechtspsychologie" with a precisely defined curriculum. For psychiatrists, this training includes 240 hours of coursework and 70 supervised expert reports, as well as one year of clinical practice in a forensic hospital or a prison psychiatric service. Forensic psychiatrists and psychologists, in cooperation with the Federal Court of Justice (BGH), also established practice guidelines for expert evaluations of criminal responsibility and of the risk for future violence in prisoners or forensic inpatients. This paper describes the process of establishing these training programs and guidelines for ensuring the quality of evaluations in accordance with scientific standards.

## Mental Health in the Preliminary Investigation Stage

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Preliminary investigation is a crucial stage of the system of criminal justice in many countries. Any distortions or hindrances during the preliminary investigation can lead to difficulties in later stages of the case. For this reason, it seems imperative to minimize adverse influences, such as where the person under interrogation suffers from some sort of undetected mental disorder, such as histrionic personality disorder. Those suffering from

this disorder can variously present as dexterous, deceptive, demonstrative, flamboyant, and prone to exaggeration. They may also play the role of a victim or an innocent person unconsciously and without forethought. Where a witness, complainant, or accused suffers from such undetected personality disorder, the preliminary investigation may miscarry or infringe the rights of parties. It therefore seems essential for the investigation team, professionals and others to cooperate in obtaining early access to mental health assessments of interrogated persons. The present paper will study the significance of obtaining mental health advice in preliminary investigations and criminal justice procedures.

### Notions of Disorder versus Disease in Diagnostic Classification, Emergent Autonomy, Redefined Role, and Function of the Psychiatrist: Implications for Forensic Psychiatry

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What apparently seems to be dispersed and irrelevant notions cited in the title are in fact very much discussed contemporary themes which shall influence the very nature and purpose of psychiatry and inevitably forensic psychiatry. With DSM-V to come, still focusing both on disorders and even possibly more on the dimensional criterion, psychiatry could finally crumble under its own weight of culturally-derived abnormal behaviors or "harmful dysfunctions"; research studies focusing on disease entities are very few, have recently been more emphasized by Shorter and Fink using the example of catatonia; disease and syndrome are not yet with us but have to be re-considered to allow reconsideration of the very nature and purpose of psychiatry from a medical and philosophy of science perspective; the still everlasting futile argument between mind and brain, nature versus nurture is useless and outdated since the advent in the hard sciences of the concept of emergent autonomy which would nicely fit into psychiatric epistemology; finally psychiatrists and therefore forensic psychiatrists shall have to re-assess their paradigm, function and purpose at the two poles as medical practitioners and psychodynamic proponents of the inter and intra-subjective areas of their patients' world; the differentiation between forensic psychologists and forensic psychiatrists, more and more blurred as consequence of lack of specific definition and purpose and consequent potential illegal practice of medicine has to be emphasized and is a symptom of the too broad and undifferentiated nature of psychiatry argued above.

## 138. The Impact of Economic Crisis on Forensic Populations



## The Impact of Economic Crisis on Forensic Populations on a Systems Level

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Since October 2008, the global economic crisis which began with the near-collapse of the U.S. financial system has led to significant fiscal stress on governments, employers, and the general population, with immediate and delayed effects in other countries worldwide. Through restriction of financial resources, this economic crisis has had both a direct and indirect impact on forensic populations (e.g. prisoners, individuals under community supervision, patients with a chronic psychiatric disability). These include but are not limited to: early release from incarceration, decreased funding for treatment services, social programs, housing, access to food, etc. This presentation will describe the global economic crisis from the perspective of the United States and the direct and indirect financial impact on forensic populations at a systems level. It will discuss what is known about the large-scale effects of reduced governmental budgets at the state and local levels and identify areas where the exact impact of financial crisis remains unknown. This will set the background for subsequent presentations by Dr. Bursztajn and Dr. Yang. Audience members will be encouraged to contribute to the discussion by discussing how economic problems in their country have affected their own forensic populations.

## Impact on the Evaluation and Management of Psychiatric Disability in the Workplace

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Following Dr. Paul's outline of large-scale shifts in governmental funding in the context of the recent crisis, this presentation will present case vignettes that illustrate the direct and indirect impact of these shifts on the evaluation and management of psychiatric disability in the workplace in the United States over the past two and a half years. For example, workers with new-onset psychiatric disabilities on the job have faced increased challenges to recovery, including dilemmas such as whether to take short-term disability leave from work, in the context of concern about more readily losing their jobs. The potential loss of income while on short-term disability leave may also dissuade individuals from taking the necessary time to undergo intensive treatment, and limit their willingness to engage in treatment that is costly. In addition, during a severe financial crisis, persons in the general population face the persistent risk of losing their homes, jobs, and healthcare insurance and these increased

psychosocial stressors may contribute to psychiatric disability in vulnerable individuals. The audience will be encouraged to discuss strategies that psychiatric care providers have found effective in intervening in such cases, and the consequences of these considerations on outcomes following forensic evaluation for psychiatric disability.

## Economic Hardship and Violence

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Although economic hardship has long been identified as a psychological stressor, the individual-level effects of economic hardship may be distinct when the financial stressor is a large-scale crisis that affects many people in a given country or worldwide. This presentation will address a delimited aspect of this question through the lens of violence, by examining the existing literature on the relationship between financial stress and violent behavior at several levels. The presentation will first briefly address the relationship between economic crisis and collective unrest such as riots and other violent political upheaval. The presentation will then focus on what is known about patterns of interpersonal violence during times of economic crisis (e.g., through crime rates). Existing research on economic hardship as an individual-level stressor contributing to the risk for interpersonal violence will be examined. This overview, combined with information from presentations by Dr. Paul and Dr. Bursztajn will aim to suggest mental state factors that mediate the relationship between financial stress and violence, or ones that modify the impact of economic hardship. Experience from the assessment of criminal responsibility, which requires an account of causation for crime, may shed light on how such stressors eventuate in violence.

## Diagnosis, Divorce, and the DSM

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Diagnosis of patients in the midst of the emotional and economic crises accompanying divorce is a challenging dilemma in the best of times. In the midst of the world economic crises exacerbating the burdens of divorce, the DSM taxonomy is misleading for clinicians,

attorneys, and judges. Current biological reductionistic approaches can lead to fallacies in evaluation, diagnosis, and treatment; and, patients can be put at risk. Clinical cases will be presented in which patients who had been diagnosed by competent psychiatrists as having "Bipolar Disorder" and "Major Depression" were seemingly "cured" by getting a divorce and by other favorable changes in personal circumstances. In one case where marital strain was overlooked in favor of an incorrect Bipolar diagnosis, the patient's medication caused bone marrow arrest; and, other patients were put at risk by medication side effects. These cases illustrate adverse consequences that can ensue from the fallacies inherent in relying only on DSM-IV criteria, symptom history, and symptom check-lists to make a diagnosis. In spite of the current thrust toward biological reductionism, excluding the "psycho-social" portions of the "bio-psycho-social" model can lead to misdiagnosis, errors in treatment, and negative consequences when such diagnoses are vital in family court decisions.

## 139. Ethical Issues in Research

### Discrimination and Exclusion of Women on the Grounds of Pregnancy, Potential Pregnancy, and Breastfeeding in Health Research

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For clinical trials to be representative they must take account of the non-clinical and specifically contextual framework in which men and women use medicines differently throughout their life span. This presentation examines the extent to which pregnant women, reproductive women, and breastfeeding women are excluded from health research, and asks whether this exclusion, if evident, amounts to discrimination on the grounds of sex as legally proscribed in a number of jurisdictions? Drawing on a review by the presenter of the inclusionary and exclusionary criteria in two data sets of clinical trials over a four year period from 2003-2007, the presentation analyses the extent to which these specific categories of women are excluded and whether that exclusion constitutes a legally remediable form of discrimination. This paper outlines and reflects upon the direct and indirect ways in which some of these categories of people are excluded from clinical and health research trials, and the impact this exclusion has upon effective and equitable health research. The presentation analyses the appropriate role for health law, discrimination law and other regulatory systems in limiting gender inequality in this area.

## Constructing Knowledge through Clinical Trials and Promotion: Adverse Effects for Women

Patricia Peppin, *Queen's University*  
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This presentation analyzes the particular impact on women of the drug industry's construction of knowledge about their products. Women's health is affected in significant ways when product information about adverse effects is unavailable, when risks are minimized, and when stereotypical portrayals of disease, medical practice and women are used to promote the product. Legal obligations in tort law and drug regulations are established to ensure that adequate knowledge to reflect product risks is gathered during the drug development and post-marketing periods. Such knowledge should be sufficiently explicit to provide warnings of adverse effects and should not be undermined by promotional activities. In exploring the impact of law on the creation of this type of knowledge, the paper will examine the manufacturer's duty to test their products and provide warnings of risks they know or should know. Using the SSRIs and Vioxx as examples, the presentation will argue that the law has demonstrated significant limitations in its ability to respond to these information problems as drugs are developed and promoted to consumers. These deficiencies have had an adverse impact on women's health, and on particular groups such as elderly women and women with disabilities.

## Minors and Medical Research: Protecting the Best Interests of the Child

Belinda Bennett, *University of Sydney*  
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The inclusion of minors in medical research raises complex issues about competency, consent, risks, and benefits. Consent by a parent or guardian is generally a key element in the provision of health care to minors. The position of adolescents is more complex as adolescents are generally recognised as having developing levels of competence, and in some circumstances may be regarded as sufficiently mature to make their own health care decisions. This paper discusses the legal and ethical principles relating to consent to medical treatment of minors and examines the relevance of these principles to medical research. While children deserve protection because of their vulnerability, the failure to include minors in research may mean that we lack the research to support an evidence-based approach to minors' health. Comparative legal and regulatory developments relating to paediatric research are discussed and considered against broader developments for

recognition of diversity in adult research subjects. The paper recommends regulatory measures to ensure both the development of a strong evidence base for research and the protection of individual research subjects.

### Pediatric Drug Safety and the Participation of Children in Medical Research in the United States

Barbara A. Noah, *Western New England College School of Law*  
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Children deserve optimal medical care. Although prescription drugs play a prominent and essential role in pediatric health care, physicians often must make prescribing decisions for their young patients based on imperfect or absent safety and efficacy data for pediatric populations. Until relatively recently, the United States Food and Drug Administration (FDA) made surprisingly little effort to improve the quality or quantity of clinical research data for this patient group. Despite agency efforts to improve the situation, only one-third of drugs prescribed to children have been studied for safety and efficacy in pediatric populations. Moreover, agency efforts to encourage pediatric research have generated mixed results and created unintended consequences. More clinical data certainly would be useful to prescribers, but clinical trials in children undeniably pose unique ethical and scientific challenges. The complex of issues surrounding testing and prescribing of drugs for children will require that pharmaceutical companies, the FDA, and health care providers examine current practices, acknowledge their shortcomings, and consider cooperative, creative solutions. This paper will examine some possible approaches to increasing pediatric drug safety and efficacy data.

### Ethical Issues in Health Sciences Video Dissemination

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Video technology is increasingly popular as a means for disseminating research results because its multidimensional and multi-sensory avenues of communication provide richer information than is often available in printed reports. Highly accessible and acceptable, video technology can more directly and holistically represent contextualised lived experiences, provide easier to digest information, and hence be useful to non-academics including policy makers as well as to individuals in similar contexts as who can relate to the images portrayed on film. While there has been substantial dialogue of these advantages,

ethical issues inherent in video-based research have not been well articulated in health sciences literature. Indeed the current guidelines for video-based research ethics are inadequate. Therefore in this presentation, I describe and critically analyze issues of power, representation, participant autonomy, confidentiality, informed consent, intellectual property, and commercial use and profits. I contextualize this discussion with examples from an original qualitative research project involving women recovering from eating disorders. My use of video in disseminating research presented unique ethical challenges that were not fully resolved. Accordingly, I recommend that researchers attend to power issues underlying knowledge development and its translation in order to stand a better chance of improving the health and well-being of those served through our research.

## 140. Criminal Justice and Mental Health: A Partnership with Promise and Risk

### At the Coal Face: How do Individual Practitioners Interact with Mentally Disordered Offenders?

Richard Mottershead, *Glyndwr University*  
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Introduction: It is important to understand how the various professionals within the Criminal Justice System (CJS) and Forensic Mental services understand and interact with each other in managing and assessing mentally disordered offenders (MDO). Aims: The aims of this study were to explore how a number of people selected from the different agencies make their judgments e.g. do they utilize the McNaughton Rules, have a working knowledge of Mens Rea, follow agency protocols/guidelines, adapt their practice to meet a particular need or indeed follow a defacto ethos - in practice but not necessarily ordained by law" or "in practice or actuality, but without being officially established. Method: A critical analysis was undertaken of contemporary literature and semi-structured interviews were held with six professionals, one from each of the core agencies of the Criminal Justice System and Forensic Mental Health Service.

### The Effects of Mental Health and Police Collaboration for Persons Who Are Homeless in France

Vincent Girard, *University of Marseille*

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Although jail diversion targets those who have already been arrested, effective collaboration between mental health services and the police can avoid arrest altogether when effective management of psychiatric symptoms reduces the risk to the public. Pre-arrest diversion programs require thoughtful collaboration with police and examination of service requirements, follow-up, and monitoring. A pilot study examined collaboration between a mental health outreach team and police department and included measures of process and outcome: medical team reports of police interactions with persons who were homeless and mentally ill, minutes of meetings between the team and police; arrest and hospitalization data, and focus groups with team members and police. The study included 23 interactions regarding 17 persons who were homeless. 76% of the subjects were acutely psychiatrically ill, primarily with schizophrenia, and 82% were actively using psychoactive substances. The mental health team had initiated the interaction with the police and with the person in 64% of the cases. In the 23 interactions, only 5 persons were arrested, with the rest either hospitalized or followed by the team. The study showed that when health professionals and police collaborate, persons benefit and the missions of police and mental health systems are served.

### Caring in Custody: The Intersubjective Web of Professional Relationships

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This presents developments from doctoral studies into clinical supervision practice (Nolan, 2007 & Walsh, 2007), synthesising complementary outcomes from researched practice in supervision of psychotherapy and nursing in prisons. The common factor is the intersubjective “web” of professional relationships within which psychotherapists, prison nurses and prison officers are each engaged. For nurses and prison officers, competing philosophies of caring and custody are in stark contrast with the custodial apparatus, which inevitably occupies a more prominent position than healthcare practice. Complex inter-/intra-psychically perceived relationships demand high levels of “emotional labor” (Walsh, 2009) to ensure the prisoner patient feels confident in the nurse’s ability, the prison officer to sense that the nurse understands the officer’s perspective, and for the psychotherapist to have client/patient insight. The relationship with organisations affects the emotional labor

of the practitioner on a more internal level, e.g., the institution's routine (e.g. prison or mental health psychological services) causing conflict and restricting professional practice. A developed schematic (from Nolan, 2007) visualises these interpersonal dynamics, informing reflective practice in clinical or peer supervision, helping manage the complex web of power relations, particularly in emotionally "charged" situations inherent in a culture that serves to ensure that custodial philosophy prevails.

## Drug Diversion: An Intervention to Address Domestic Violence

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Research shows that substance abuse and addiction are related to increased violence, criminal justice involvement, and social instability. Substance abuse diversionary programs take advantage of the crisis of arrest to motivate persons into treatment and abstinence. However, drug treatment itself is inadequate to address substance abuse triggers and limited coping skills that exacerbate a return to drug use. This presentation presents a model of substance addiction diversion that incorporates best practice interventions; these include group interventions, anger management and violence prevention, relapse prevention, and recovery. In a large sample of over 600 clients who were diverted from incarceration into substance abuse treatment, outcomes demonstrated a reduction in criminal recidivism, addiction relapse, and domestic violence. The intervention strategies take advantage of the increased motivation at the time of arrest and address the underlying personality constructs that give rise to addiction. Recommendations for replicating this model include intensive group therapy as well as psychopharmacological therapy to address underlying mood disorders and anxiety. The inclusion of the significant other in group work is also essential to assure a change in the pervasive patterns that have supported addiction in the past.

## Advantages and Challenges of Collaboration between Criminal Justice and Mental Health Systems

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Collaboration between criminal justice and mental health care systems create opportunity and challenges. The partnership provides criminal justice with strategies for monitoring and diverting persons with psychiatric and substance abuse disorders who usually have difficult



courses in court and incarceration. For mental health care systems, the partnership aids risk management and provides entry into services for those missed in usual case-finding. For departments of correction, the partnership results in diversion from incarceration and into effective early release programs, reducing jail overcrowding and cost. Although research has demonstrated clear advantages to the partnership, difficulties arise with leveraged care. Risks to confidentiality and blurring of roles raise civil rights and liability issues. In this presentation, the New Haven Jail Diversion program (State of Connecticut, USA) will serve to illustrate both advantages and challenges. The results of an investigation of 759 defendants diverted from criminal proceedings into mental health services demonstrate reduced recidivism and increased compliance but also longer terms of probation. Examples of boundary issues and threats to confidentiality illustrate three constructs that threaten the effectiveness of services: breach of confidentiality, over-management of services by courts, and the dual stigma of mental illness and criminality.

## 141. Human Rights and the Law: The Impact of Systems of Child Protection and Youth Justice

This session addresses the intersection between child vulnerability and children's social well-being. Attention is given to children who come to the attention of statutory authorities, whose human rights may be compromised by the impact of adult actions upon them, Particular emphasis is given to these impacts on indigenous children in Australia, and on children living in post-conflict situations such as is found in Northern Ireland.

### Human Rights, Child Protection, and Youth Justice Systems in the Australian Capital Territory and Scotland: Comparisons and Differences

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The Australian Capital Territory (ACT) is a small jurisdiction in which Canberra, the National Capital of Australia, is located. It has a population of 350,000 people and has experienced considerable change to its child protection system as a result of a government inquiry in 2003. The ACT has developed a Children's Plan. It has recently changed its Act- *Children and Young People 2008* and overlaid on this has been the introduction of *Human Rights Act 2004* (Amended 2005). Scotland has since 1971 a non-judicial diversion system Children's Hearings in which children and young people are treated on the bases of "needs and not deeds". Children's services in Scotland are undergoing change. The Children's Hearing System in Scotland aims to combine the principles of justice and welfare for children and young people (Scottish Government, 2009d). It intends to minimise legal technicalities and encourage a non-adversarial approach with more informality than is available in the Court (McGhee & Waterhouse, 2002). The same system applies to children in need of care and protection and children who offend. Scotland has also the European Convention on Human Rights. This paper looks at the two systems as they operate within a human rights perspective. ACT has looked at the Scottish model of Children's Hearings and this draws out the differences and similarities within the two systems.

### Indigenous Children and Well-Being: the Impact of Violence and Sexual Abuse

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In Australia, Government inquiries into child protection, particularly with respect to the level of exposure to sexual abuse and violence involving indigenous children have become an almost a constant feature of the public landscape in this decade. Although indigenous social disadvantage and the over representation of indigenous persons in the criminal justice system is apparent in all jurisdictions, in the Northern Territory, the issues are particularly acute. The Northern Territory is a geographically large but sparsely populated region of Australia, and in contrast to the small percentage of indigenous persons in the general population, in the Northern Territory the percentage is around 31%. In August 2007 legislation was passed by the Australian Parliament (the Northern Territory Emergency Response Acts) to provide a package of changes to welfare provision, law enforcement, land tenure and other measures in order to address these. The operation of the *Racial Discrimination Act 1975* was suspended as was the application of anti-discrimination laws in the Northern Territory. These reforms, commonly referred to as the "Federal intervention" have continued. The Courts deal frequently with inter-generational cycles of offending. Victims subsequently become offenders and, in turn, create a further generation of victims and offenders. The Courts, particularly the Youth Justice Court, face the challenge of dealing

with young offenders who having been victims of various forms of abuse as offenders for similar crimes.

### Cultural Care for Indigenous Children in Out of Home Care: Respecting Rights and Identity

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This presentation addresses the loss of family, community and culture experienced by Australian Indigenous children with the continuity of their gross over representation in contemporary out of home care placements. The lack of regard for cultural and historical sensitivity marginalises these children and has increased both their vulnerability to mental illness and a drift into substance abuse. The UN Committee on the Rights of the Child has recommended that Australia fully implement the Aboriginal and Torres Strait Islander Child Placement Principle and more broadly the recommendations of '*Bringing them home*', The Australian Human Rights Commission's report into the forced and unjustified removal of Indigenous children from their families. This paper examines what full implementation of an Indigenous child placement principle entails and the relationship between cultural care, principles of self determination, and Indigenous children's well-being.

### Locked Up and Left Out: Conflict, Transition, and the Incarceration of Children and Young People in Northern Ireland

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Northern Ireland is in a slow and complex process of emerging from years of violent conflict. The multi-party political agreement in Northern Ireland (the Belfast/Good Friday Agreement 1998) heralded a 'truly historic opportunity for a new beginning'. Recognising that 'young people from areas affected by the troubles face particular difficulties' the Agreement committed government to 'support the development of community-based initiatives based on international best practice.' Despite this commitment, the rights of children in custody in Northern Ireland are still being breached a decade into the 21<sup>st</sup> century. Children from disadvantaged communities, children from looked-after care backgrounds and children with learning disabilities and mental health problems remain over-represented in the North's custodial centres. Despite the withdrawal by the United Kingdom of its reservation to Article 37 (c) of the Convention on the Rights of the Child, children as young as 15 years old are

imprisoned with adults in Hydebank Wood. This paper discusses the context in which young people are detained in the North and reviews the breaches of the rights of children in custody. It includes discussion of primary research conducted by the author (with her colleague Dr Una Convery) with children in the Juvenile Justice Centre for Northern Ireland.

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

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The plight of refugee and asylum seeking children in detention in Australia has focused on the vulnerability of children and the power of adults to decide when and how they might be helped. Moreover, it opens up debate about the extent to which it is the business of government and the community to intervene in children's best interests, when it appears the adults responsible for them are not acting in accordance with these best interests. What emerges in this particular discourse is community ambivalence about responsibility for child welfare, most evident in the development of policy around child protection and the structures that are favoured to respond to vulnerable children. This presentation comments on the obligations of the state to protect children from harm and the role of the Children's Court in responding to child maltreatment. 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. 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, focussed on immediate events and less on the long term personal, societal, health, and behavioural outcomes for children. 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.

## Human Rights and the Child: Characteristics of Invested Communities

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Discussions of children's rights frequently tend to lapse into symbolic scholarly debates. Policy outcomes rarely are reducible to feasible community action plans that meaningfully apply, defend, or advocate for the rights of children. More often, decision making authority is allocated and implementation is left to interpretation, thus fomenting a broad range of well-intended but sometimes ineffective implementation plans. This presentation identifies community characteristics that are correlated with the creation of structures that make service accessibility meaningfully possible for children. Thoughtful resolutions of important questions of policy and practice that result in meaningful solutions are identified. Community differences are identified that highlight the challenge of goodness of fit between policies and implementation.

## 142. Convention on the Rights of Persons with Disabilities (CRPD)

### The CRPD and Mental Capacity in England: Thinking about the Mental Capacity Act 2005

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The Mental Capacity Act 2005 pre-dates the introduction of the CRPD, but was nonetheless designed with many of the core principles of the CRPD in mind, including a functional test of capacity, supported decision-making, and the promotion of individual autonomy. The Act should in some ways serve as a model for legislation in this area. At the same time, the Act has been subjected to criticism, on the basis that it creates a hard line between capable and incapable persons (limiting the hard rights of the latter), and being light on procedural protections of persons alleged to be lacking capacity. This paper will consider the Mental Capacity Act 2005 in light of these criticisms, and in the context of article 12 of the CRPD, considering how article 12 can in practice be implemented in mental capacity legislation.

### Promoting Social Change in East Asia: The UN Convention, the Movement to Create a Disability Rights Tribunal, and the Promise of International Online Distance Learning

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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, especially in the context of mental disability law. In Asia and the Pacific region, however, there is no such body. The lack of such a court or commission has been a major impediment in the movement to enforce disability rights in Asia. The absence of such a body has become even more problematical in the year since the Convention on the Rights of Persons with Disabilities (CRPD) has been ratified. Finally, there is now hard law clearly establishing the international human rights of persons with disabilities, but, without a regional enforcement body, we cannot be overly optimistic about the real life impact of this Convention on the rights of Asian and Pacific region persons with disabilities. The creation of a Disability Rights Tribunal for Asia and the Pacific (DRTAP) would be a bold, innovative, progressive and important step on the path towards realization of those rights. It would also, not unimportantly, *ultimately* be a likely inspiration for a full regional human rights tribunal in this area of the world. The research is clear. In all regions of the world, persons with mental disabilities - especially those *institutionalized* because of such disabilities - are uniformly deprived of their civil and human rights. The creation of a DRTAP would be the first necessary step leading to amelioration of this deprivation. If, however, such a tribunal were to be created, it is also clear that it would be an empty victory if there were not lawyers available to represent individuals who seek to litigate in that forum.

New York Law School (NYLS) has created its online, distance learning mental disability law program in an effort to provide education in an area of the law that remains hidden in most law school curricula. NYLS offers *thirteen* courses, as well as a Masters and an Advanced Certificate in mental disability law studies. The courses cover all aspects of civil, criminal, international and constitutional mental disability law, include skills components, and provide the most comprehensive instruction in this area offered at any law school in the U.S. (and most likely, the world). Its pedagogy includes streaming video, reading assignments, asynchronous message boards, weekly synchronous chat rooms, and two full day live seminars. In the past, NYLS has offered sections of two of its courses (*Survey of Mental Disability Law*, and *The Americans with Disabilities Act: Law, Policy and Practice*) in Japan, to cohorts of lawyers, academics, advocates and mental health professionals. It is planning on offering a section of another course, *Advocacy Skills in Cases Involving Persons with Mental Disabilities: The Role of Lawyers and Expert Witnesses*, to law students and to practicing lawyers in Japan in this calendar year to prepare a cadre of lawyers to represent individuals before a Disability Rights Tribunal. This paper will discuss the “fit” between the CRPD, DRTAP, and online distance learning education in mental disability law.

## Human Rights for Health Governance: The CRPD in Concept, Structure, and Substance

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The complex relationship between mental health and human rights continues to evolve across theory and practice. While legal scholars and human rights advocates have long recognized the importance of the intersection between human rights and mental health, recent developments have deepened and challenged this linkage. The human rights model has been acknowledged as providing a fundamental conceptual reorientation of how individuals are regarded with respect to the political and social infrastructures they inhabit. Human rights have primarily been viewed as a foundation for individual protections for persons with mental and intellectual disabilities. Human rights inure to individuals in their capacity as humans and protect interests at the individual level, placing the onus on governments to ensure these rights are recognized and upheld. Human rights can, however, also be seen as informing systemic approaches to governing social norms and health norms. Human rights simultaneously inhabit three levels of interaction with mental health: conceptual, structural, and substantive. At the conceptual level, human rights can provide a philosophical orientation toward how society regards persons with mental and intellectual disabilities. At the structural level, human rights systems, through their many components, create a framework to advance legal claims and other initiatives to respect, protect, and fulfill human rights. At the substantive level, human rights underpin a set of normative prescriptions grounded in the language of rights, their interpretation, and their application. Taken together, these three levels of interaction situate human rights as a shaper of health systems and social systems in the context of mental and intellectual disabilities. Thus, the human rights model can be conceived of as a model of health governance. This presentation will articulate a theory of using human rights as an explicit model for health governance in the context of mental and intellectual disabilities. The UN Convention on the Rights of Persons with Disabilities provides a salient and timely example of how practical advancements in this area bolster and complicate the notion of using the human rights model as a tool of governance.

### 143. Mental Health Services for Antisocial and Addicted Offenders

Mental Health Services for Antisocial and Addicted Offenders: Improvement Effectiveness and Cost Reduction

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A high rate of co-morbid mental disorders (up to 84%) presents forensic clinicians with a challenge. The co-occurrence of antisocial personality disorder and addiction affects treatment outcomes in patients who are treated in a forensic psychiatry clinic according to Criminal Code Section 64. Antisocial attitudes and problem behaviour lead to various difficulties in the therapeutic processes, such as non-compliance, more destructive behaviour, delays in the course of treatment, longer treatment durations, and more frequent drop-outs. The department of Forensic Psychiatry at the University of Rostock is carrying out a research project that deals with the implementation of specific therapy procedures. The project began in 2008 when staff members were trained in dialectical behavioural therapy and in the "Reasoning and Rehabilitation Program". Results are expected at the end of 2010. It is expected that appropriate treatment, meaning treatment that is delivered to higher risk cases and targets criminogenic need, and that is matched with the learning styles of offenders, will improve the course of treatment. The risk and need principle is observed by risk assessment. Neuropsychological and personality tests are used to screen for the principle for responsivity. In this presentation an overview of the whole project will be given by presenting hypotheses, methods and the course of investigation.

### The Efficiency of Dialectic Behavioural Therapy in a Forensic Context and its Impact on Patients with Antisocial Personality Disorder

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In the last few decades, Dialectical Behavioural Therapy (DBT) in psychiatric hospitals has become the treatment of choice when dealing with emotionally unstable personality disorders. DBT has been further developed and adapted to other fields of psychotherapeutic treatment (i.e. addiction to drugs and/or alcohol and lately antisocial behaviour). Too little is yet known about the effectiveness of treatment within the field of forensic psychiatry. For that reason a study is being held in a German forensic psychiatric hospital to examine the effectiveness of a highly specialised DBT-Program (DBT-F) versus treatment as usual (TAU). There will be a total of 20 participants in each group, with their own sections in the hospital. The program consists of four different modules focusing on increasing perception, stress tolerance, emotions and problem solving skills. The patients in the DBT-F branch receive a weekly “one-on-one interview”, skill training twice a week, and a weekly “base group”, “attentiveness group” and “patients-own-concerns group”. Results so far show that if patients with antisocial behaviour and/or addiction are treated consistently with the DBT-F program, the benefits include less drop-outs, faster increase of accountability, far fewer “time outs”, reduced costs through decreased duration of clinical accommodation, and an overall friendlier environment for staff and patients.

### How Effective is the Reasoning and Rehabilitation Program for Adult Offenders?

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Introduction: There are some international studies that evaluate the efficacy of the Reasoning and Rehabilitation Program (R & R) in offender treatment. The German-speaking offender populations are mostly composed of special subgroups, such as sex offenders or

juvenile offenders. The lack of research on adult offenders led to this study. Method: We examined adult criminal offenders (n = 24) recruited from forensic psychiatry according to Criminal Code section 64 in Mecklenburg-Western-Pomerania. Inpatients trained in R & R were compared to a control group (Treatment As Usual). The skills of the offenders were assessed by several authority figures (psychotherapists, nurses and social workers) as well as by the offenders themselves. We implemented Pre-, Post- and Follow-up- Measurements. Results: Our provisional results indicate that empathy, pro-social attitude and problem-solving could be improved in the experimental group. By the end of 2010 we will have the final measures concerning self-control, cognitive style, problem-solving, social perspective-taking, empathy and values from a larger sample than is currently available. Discussion: The general tendency in current criminal offender treatment is use of cognitive-behavioral programs, based on the principles of risk, need and responsivity. The emphasis is on the reduction of recidivism (cp. DBT-F, R & R).

### Mentally Challenged Patients - A Challenge for Psychotherapy

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Background: The past years have seen an increasing number of patients with lower intelligence or organic brain dysfunction being committed to forensic psychiatry. The current scientific literature does not take these kinds of patients into consideration. This study is intended to examine if, and to what extent, these patients can be part of the scientific project. Methods: This study includes all patients in the forensic psychiatry program in Rostock (Mecklenburg-Western-Pomerania) with an IQ < 80 (learning disorder) or a primary or secondary organic brain dysfunction that have been committed to the clinic since 2009. These patients went through an extensive battery of neuropsychological tests. Furthermore, the psychotherapists responsible for treatment had to rate the prognosis for criminal recidivism at discharge. Results: Patients affected by lower intelligence or an organic brain dysfunction achieved lower results on the neuropsychological tests compared to control patients also participating in the main project. Furthermore, they are considered more likely to re-offend. Participation in neuropsychological testing does not appear to overtax them. Discussion: Future examination of the patients will be conducted to investigate to what extent certain therapeutical methods have a noticeable benefit for this problematic group of

patients. It remains to be discussed whether a main strategy can be found to achieve improved therapeutic results.

## 144. Research Issues in Mental Health

### Acts of Desperation, Acts of God and the Biopolitical State: What Is the Impact on Research?

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There is an implicit understanding in research about the reason a person chooses to participate in research studies. Altruism, the idea of doing good for the possible benefit of others, is often cited as an acceptable reason for research participation. Therapeutic benefit for oneself, medical necessity, and contribution to scientific knowledge are also stated as reasons for research participation. These reasons are noble and are acceptable to most in the field. However, there is growing concern among a segment of ethicists that another reason people participate in research is not grounded in medical necessity but rather is framed by their personal economic situation. With all that is happening in the news, natural disasters, man-made catastrophes and a dismal global economic outlook one could argue that these factors and their uncertainty creates an altered state sufficient enough to cause reasonable people in dire financial straits to participate in research for monetary purposes regardless of risk. These acts of desperation call into question the possibility of “pure” voluntariness or autonomy required by ethical research and pose a challenge to the research community including but not limited to the competency, capacity, and decision-making mechanism of the participants involved. This paper seeks to examine the phenomena of desperate acts, including the specter of an altered psychological state and whether human subject research is impacted. Finally, further consideration will examine the obligations and responsibilities of the research community in maintaining the integrity of research.

### Self-Healing and Informed Consent to Psychotherapy

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Recent analysis of psychotherapy has endorsed a moderate skepticism and raised the conceptual possibility that the benefits of some “talking cures” might be enhanced placebo effects (Jopling, 2008). This has implications for the doctrine of informed consent, e.g., patients should be informed that they might be consenting to a placebo as opposed to a genuine treatment. This might undermine the patient’s belief that psychotherapy is a valid mode of self-exploration. The contextual model of psychotherapy seems to obviate the sham treatment problem by claiming that it is logically and practically impossible to devise a placebo psychotherapy. It is, however, crucial that the patient believe in the characteristic factors of the psychotherapy for it to be effective (Wampold, 2001). It is sufficient that those factors are purportedly true but irrelevant whether they are true. The contextual model implies that patients should be informed that psychotherapy does not work via the characteristic factors that they believe in, but rather by their belief in those factors. This too might undermine their belief that psychotherapy is a valid mode of self-exploration. I will argue that patients can maintain this belief regardless of whether informed consent refers to placebos or common factors. Patients should understand, and consent to responsibility for, developing their potential as self-healers in the context of a psychotherapy that is meaningful to them and at least purportedly true.

### Ethical Issues in Qualitative Research with Male Sexual Offenders

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This paper explores ethical dilemmas associated with research with male sex offenders. It examines two particular areas in detail: dealing with the disclosure of previously undisclosed offences and managing the distress of research participants during interview. Within these areas there is discussion of ethical approaches to research. Principle-based approaches offer abstract guidelines that help to resolve certain issues, but at times they may fail to be sufficiently flexible in complex situations. Character-relationship approaches to ethics are more concerned with the practical process of research and focus on the dynamic aspects of ethical conduct in research practice. However, ethical approaches to research do not stand separate from other methodological issues. The paper considers the relationship between epistemological positions and ethical approaches and explores this through the analysis of a case study.

### Calculation, Risk Assessment and Rationalization among Identity Criminals: An Evidence-Based Examination

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Much of recent media attention to identity crimes (e.g., identity theft, identity fraud, identity manipulation) has tended to center on extreme cases of economic loss and other long-term hardships suffered by victims. This paper calls attention to the need to develop and conduct empirical research to provide a clearer and more comprehensive picture of common characteristics of identity crimes and, also, of those who commit them. The paper focuses on two studies that afford evidence-based insights into this crime area. It then discusses the policy implication value of how this type of offense-offender research can be integrated with victim research to enhance identity theft control. Special attention is paid to the thought processes of offenders in: 1) resorting to the commission of identity crime as a response to perceived “pressure” (e.g., financial, societal); 2) calculating risk of discovery and apprehension, and 3) rationalization of the criminal act (e.g., denial of responsibility, displacement of blame). A key area of cross-crime overlap discussed is how identity manipulation is practiced by sex offenders in the United States in an effort to evade sex offender registration and tracking systems.

### Injecting Social Psychology into Social Network Analysis: The Psychology of Dark Networks

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Social network analysis (SNA) is an emerging technique for examining criminal (or dark) networks, used by both researchers and law enforcement agencies. SNA involves the description and analysis of relationships and interactions between social actors. SNA has been utilised across diverse areas including price-fixing conspiracies, terrorist groups, and drug trafficking syndicates. Previous applications of SNA to criminal networks have been constrained by the paucity of theoretical frameworks (Coles, 2001). Comprehensive analysis and interpretation of SNA could be facilitated by the exploration of criminal networks at both the structural level and the node level (Robins & Kashima, 2008). Previous SNA tend to focus on network structure, while ignoring individual cognition and behaviour. The current paper describes a SNA of an illicit drug trafficking syndicate in Australia by exploring both structural level constructs (e.g., clusters, centralisation), and individual level constructs (e.g., social identity, personality).

## 145. Juveniles and Mental Health: Part II

## Punishment or Treatment? Juvenile Aggressive Behavior as an Outcome of Victimization, PTSD, and Sensation Seeking

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Violent behavior among juvenile offenders is a major social and public health problem. The main focus of this paper will be the connection between violence, PTSD, and sensation seeking within the context of victimization. Victimization is one of the common characteristics of youth at risk, and it often leads to development of PTSD. PTSD symptoms such as increased arousal include feeling of anger and hypervigilance may easily lead to aggressive and violent reactions. Other PTSD symptoms - persistent avoidance of stimuli associated with the trauma and numbing of general responsiveness, avoidance and distractions, may express itself in sensation seeking. Although sensation seeking is defined as a biological based trait that relates to individual differences in levels of stimulation, in some cases sensation seeking levels may be the product of anxiety disorder such as PTSD. Sensation seeking is related to seeking for adventures and risks, and research show that it is related to involvement in deviant behavior in general and violence in particular. In conclusion, victimization leads to PTSD and/or sensation seeking, and increases the potential for involvement in violent behaviors. Without proper treatment the behavioral pattern will repeat itself, therefore punishments need to be accompanied by therapy.

## Prevalence and Bullying Experiences of Victims and Victims Who Become Bullies in Rural U.S. Schools

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One of the most significant findings of school bullying research is the identification of bully-victims, or those students who are both bully and bullied. While researchers have hypothesized that this group has unique characteristics and experiences, limited research compares the perceptions and bullying experiences of this group to those of bullied children who do not bully others. This study seeks to fill such a research gap by contrasting the characteristics and bullying experiences of victims and bully-victims. Among 192 children at rural elementary and middle schools in the United States, 31 percent are victims while 11.5 percent are bully-victims. Based on chi-square and multivariate analysis of variance (MANOVA) comparisons of bullying victimization, bully-victims experience more total bullying. They are also more likely to experience name-calling or teasing, physical assault, having money or items taken or damaged, and bullying based on race or color. They experience many of these behaviors with greater frequency than non-bullying victims. The findings and their implications for bullying research and anti-bullying interventions at rural schools will be presented.

### Unique Relations of Age and Delinquency with Cognitive Control

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We apply a cognitive neuroscience model of context processing to examine relations among age, delinquency, and cognitive control. Context processing comprises the abilities to attend to cues indicating appropriate future responses, to actively retain these cues in memory, and to use these cues to inhibit more dominant but inaccurate responses so that less dominant but accurate responses can be executed. We examined context processing among four samples of male participants (N=153): adolescent offenders and controls, and young adult offenders and controls. We used a modified version of the Stroop color-word task to measure context processing. Older participants performed better than younger participants in conditions most demanding of context processing skills. Both adolescent samples had difficulties engaging selective attention to filter out irrelevant information, even after controlling for the effects of age. Control adolescents made the most errors in context processing conditions, but had faster reaction times as compared to the other three samples. Overall, our findings support the utility of the context processing paradigm in understanding age-related processes and processes that may underlie antisocial behaviors.

We offer avenues for future research such as evaluating the effects of cognitive enhancement training on antisocial behaviors in adolescence.

### School Personnel's Observations of Bullying and Victimization among Rural Elementary and Middle School Children

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School bullying and aggression is recognized as a public health problem and appears to be the most prevalent form of school violence in elementary and middle schools. Bullying behavior among peers has detrimental effects for the bully and the victim as well as others who witness it. Research has shown that children who are involved in school bullying or are victims are at risk of developing problems later in life. The problem is often exacerbated by the fact that family, school, and peer culture do not recognize bullying behavior. This presentation reports on analysis of data from a community sample of 70 school personnel in three rural elementary and middle schools in the United States to better understand the sources and types of bullying occurring as part of a pilot project on prevention of school violence. Transforming the family, school, and destructive peer culture is an important step in intervening and modifying the bullying behaviors.

## 146. Globalisation, Terrorism, and International Crime

### Globalization and Criminal Justice Data Needs

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The move towards globalization has taken giant steps in the last few years. We have seen its impact on commerce, transportation, and communication. The communication revolution allows us to stay connected from one end of the world to the other. We can be informed of what happens at the opposite side of the world almost instantly. This globalization has also impacted the criminal justice system. Traditionally, crime has been considered an issue that a country must deal with on its own. Global changes have shown that crime does not respect imaginary border lines. In this presentation, a case is made for the creation of an international bureau of crime statistics. The centralized location will facilitate the studying of international criminal justice trends, and add to the dialogue on problems that may be unique to a particular country. When such problems are carefully analyzed in an international context, we may find many commonalities. Statistics will be compiled of the different components of the justice system (police, courts, corrections), and a category of crime (international crime) that reflects violations of the law across countries will be created. The bureau will also serve as a repository of information on strategies and crime control efforts.

### Scope, Limits, and Appropriateness of Psychiatric Testimony in International Criminal Law

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This paper examines the role of the mental health sector evidence in international war crimes prosecutions. Specifically, recent trials are examined with a view to assess the scope and limits of psychiatric evidence in the context of war crimes defences and corresponding sentencing models. In contemporary international law punitive goals are very strong and psychiatric expert testimony is marginalised for being overly lenient and therefore its use is frequently deemed incompatible with the overall interests of justice. This may be evidenced from the absence of a diminished responsibility defence under the ICC Statute. Law and psychiatry may appear to have conflicting investigative objectives, nevertheless, scrutinizing fully the origin of war crimes and their triggers, would, to a degree, restore the inequality of arms in international trials between the defence and the prosecution, as well as promote and advance trial human rights. In this context, this study concludes that international human rights as well as trial and pre-trial rights of defendants facing prosecution before international criminal courts may only be fully protected if relevant legal lacunae and ambiguities regarding the admissibility psychiatric evidence are clarified and if the amount of such evidence required to satisfy the burden of proof is quantified with specificity.

## Jihad Propaganda: From Words to War

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Language and images into jihad networks, media, and magazine as a mean to assess their arousing and intensifying power of contents. Analysis of jihad propaganda: strength and weaknesses of an old and restyled formula.

## Torture against Children in Rebel Captivity in Northern Uganda: Physical and Psychological Effects and Implications for Clinical Practice

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Background: Although torture in adults is well documented, studies that document its use against children, especially during war, are rare. This study documented the use of torture against children and its physical and psychological consequences during the war in Northern Uganda. Methodology: Changes to the skin were examined by medical assistants, photographs taken, and allegations of torture verified in an interview and the case histories filed upon admission to the rehabilitation centres. The sample included 183 children aged 12 to 18 (mean age 14.8, SD 2.9) of which 60 were physically examined in two rehabilitation centres. The impact of torture was assessed using the Impact of Event Scale – Revised (IES-R) in a multiple regression model. Results: Medical examinations showed visible evidence of physical trauma. Torture methods included burns, beatings, carrying heavy objects, gunshots, cuts with bayonets and machetes, long distance treks, etc. resulting into scars and keloids in different parts of the body. The scars were consistent with injuries inflicted on purpose. The children scored highly on the subscales of IES-R indicating severe symptoms of posttraumatic stress. The experience of torture explained between 26 to 37 percent of the variance in symptoms of posttraumatic stress. Conclusions: The physical trauma is consistent with histories and reports filed upon admission to the rehabilitation centres indicating that the children were indeed tortured. As a result of the torture, the children were psychologically distressed. The challenge for clinicians is to employ a holistic approach of treating survivors of torture by recognising not only the physical complaints but stress symptoms as well. This is because the mental states of debilitation, dependency, dread and disorientation that is induced in victims may have long-lasting consequences just like the physical and psychological consequences.

## Developmental Disorders and Political Extremism: Asperger Syndrome and the Neo Nazi Subculture

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The roots of political fanaticism are complex and multifactorial. Specific cultural and social antecedents can be found to often underlie both individual and group political extremism. It is likely that, in specific cases, overt psychopathology may underlie behaviors that fall under the rubric of “political”. Given the dangers implicit in psychiatric involvement in the political arena, with a risk of being used as an agency of social control, as has happened and probably happens in totalitarian and non-democratic regimes, diagnostic labeling of members of specific groups as well as the medicalization of shared ideas is probably ill advised. Nonetheless individual members of collective groups may suffer from specific disorders which may render them at risk for misconduct (in particular externalizing conditions such as Attention Deficit Disorder, Oppositional Defiant Disorder, and Conduct Disorder) also in the context of political behaviors (no global movement, right wing extremism etc). The solitary extremist, however, may represent a different “political type” and the globalization of communication through social networks and blogs offers him or her a public scene with far reaching consequences. The case of an adolescent “Neo Nazi theorist” with Asperger syndrome is presented and used as a clinical model of political extremism. The lack of empathy, social dysfunction, and schizoid nature of his temperament, combined with his extremes of knowledge, gave him access to a subculture of anger and violence.

## 147. Mental Health in the Workplace

### Compassion Satisfaction, Compassion Fatigue, Work-Life Conditions, and Burnout among Frontline Mental Health Staff

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Frontline mental health care professionals (FMHPs) are often required to provide a high degree of intensive therapy to clients over time which can result in physical complaints along with psychological effects often referred to as compassion fatigue (CF) or vicarious traumatization (VT). The aim of this study was to determine the relationships among

compassion satisfaction (CS), compassion fatigue (CF), burnout and work life conditions among FMHPs. A non-experimental, predictive survey design was used for this study. The Professional Quality of Life Revision IV (ProQOL) with Compassion Satisfaction and (CS), Compassion Fatigue (CF) subscales, the Areas of Work Life Survey, Maslach Burnout Inventory-General Survey and a Demographic Data sheet were distributed by mail to a convenience sample of 430 FMHPs at two community, one outpatient and one inpatient hospital sites yielding a final sample of 195 for a 45% response rate. Consistent with our hypothesis, higher levels of compassion satisfaction, lower levels of compassion fatigue/trauma, and higher overall degree of fit in the six areas of work life are predictive of lower burnout in FMHPs. Studies are needed to determine ways to improve the mental health of FMHP which in turn will enhance the quality of care delivered to clients.

### Measuring Psychological Distress, Depression, and Burnout in the Workplace: Implications for Intervention and Policy

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Choosing mental health instruments that best capture mental health and further studying how workplace factors relate to the outcome is still a matter of debate. In this study, we report preliminary results obtained from a sample of 410 municipal employees of the province of Quebec (Canada). Mental health was measured with three instruments: The General Health Questionnaire short-form 12 items (GHQ-12), the Beck Depression inventory (BDI-21) 21 items, and the three component of the Maslach Burnout Inventory 16 items general survey (MBI-16). Karasek's Job Content Questionnaire (JCQ) was used to measure skill utilisation, decision authority, psychological demands and social support from colleagues and supervisor. Work schedule and the number of working hours were also used in the analysis. Correlation analysis reveals small to moderate positive associations between mental health instruments. Further analyses show stronger associations between the three components of MBI-16 and workplace factors. In separate regression analysis adjusting for sex and age, JQC, work schedule and the number of working explained 9% of the variance in the QHQ-12, 20% in the BDI-21 and 22%-37% of the three of the MBI-16 components.

Emotional exhaustion was best predicted. Overall, these preliminary results suggest that work may contribute differently on workers' mental health depending on the instrument used to evaluate what is going wrong in the workers' psyche. If workplaces turn out to be a target for interventions, choosing one of the workers mental health screening instruments must be carefully evaluated and tested. These preliminary results also open space for the development of targeted health policies in occupational mental health.

### Professional Stressors, Moral Dilemmas, and Coping Strategies among Judges, State Attorneys, and Defense Lawyers

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Judges, state attorneys, and defense lawyers are central figures in the legal system. Work psychology research has neglected their potential professional stressors – unlike that of doctors, managers, leaders, or teachers. We examined (a) the professional stressors of judges, state attorneys, and defense lawyers, particularly those associated with moral dilemmas; (b) And their use of coping strategies with professional difficulties and moral dilemmas. The research involved two phases. (a) First we interviewed 90 Judges, state attorneys and defense lawyers in Switzerland using qualitative methods. We inquired about potential professional stressors, moral dilemmas and coping strategies. Using this method, we identified specific types of professional difficulties, moral dilemmas and coping strategies. (b) In the second quantitative phase, we administered written questionnaires (developed from the qualitative interviews) to 383 judges, 180 state attorneys and 1152 defense lawyers. We will discuss results from both phases. The interviews show that all three groups confront complex legal questions in their practice and experience interpersonal conflicts and emotional stress. The questionnaires show that the three professional groups share common general stressors such as time pressure and emotional stress due to interpersonal conflicts. However, each group reported different specific stressors and different types of moral dilemmas.

### Study of Association Mental Health with Psychotic-Like Belief in High School Teachers Related to Dezful Education Office in 2008

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**Background and purpose:** Some believe that psychology and normality are on the same continuum. This study was performed to determine the relationship between mental health and psychotic-like belief among high school teachers linked to the Dezful education office. **Materials and methods:** In this descriptive-correlational research, 400 high school teachers linked to the Dezful education office were randomly selected. Data were collected through questionnaires which were completed by interview. The questionnaire was divided into three parts. The first comprised six questions about individual characteristics, the second was comprised of a general mental health questionnaire (GHQ – 28), and the third part included Peter Delusions Inventory (PDI – 40). To measure validity and reliability, the questionnaires used content validity and test-re-test. The data obtained was analyzed using Chi-square, correlation pierson and Fisher. **Results:** Results indicated that the majority of investigated units (61.25 persons) that had less psychotic-like belief were in a state of good mental health. There was a significant relationship between investigated variables (age, education, record of service, income) and mental health ( $P<0/001$ ), but no relationship to gender and marital status. There was also a significant relationship between investigated variables (age, education, record of service, income) and psychotic-like belief. **Conclusion:** There is significant negative relationship between teachers' mental health and psychotic-like belief.

## Challenging Conversations with Colleagues

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We are always communicating with others, whether we are speaking, or not speaking. In the field of medicine, communication is no longer thought of as just charm or bedside manner. There is now a consensus that communication is a skill, a procedure, and therefore can be taught and learned. Education and training in communication skills is now mandated in medicine by the governing bodies for both undergraduate (AAMC) and graduate level programs (ACGME). We now have 25 years of research that teaches us how to make changes in the way we communicate with others that can improve the outcome of the conversations we have, especially if those conversations deal with challenging or difficult issues. There are specific communication techniques and tools that have the potential to avoid worsening a

conflict, and/or can potentially correct the course of a conversation that has gone awry. The techniques and tools that can be discussed include personal awareness reflections, specific words to use and to avoid using, verbal techniques and non verbal techniques. There is interesting pathophysiology that can be reviewed to clarify how and why certain communication techniques are effective and others are not.

## 148. Workplace Bullying and the Law of the Workplace

Workplace bullying (also referred to as mobbing or harassment) has devastating effects on individuals and organizations, but only within the last 15 years have legal systems around the world started consider and adopt employment protections against this form of worker mistreatment. This panel will examine the role of the law in responding to workplace bullying. First, it will consider the frequency, severity, and impact of bullying behaviors at work. Second, it will examine how emerging insights from neuroscience can inform law reform initiatives. Third, it will provide an overview of legal responses to workplace bullying, drawn from a sampling of countries. Finally, it will examine, in greater detail, the occupational health law and employment discrimination implications of workplace bullying.

### Workplace Bullying as an Occupational Safety and Health Matter: A Comparative Analysis

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Several countries have recognized workplace bullying as an occupational safety and health hazard, and have initiated preventative and restorative efforts as a result of new regulatory agendas addressing the problem. The U.S. lags behind these countries, both in terms of regulatory reform and self-governance initiatives. Despite a growing body of interdisciplinary work highlighting the prevalence and costs of workplace bullying in the U.S., there are currently no U.S. state or federal laws expressly addressing the issue. In an earlier Article, I proposed a new regulatory alternative for the U.S., viewing workplace bullying through the lens of the existing federal Occupational Safety and Health Act of 1970. OSHA, although not without its shortcomings, has the advantage of being a well-established regulatory regime and having an existing regulatory apparatus with enforcement power and training/counseling resources. In a follow up Article, I combined my proposal for regulatory recognition of workplace bullying as an occupational safety and health concern, with a comparative law approach. This was achieved through review and analysis of the safety and

health regulatory and self governance initiatives in other countries, including Australia, Canada, Sweden, and the UK, in order to draw comparative lessons for the United States.

## Workplace Bullying: A Briefing to Inform the Law Reform Movement

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**Abstract:** This paper will examine what we know about the phenomenon of workplace bullying and how that knowledge relates to law reform. A growing body of international research informs us that workplace bullying is common, costly, and health endangering, and that too many employers do not act preventively or responsively toward these behaviors. This research includes two national-level American surveys, conducted in 2007 and 2010 by the Workplace Bullying Institute with Zogby International, surveying samplings of the adult American population about workplace bullying. The survey results empirically confirm the devastating effects of workplace bullying on individual targets and the reality that many employers do little to stop bullying and often exacerbate situations for targeted individuals. In general, the empirical research on workplace bullying helps to build a case for law reform and refutes the argument that voluntary employer measures, without the possibility of direct liability, are sufficient to safeguard workers.

## Workplace Bullying and the Law: Emerging Global Responses

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The work being done to comprehend and address workplace bullying is multi-disciplinary in nature, and one of the emerging focal points is the law. In nations around the world, there is a growing belief that the law should respond to the harm caused by workplace bullying. New statutory and administrative provisions, emerging applications of common law theory, and collective bargaining are among the sources of law that are being applied in response to severe workplace bullying. This paper will identify some of the central themes concerning bullying and employment protections and discuss representative legal and policy responses in several nations over the past decade. It will examine the relevant law of Australia, Canada, France, Germany, Sweden, the United Kingdom, and the United States, as well as evolving standards adopted by the European Union and International Labour Organization.



## Addicted to Winning? A Different Approach to Doping

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Traditionally the doping debate has been dominated by those who want to see doping forbidden (hereafter the prohibitionist view) and those who want to see it permitted (the ban abolitionist view). The reasons usually advanced for proscribing doping are for instance that it is noxious for sports practitioners' health, that it renders an unfair competitive advantage or that it runs counter "the spirit of sports". Among the reasons raised for lifting the ban we find that the prohibition is paternalistic, that the doping list is arbitrarily designed, or that the control measures are too expensive and invasive of sportspersons' privacy. In this article we analyse a third position starting from the assertion that doping use is a symptom of the paradigm of high competitive elite sports, in the same way as addictions reflect from current social paradigms in wider society. For that reason, we argue, doping in elite sports has to a great extent to be considered as an addiction and should to be handled accordingly.

## The Use of Biomedical Technology in Sport: Are There Any Limits?

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In this presentation, I will examine the use of biomedical technology to enhance performance in competitive sport. More specifically, I will explore the possibilities for distinguishing between ethically acceptable and ethically unacceptable use of such technology. I will criticize the World Antidoping Agency's (WADA) normative criterion for banning certain technologies as it is vague and unclear. I argue that any ban by WADA has to build on a clear and operational normative view of sport. Two relevant ideal-typical views are examined together with their technological implications. The narrow view is liberal and rejects restrictions on the use of biomedical technology among professional athletes as unjustifiable paternalism. The wider view implies a more restrictive approach and accepts certain regulations of performance-enhancing means and methods outside of competitions.

In the conclusion, I compare the narrow and the wider views and reflect upon their possible status in competitive sport in the future.

## Doping in Sport - Harmless Trick or Ethical Problem? An Overview

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In the last years, a passionate debate has evolved in sport ethics and medical ethics between the protagonists and antagonists of doping in sport. The main focus of this debate was the question of whether doping is against the core values of sport or whether it should rather be seen as a timely and suitable continuation of the development of sport. In this presentation, the main ethical arguments for and against doping in sport will be discussed. One of the most important arguments against doping practices is that it is unfair. Indeed, it seems to be a decisive precondition for all kinds of sport competitions that there is a general equality of opportunities between the different parties. However, the protagonists of doping respond to this argument with the notion that there may also be a kind of general equality between the participating parties with doping practices. A further important point against doping practices is that they are perceived as threatening the "spirit of sport". However, protagonists of doping referred to the importance of technical developments in the practice of sport and argued that this tendency must not necessarily stop at the boundary of the athlete's body, given that doping would be a sufficiently safe activity. This leads to the last argument which will be analysed in the presentation, namely, that doping often seems to threaten the health of athletes. Doping protagonists' response to this argument is that it not doping itself that is dangerous, but rather the circumstances under which it presently takes place.

## 150. Involuntary Mental Health Treatment

### A Proposal of a Legal Mechanism for the Ethical Practice of Involuntary Psychiatric Treatment

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Laws regulating psychiatric involuntary treatment almost uniformly require the existence of mental illness. The definitions for it, however, are highly heterogenous between countries.

The choice of a working definition of mental illness carries major ethical consequences, as it allows for very different patient populations to be involuntarily treated. In this presentation, I compare and contrast involuntary treatment laws of different countries, and demonstrate unethical consequences that may arise by their use. Following this, I propose a practical, comprehensive conceptual framework for determining if involuntary treatment is ethically justified in a particular case. The suggested mechanism is sensitive to minutiae of particular cases, consistent, reliable, flexible enough to account for cultural variations, and most importantly – ethically sounder than the current legal mechanisms employed in legal systems worldwide.

### The Role of Law in Electroconvulsive Therapy - A Comparative Analysis of Laws in the United States, Australia, and Malaysia

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This paper explores the role of law in electroconvulsive therapy and how law can operate to reduce the stigma caused by negative portrayals of ECT in mass media, particularly in movies. Individual groups have said that the treatment is degrading, dangerous, and results in permanent, non-reversible memory loss. We argue that the law can play a pivotal role in increasing public opinion of ECT, among other things. In this paper we examine laws in Australia and the United States and assess what parts of their legislation can be applied in Malaysia. We will illustrate the current laws in force in Malaysia and examine where it is lacking. The purpose of this paper is to examine the role of law in increasing public and private awareness of electroconvulsive therapy, reducing stigma caused by negative portrayals in the media, and illustrating and improving informed consent issues. We argue that any future guidelines on ECT should contain provisions on informed consent, ECT for children, adolescents and involuntary patients, penalties for practitioners who do not obtain informed consent, complaints mechanisms to ensure transparency in treatment and uniform consent forms. The use of electroconvulsive therapy (ECT) to treat mental illnesses, especially major depressive disorder and bipolar depression, has a strong evidence base. However, it has been criticized by individual groups who have claimed that the treatment is coercive, degrading, and dangerous, and that it results in brain damage and permanent memory loss. It is often negatively portrayed in the media, ignoring the advances that have been made which drastically reduce the side-effects of ECT. The purpose of this article is to

examine the role of law in increasing awareness of ECT, reducing stigma caused by negative portrayals in the media, and illustrating and improving informed consent issues. Malaysia has recently begun to implement new mental health legislation but details about the process of informed consent are inadequate. We argue that laws on ECT should contain separate provisions for informed consent, ECT for children, adolescents, and involuntary patients, complaints mechanisms to ensure transparency in treatment and uniform consent forms. Essential information that must be communicated to patients, such as details of the procedure itself, common side-effects and the right to withdraw consent, must be specified.

## Detention in Conditions of Excessive Security: A Scottish Solution Part I

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The Mental Health (Care and Treatment) (Scotland) Act 2003 (“the 2003 Act”) came into force in 2005, establishing 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 mentally disordered people. Prior to the passing of the 2003 Act it was widely recognised – by patients, their carers and families, mental health professionals, lawyers, and politicians – that there were many patients “entrapped” in Scotland’s highest security mental health facility, the State Hospital at Carstairs. The reason was, simply, that while those patients did not require the levels of security that could be provided only by the State Hospital there were insufficient medium secure facilities in which to house them. The 2003 Act contains a series of provisions which allows the Tribunal to determine whether a patient in the State Hospital is being detained in conditions of “excessive security” and to require the relevant authorities to identify alternative suitable accommodation. Failure to comply results in the case returning to the Tribunal which can then provide a further opportunity for compliance or make a final order enforceable in Scotland’s highest civil court. The 2003 Act’s excessive security provisions are unusual, providing a process by which pressure can be brought to bear on relevant authorities to transfer patients to accommodation with more suitable levels of security and to bring pressure to bear on the relevant authorities to make the necessary investment in medium secure facilities. This presentation will explain the policy reasons for the enactment of the excessive security provisions in the 2003 Act, the effect they had on relevant authorities even before they came into force, and how the Tribunal exercises its powers in this area in practice.

## Detention in Conditions of Excessive Security: A Scottish Solution Part II

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The Mental Health (Care and Treatment) (Scotland) Act 2003 (“the 2003 Act”) came into force in 2005, establishing 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 mentally disordered people. Prior to the passing of the 2003 Act it was widely recognised – by patients, their carers and families, mental health professionals, lawyers, and politicians – that there were many patients “entrapped” in Scotland’s highest security mental health facility, the State Hospital at Carstairs. The reason was, simply, that while those patients did not require the levels of security that could be provided only by the State Hospital there were insufficient medium secure facilities in which to house them. The 2003 Act contains a series of provisions which allows the Tribunal to determine whether a patient in the State Hospital is being detained in conditions of “excessive security” and to require the relevant authorities to identify alternative suitable accommodation. Failure to comply results in the case returning to the Tribunal which can then provide a further opportunity for compliance or make a final order enforceable in Scotland’s highest civil court. The 2003 Act’s excessive security provisions are unusual, providing a process by which pressure can be brought to bear on relevant authorities to transfer patients to accommodation with more suitable levels of security and to bring pressure to bear on the relevant authorities to make the necessary investment in medium secure facilities. This presentation will explain what is meant by conditions of “excessive security” in the State Hospital, how the Tribunal exercises its judicial power in assessing whether or not a patient is being detained in such conditions, the role of mental health professionals in that role and the judicial management of the Tribunal process by which an appropriate outcome is achieved.

### Australian Mental Health Patients Wait Too Long for Review of Involuntary Detention

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In New South Wales, review of involuntarily detained mental health patients has historically taken place within a week of admission to hospital. Recent changes which bring New South Wales in line with other Australian states has seen this review time blow out to about month. We argue that while this type of wait time for review of detention is standard for

mental health patients, it compares badly to review of detention in other contexts - such as review of detention on a criminal charge, which must take place within 24 hours. We suggest that this treatment of mental health patients is not defensible on medical grounds, but rather is an example of what Michael Perlin had dubbed 'sanism' - the entrenched discrimination against people living with mental illness in social and legal systems.

## 151. Evidentiary Issues in Mental Health

### Making our Client's Stories Heard: Excerpts from a Guide to Narrative Strategies for Appellate and Post-Conviction Lawyers

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This presentation includes excerpts from 'Making our Client's Stories Heard: Excerpts from a Guide to Narrative Strategies for Appellate and Post-Conviction Lawyers' (by Anthony G. Amsterdam and Philip N. Meyer). This text attempts to do what its title suggests: 1) serving as a guide to a better understanding of the narrative dimensions of legal argumentation (primarily in death penalty cases); and 2) suggesting vocabulary and providing conceptual tools that may assist legal professionals crafting effective arguments and shaping testimony into narrative formats. The text was adopted as a training manual for Federal Public Defenders in 2009.

### Self-Protective and Other-Protective Lies: Deflection, Scene-Setting, and Blame

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Recent research has indicated that willingness to lie is influenced by the reason for the deception (Argo, White and Dahl, 2006) and different motives for deception predict judgments of acceptability (e.g. Seiter, Bruschke and Bai, 2002). Acceptability may be associated with changes in the experience of empathic guilt (Hoffman, 2000) and therefore willingness to blame the victim and the situation for deception choice. The current study used a combination of a qualitative story completion task (e.g. Whitty 2005) and a series of quantitative ratings to examine how participants would address the choice of a protagonist to lie for self- and other-protective motives. Results indicated that those asked to consider other-protective motives found this task more cognitively demanding and adopted

strategies to reduce the cognitive load on the liar. Consistent with expectations, discomfort with lying and attempts to blame the victim were seen in the narratives of those telling self-protective lies. Results support a link between the experience of empathic guilt and victim blame and are discussed with reference to research on attributions (e.g. Crandall et al., 2007) and the “double standard” in deception (Bond and DePaulo, 2006).

## Hypothetical Legal Questions and the Psychiatric Expert

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When appearing in court as an expert witness, a psychiatrist may be requested to answer hypothetical questions. Experience shows that this type of questions is often used by parties involved and also by judges in cases dealing with compensation issues related to physical and/or mental damages. Answering these hypothetical questions is often puzzling and even distressing if the expert is not sufficiently prepared to react appropriately from his/her own point of view. This presentation aims to clarify, for the psychiatric expert, the concept of hypothetical questions in a legal situation, to demonstrate the different types of hypothetical questions, and to explain possible ways to confront them.

## Deception Detection Training for Professionals: Improving Mental Health Professionals' Ability to Detect High-Stakes Lies

Julia Shaw, *University of British Columbia*  
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Psychologists, psychiatrists and legal professionals need to make critical veracity judgments on a daily basis, with undetected deception often carrying important consequences for both the individual and the community. Lies are very common, and confidence in detecting them is high among professionals (e.g., DePaulo, et al., 1997), yet the research repeatedly shows that professionals and laypeople are no better than chance at detecting low-stakes (e.g, Vrij, 2008) and high-stakes (Porter, et al., 2010) lies. Further research has also suggested that despite knowing these high error rates, most professionals never receive empirically based training on credibility assessment (e.g., Porter & ten Brinke, 2009). In the present study, we evaluated the effectiveness of one-day deception detection training workshop (Shaw, Porter

& ten Brinke, in press) attended by 42 legal and mental health professionals. Performance on a deception detection task (discriminating between high-stakes truthful and fabricated videotaped stories) was measured pre- and post-training. The use of high-stakes lies makes this research particularly relevant to real-world situations. Overall, the training served to improve participants' accuracy rate from chance to well above chance, with accuracy increasing significantly from 46.4% to 80.9%. Evidence-based strategies are discussed that may help improve professionals' abilities to detect deception.

## 152. Risk, Suicide, and Other Ethical Challenges in Mental Health

### Risk Disclosure and Public Policy in Suicide Prevention

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Although much progress has been made in suicide risk prediction and the identification of genetic and biological markers of suicide potential, suicide risk assessment can only identify the increased likelihood of the occurrence of relatively rare suicidal behaviours. Even if tests can sometimes predict as much as a tenfold increased risk of suicide, they lack specificity of prediction. Since the suicide base rates are low, averaging around 15 per 100,000 per year, false positives are inevitable, with far more people being identified as being at risk than will actually attempt or commit suicide. Legal obligations to disclose information in order to protect from harm may exist when there is imminent risk. However suicide risk factors generally concern long term risk during the course of a lifetime; therefore there is little urgency to divulge information. When the obligation to protect vulnerable individuals is established, one must weigh the potential benefits of disclosure against possible negative effects. Even with people who are clearly at risk, it is not certain that disclosure leads to effective interventions. In some cultures where suicide is not socially acceptable disclosure may lead to harm to the suicidal individual (suicide is still illegal in much of the world and an attempt has jail penalties). There are also situations where no effective suicide prevention resources are available. Case examples will be used to illustrate the challenges and issues, as well as to clarify implicit ethical premises concerning the acceptability of suicide, the extent of privacy rights and the level of obligations to protect vulnerable individuals within different societal contexts.



## *Pentitismo: An Open Issue*

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The phenomenon of *pentitismo* in Italy raises a variety of issues and a number of ethical, moral, religious, legal, political and social implications. This makes *pentitismo* an extremely complex object of analysis, which has been approached by superficial schematics and, sometimes, arbitrary simplifications. This presentation tries to deal with this complex phenomenon through a historical-sociological approach, reviewing the most significant evolutionary stages in the experience of repentant political terrorists and Mafia-men. These stages will be examined in five different contexts of organized crime: the terrorism of “Brigate Rosse”, Sicilian “Cosa Nostra”, Campanian “Camorra”, Calabrian “Ndrangheta”, and Apulian “Sacra Corona Unita”. After that, the legal aspects of the phenomenon will be investigated by a technical analysis of the major relevant normative laws. Lastly, the growing ethical and moral aspects will be examined, with a particular focus on the tangible difficulties that are encountered when trying to establish the trustworthiness of a repentant man and when trying to handle the media exposure and drifts that are connected to the various declarations of repentant men.

## *The Dark Triad in the White-Collar-Criminal’s Soul: Narcissism, Machiavellian Intelligence, and Psychopathy*

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Ever since criminological research began, the causation of criminal behaviour has been a most controversial issue. Usually this debate is conducted in a polarized manner, with nativists on one side and environmentalists on the other. This holds true for research on white-collar criminals as well. In order to reconcile the two, it seems appropriate to focus on the offender’s personality as well as the typical big business environment. Reciprocal altruism, i.e. the principle “tit for tat”, is the universal evolutionary basis for any cooperative activity, including those taking place in the business context. Mergers, permanent reorganizations and the birth of today’s huge multinational companies with inherent anonymity constitute an ideal habitat for non-reciprocating criminals, who commit their crimes by means of deception. But what is the nature of these non-reciprocators? Their personality profile seems above all to display three main features: Narcissism as an

exaggerated form of egocentricity, Machiavellian Intelligence as a particular social competence in order to manipulate and exploit conspecifics, and the psychopathic traits of callousness and unscrupulousness.

### My Brother's Keeper? – Legal Challenges in Imposing Civil Liability for Suicide

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The traditional view that the act of suicide was an intervening act of self-harm which exonerated any third party from liability has given way in recent years to a more nuanced doctrinal approach. Initial cases imposed liability where the third party was in a position of control and the resulting suicide was both preventable and foreseeable; these cases typically involved third parties such as psychiatric institutions, the police, and the prison services. More recently, liability has been imposed in situations where control and foreseeability of suicide is absent but the resulting suicide is found to be consequent to harm which is foreseeable, generally depression, and causally connected to a defendant's negligence. This presentation proposes to examine the case law in this area, drawing from cases in the United Kingdom, the United States, Australia, and Canada. The challenges posed by such cases will be discussed. In particular the presentation will address the foreseeability of suicide, the act of suicide as an intervening act breaking the chain of causation, and finally the appropriateness of imposing a deduction for contributory negligence in cases of this nature.

### 153. Sexual Offenders: Part II

#### Fritzle Framed

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The Austrian Fritzl case is undoubtedly one of the most horrific incest cases in memory. For one year, from the time the case broke to the startling plea of guilty offered by Fritzl in the middle of his criminal trial, the media tried to make sense of a case they had immediately declared as "unbelievable," "incomprehensible," and "implausible." This presentation is based on a content analysis of the coverage of the Fritzl incest case by four British newspapers. Grounded in the sociological theory of social construction, it analyzes the

frames, that is, the cognitive shortcuts, used by the press to define the Fritzl case, organize and interpret it, and legitimize a course of action in response to it. Although there were several competing frames in the reportage on the Fritzl case, this paper will discuss how, as the criminal trial approached, all four newspaper settled on a familiar “master frame” that moralized the case, thus occluding, if not resolving, the lingering questions other frames simply could not resolve about the case. The implications of the creation of such a master narrative for a high profile criminal trial will be discussed in the paper.

## Treatment Changes in Self-Esteem and Coping Styles in Sexual Offenders

Joanne Senior, *NSW Department of Corrective Services, Sydney, Australia*  
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Although not a dynamic risk factor, poor self-esteem can be a barrier to treatment engagement and treatment completion. Previous research has suggested that by improving self-esteem, an offender will be more motivated, engaged and committed to change (Marshall, Marshall, Serran, & Fernandez, 2006). Research has also demonstrated that sexual offenders utilise ineffective coping strategies, including sexual coping, avoidant coping, and emotion-oriented coping styles (Marshall, Serran, & Cortoni, 1998). Sexual coping and poor emotional regulation are considered dynamic or changeable risk factors (Hanson & Harris, 2000). Therefore, interventions designed to enhance self-esteem, reduce ineffective coping, and increase problem oriented coping are a feature of the Custody Based Intensive Treatment Programme (CUBIT) in Australia. Interventions which target self-esteem are designed to increase offender’s self-esteem, while interventions targeting coping are expected to improve an offender’s repertoire of effective coping strategies. In the current study, self-esteem and coping styles were assessed both before and after a custody-based intensive treatment programme for sexual offenders to determine whether treatment was having the desired impact in these areas. Treatment was found to be effective at increasing self-esteem and improving coping styles in sexual offenders. Offenders who showed most improvements in self-esteem also showed most improvements in coping styles. Findings are discussed in terms of the importance of incorporating self-esteem tasks early on in treatment, the influence of self-esteem on coping styles, and the role of ineffective coping as a dynamic risk factor for sexual offending.

## Contemporary National as well as International Understandings and Responses to Paedophilia

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Despite the current high-profile public, media, and state concern surrounding pedophilia, there is no easily accessible or widely accepted definition of pedophilia, which has led to widespread misunderstandings and tensions between strong beliefs and facts. Hence, there has been a widening between societal and professional understandings of pedophilia which has implications for the treatment, punishment, and reintegration of this deviant population. This is made more significant when pedophilia is viewed as an international phenomenon, with different cultures having different interpretations and attitudes towards it. This presentation will therefore discuss multi-cultural understandings of paedophilia before focusing on Western professional, media, and public understandings of it, how they interact together, and how they shape the wider societal discourse. This broader Western social discourse surrounding paedophilia will then be discussed in regard to paedophiles and their attitude towards their behaviour; government policy and funding; and the debate about whether paedophiles should be rehabilitated or punished. The presentation will conclude with a discussion of some current and emerging treatment, punishment, and social control techniques used in regard to paedophilia, both nationally and internationally, including the public disclosure of sex offender information, circles of support and accountability, chemical castration, and the sex offender treatment programme.

### Organizational Capital: The Last Frontier in Evidence-Based Practices

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The policy relevance of individual and social correlates of recidivism reduction using 'what works' and 'broken windows' paradigms has generally been recognized by policymakers and practitioners. In the case of 'what works,' significant empirical research supporting the efficacy offender rehabilitation has been conducted. No such similar body of knowledge has developed with regard to programs and services that attend to 'social correlates' of crime, organizational dynamics, and staff competencies that disrupt the effective implementation of evidence-based practices. Numerous attempts to implement evidence-based practices in correctional settings have been made in recent years. The success of these efforts has varied depending on a variety of factors (e.g. prevailing political ideology, organizational culture, staff competency, etc.). For significant progress to be made with regard to the implementation of evidence-based practices, policymakers and corrections professionals should remain concerned with isolating the precise correlates related to recidivism reduction. Just as important, if not more so, is the need to turn professional attention to a

much more pressing and foundational issue; a) the de-politicization of policy making; and b) enhanced professional competency. Recidivism reduction through the application of evidence-based practices, and effective corrections policy are not possible without the existence of the requisite 'organizational capital.' This presentation will further expand and define the concept of organizational capital as a catalyst for effective corrections policy.

## Understanding the Basis for Overturning Convictions in Child Sexual Assault Cases

Rita Shackel, *University of Sydney*  
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In many jurisdictions convictions for child sexual assault offences continue to be overturned at a higher rate compared to other types of convictions. In NSW for example, the rate of successful appeals against convictions in such cases is increasing. This paper analyses the grounds of appeal against conviction in child sexual assault cases (CSAC) and the outcomes of such appeals. Data is presented based on a study of appeals to the NSW Court of Criminal Appeal (CCA) in the period 2007-2010. More specifically, the paper analyses: (i) the most common grounds of appeal against conviction in CSAC; (ii) the outcomes of appeals against conviction in CSAC. For example, how many appeals are dismissed versus allowed? For appeals against conviction that are allowed, how many end in acquittal versus retrial?; and (iii) what legal reasons ground decisions of the CCA in overturning child sexual assault convictions rendered by a lower court? This paper will also present empirical data on conviction rates in CSAC in Australia; and appeal and appeal success rates. Of particular interest, is discussion of success rates in appeals against convictions for all crimes compared to success rates in appeals against conviction in CSAC.

## 154. Culture Sensitive Diagnosis and Treatment: A Focus on Children and Adolescents

### Culture-Sensitive Diagnosis and Treatment: Recent Dutch Developments

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This presentation elaborates on advances in The Netherlands concerning the assessment and diagnosis as well as the treatment of children and adolescents with a different lingual and cultural background than the average patient. Some very recent projects involve ethical, legal, as well as professional aspects. Two important considerations laid the consensus for these recent advances. First: one and a half million of the population in The Netherlands are to be considered as semi-illiterate; that is, experiencing difficulties in daily living that are caused by lack of skill in reading and writing. Of these one and a half million, there is one million that is classified as 'native' or 'autochtoon', a quarter of which is completely illiterate. The other half million are immigrants and their descendants [according to the official definition one is 'allochtoon' when having at least one parent that is of foreign origin]. Second: recent decades have shown a large growth in cultural variety in the population, and large cities like Amsterdam and Rotterdam host up to 170 different nationalities.

The subjects of this session include:

- The role of the Dutch Association of Psychologists (NIP) and it's recently adjusted Code of Ethics;
- A Dutch textbook on culture-sensitive psychological testing (expected publication - end of 2010);
- Clinical experiences from specialist centers; and
- Outlines and preliminary results of projects concerning:
  - The specific methodological aspects involved;
  - Guidelines for assessment, diagnosis and treatment, and
  - Training programs for professionals, specialists in training, and students.

### Culture-Sensitive Work with Turkish Immigrant Families in the Case of Behavioral and Psychiatric Problems with 2<sup>nd</sup> Generation Children and Adolescents

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In helping children and adolescents with behavioral and psychiatric problems, working with the family is generally very important. However, when the family is Turkish, it might be essential. In Western culture, the individual and his autonomy are the most important while in Turkish and rural culture, the fate of the individual tends to be subordinate to that of the family. After a migration this major, the difference may be exacerbated over several generations. In this system, varying authority figures within the family may deal with the problems of its members. This system is often disrupted by migration while, at the same

time, family members in Turkey still exert their influence. Questions to be addressed in this presentation include:

- How to discuss the development of children and adolescents with someone who has never thought in terms of development of their children?
- How is the Turkish family abroad to be understood? What are the influences on family life from outside the family, who to address and how is the family structured?
- How to define and to deal with the tensions and conflicts that might arise for children between living inside the family and ethnic group and living outside, in the larger Dutch society?
- What are the conflicts that might arise in a multicultural team working from a dominant Western perspective?

### Infant Mental Health Psychotherapy with Second Generation Immigrants and Their Children

Fernanda Sampaio de Carvalho, *Dutch Psychoanalytic Institute, Amsterdam, The Netherlands* (fernancarvalho@hotmail.com)

Over the last couple of years, more and more non-Western immigrants have found their way into psychotherapy. Most of the therapists are Dutch natives, who are not familiar with the specific problems connected to migration. Patients with migration-related identity problems are constantly tossed back and forth internally as well as externally between incongruous worlds, which also occurs in the course of the therapy. At the Infant Mental Health unit of the Dutch Psychoanalytic Institute in Amsterdam, pregnant women, parents and their babies, and children up to 5 years of age come for psychodynamic parent-child psychotherapy. Many of our patients are first, second, third or further generation non-Western immigrants. Most of these parent couples consist of mixed cultures and ethnicities. These parents are challenged to find a way in their inner world and within their relationship with their partner to integrate the different cultures and to find a way to raise their children. They have to create, so to speak, their own culture of parenthood within the context of different worlds, languages, differences in concepts of motherhood and fatherhood, diversity in rituals, etc. Their babies and children often are referred for treatment with regulatory problems. This presentation addresses:

- How the therapeutic relation can be a vehicle for parents and their children to help them create a dialogue and to form their own world; and
- Issues of transference and counter-transference.

## Negotiating Cultural Differences in the Treatment of Traumatized Refugee Children Families

Julia Bala, *Clinical Child Psychologist, Amsterdam, The Netherlands*  
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This presentation introduces intercultural aspects of an integrative approach, based on systemic and developmental perspectives, with traumatized refugee children, applied in individual, family, group, and multifamily settings in the Centrum 45 in Amsterdam ([www.centrum45.nl](http://www.centrum45.nl)). Individual and family consequences of political violence, forced migration, cultural transition, and social insecurity due to long-lasting asylum procedures are assessed in the pre- and post-migration period, within the socio-political and cultural context of the country of origin and arrival. A broad conceptual framework and multimodal approach create openness and flexibility to approach complex problems and address the cultural diversity of children and families. The presentation will address the following questions:

- How to create space for different interpretations and co-create shared meanings?
- How to negotiate between conflicting cultural demands and practices?
- How to enlarge the therapist's reflexivity and critical attitude to own cultural and therapeutic assumptions, methods, and goals of therapy?

Therapeutic choices, strategies, and competences that enhance culturally sensitive approach to treatment of traumatized refugee children and families will be discussed with special focus on the challenges presented by the multifamily groups with clients from different countries.

## The Psychological Assessment of a Nine Year Old Kurdish Girl from North Iraq

Nina Kamar, *Riagg Rijnmond, Rotterdam, The Netherlands*  
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Psychological assessment of children and adolescents requires special training in accordance with Dutch law and the Dutch Psychological Association (NIP). Increasingly diverse cultural and lingual backgrounds require clinical practitioners to respond in kind with a more culturally sensitive approach so as to bridge the gap between client and practitioner. This session is based on a case study and addresses the different issues and professional dilemmas faced when a nine year old Kurdish girl from North Iraq was referred to the mental health youth department (RIAGG) for consultation. Previous school assessment had given the school reason to believe that she could have ADHD, and they also had reason to believe



that she showed autistic behavior. This session takes a step by step approach in dealing with such a consultation in a culturally sensitive manner, dealing with issues such as use of available psychological tests (such as intelligence tests or questionnaires), and cross-cultural interpretation of behavior. Specific attention is paid to the role of cultural interviewing in child and adolescent mental health and the integration of information that leads to overall psychological and psychiatric assessment (limitations and considerations when using the DSM-IV). This case study portrays how culture, language, and levels of acculturation interfere with the psycho-diagnostic process, and reiterates the relevance of sharing explanatory models in dialogue form.

## 155. Research Data on Reducing Seclusion in The Netherlands

### Patient Characteristics as a Predictor of Incidental and Repetitive Seclusion Use in a Nationwide Sample

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G.A.M. Widdershoven,

This study investigates the influence of patient characteristics on differences in seclusion use between admission wards. The main question is: do patient characteristics between wards with a high degree of seclusion use differ from wards with low seclusion use? The study was carried out in seven hospitals using data from 2008, covering a total of over 10,000 admissions over 29 admission wards. The study shows that in hospitals with low seclusion rates, patient characteristics provide a better prediction of seclusion than in hospitals with a high seclusion rate. In this presentation the interplay between ward and patient characteristics as determinants and seclusion as outcome variable will be discussed in greater detail.

## The Impact of Ward Building Environment, Personnel Compilation, and Reduction Efforts in a Nationwide Benchmark

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Ward environment is one of many factors influencing the chance to undergo seclusion or restraint measures (Nijman et al., 1997). A nationwide study into the effect of seclusion reduction programs provided the opportunity to study the interplay between ward environment, staff compilation, and patient characteristics in over 100 wards in 18 psychiatric hospitals. In this presentation, the influence of these three main factors on seclusion use will be discussed separately and together using multilevel analysis techniques allowing investigation of patient, ward, and institution level determinants.

## Reducing Aggression in Psychiatry: The HCR-20 as a Useful Risk Assessment Instrument

F. Versteegen

F.J. Vruwink

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On psychiatric wards many physically aggressive incidents take place and reduction of the occurrence of these incidents is a challenge. This prospective cohort study investigates the usefulness of the Historical, Clinical, Risk Management-20 (HCR-20) as a structured risk-assessment in general psychiatry. Aggressive incidents were recorded by means of the SOAS-R in two Dutch psychiatric hospitals over the course of one year. The HCR-20-total score, the historical items, the clinical items, the risk management items, the unstructured clinical judgment, and the SOAS-R-reports of 88 men were analyzed by means of an ROC Analysis. The sensitivity and specificity of the unstructured risk-assessment were compared to the sensitivity and specificity of the structured risk-assessment with the HCR-20. Results showed the unstructured risk-assessment provided a higher predictive value than the HCR-20 (AUC-value 0,767 versus 0,711). The risk-management items from the HCR-20 have the highest predictive value (0,701). Both the unstructured risk-assessment and the structured risk-assessment provide a clinical judgment with a modest predictive value. The HCR-20 can be seen as a reliable risk-assessment instrument in general psychiatry.

### Advance Directives in Mental Health Care: A Qualitative Evaluation of Patients' Experiences

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An advance directive is a document specifying a person's preferences for treatment, should he or she lose capacity to make such decisions in the future (Campbell & Kisely 2009). Although primarily developed and used in general health care, they may also be suitable for patients with severe mental illness. In this presentation, results of a qualitative evaluation of a specific type of advance directives, developed to contribute to the reduction of seclusion and other restrictive measures in mental health care, will be presented. A client-consumer who could share her own experiences was enlisted for this project, in order to enhance

patients' autonomy and self-management. In individual sessions, personalised advance directives documenting patient preferences regarding issues such as the role of service providers in handling emergencies, hospitalization, seclusion, medication, who to notify, etc, were written. We will present our findings and discuss the impact of this project.

### A Patient Protocol and Seclusion Alternatives in Prevention of Seclusion Use on a Long Stay Ward

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G.J.M. Hutschemeakers

Different places to encounter crisis: A 2 year follow-up study on the effect of a psychiatric intensive care unit on seclusion use in a long stay ward.

# THERAPEUTIC JURISPRUDENCE SESSIONS

## 156. Procedural Justice in Interactions Involving Persons with Mental Illness

### Procedural Justice, Perceived Stigma, and Cooperation/Resistance in Encounters between Police and Persons with Mental Illnesses

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There is growing attention to the frequency with which police officers respond to situations involving persons with mental illness and efforts to improve their ability to safely and effectively de-escalate and resolve encounters. Despite its obvious value to developing strategies to improve police response, there is scant literature on the experiences of persons with mental illnesses in these encounters. In this presentation, we describe findings from a study that focused on the experiences of persons with mental illness, specifically examining the role of perceptions of procedural justice on cooperation and resistance. 154 persons with serious mental illness who reported a police contact within the past year were recruited from three sites of a large psychosocial rehabilitation program. Participants were interviewed about their most recent police contact using the newly developed Police Contact Experience Survey (PCES), which included questions about the characteristics of the contact and subscales measuring perceived procedural justice, coercion, negative pressures, emotional experience, police legitimacy, cooperation, resistance, and satisfaction with the encounter. Participants also completed the Link Perceived Devaluation Scale (PDS). Separate regression models predicting cooperation and resistance were run. Perceived procedural justice (PPJ) was significant in both models as was the interaction between PPJ and call type. Additionally, in the cooperation model, PDS and interaction between PPJ and PDS were significant. Implications for police policy and training will be discussed.

### Perceptions of Procedural Justice among Mental Health Court Participants

Kelli E. Canada, *University of Chicago*  
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There is mounting evidence that mental health courts (MHC) reduce criminal recidivism and increase use of mental health services. The mechanisms that are promoting these changes among MHC participants are less clear in current literature. This study is an exploratory study that investigates the role of procedural justice as a potential mechanism of change. Using a mixed-methods approach to analysis, researchers examined MHC participants' subjective experience, including perceptions of procedural justice in MHC proceedings and in interactions with MHC staff and treatment providers. With the use of structured measures and semi-structured interviews, researchers explored MHC participants' subjective experience of the MHCs and how the current experience compared to previous encounters with the criminal justice system. Further, researchers analyzed the relationship between perceptions of procedural justice and both clinical and legal outcomes. Findings are discussed in the context of emerging literature on MHC outcome research. Implications for practice, policy, and future research are also considered.

### The Relation between Procedural Justice and Therapeutic Jurisprudence

David B. Wexler, *University of Arizona*  
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Procedural Justice (PJ) has been extensively used by Therapeutic Jurisprudence (TJ) to improve therapeutic outcomes of legal arrangements. Procedural Justice is a very important component of psychological work and is now being 'mainstreamed' and taught to judges, police, and other criminal justice/mental health professionals. This is a very positive and important development. However, as this presentation will demonstrate, PJ itself cannot do all the work to prevent reoffending and like matters. This paper examines the relationship between PJ and TJ and urges the dissemination of basic TJ knowledge along with PJ principles.

## 157. Human Rights and Correctional Systems: Therapeutic

### Jurisprudence Reflections from Law and Psychology Part I

The Convention on the Rights of Persons with Disabilities and Correctional Rights Litigation: New Directions for Lawyers and Expert Witnesses?

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Over the past three decades, the U.S. judiciary has grown increasingly less receptive to claims by convicted felons as to the conditions of their confinement while in prison, and it has become significantly more difficult for prisoners to prevail in constitutional correctional litigation. Plaintiffs' lawyers have responded by, in some cases, looking to international human rights doctrines as a potential source of rights; an effort that has met with some modest success, and is supported, in part, by the inclination of other courts to turn to international human rights conventions - even in nations where such conventions have not been ratified - as a kind of "best practices" in the area. The recent publication and subsequent ratification (though not, as of yet, by the United States) of the UN Convention on the Rights of Persons with Disabilities (CRPD) may add new support to those using international human rights documents as a basis for litigating prisoners' rights claims. It is essential that forensic experts working with plaintiff's lawyers in this area of law begin to familiarize themselves with this Convention. In this presentation, I evaluate the Convention's potential applicability, speculate as to how it can be employed effectively in the future, and consider the therapeutic jurisprudence implications of this Convention in this context both for lawyers representing individuals in correctional institutions as well as expert witnesses working with counsel in such cases. I also will consider the implications of these developments for the recently proposed Disability Rights Tribunal for Asia and the Pacific.

### Criminalizing Mental Illness: Bad Public Policy and Human Rights Violation

Ivan Zinger, *Carleton University*  
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An important challenge for many countries, even for advanced democracies, is guaranteeing the human rights of its prisoners. The quality of regard to, and respect for, human rights may impact on the success of prisoners' reintegration and participation in society. This presentation will provide a brief overview of the role and legislative mandate of the Office of the Correctional Investigator, and highlight challenges faced by Canada's Federal prison Ombudsman to ensure human rights compliance of offenders with mental health issues. Offenders with serious mental illness are entitled to programs and services that conform to professionally accepted mental health care standards, yet the number of offenders suffering from significant mental illness being admitted into Canada's penitentiaries is rapidly

increasing, and mental health services continue to be inadequate to address their needs and to the task of preparing them for safe release into the community. Offenders with mental illness are more often unable to complete programs; preyed upon or exploited by others; placed in segregation and isolated from human interaction; classified at higher security levels; and released later in their sentences. It will be argued that the criminalization of persons with mental health issues (often correlated with the reduction of health care services in the community and the introduction of law and order legislative measures), as well as their custody in inappropriate and ill-equipped prison settings, is not only bad public health and criminal justice policy, but a significant human rights violation.

## Mental Health Care in the Community in Uganda

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The lack of Mental Health Care in Uganda causes families to keep the mentally disturbed individuals in their home. Oftentimes, they create havoc in their community by cutting people to death or burning stalls which lead to death. The Law is enforced after deaths have occurred. Many calamities of such a kind have been witnessed in Uganda and some of these cases will be reviewed.

## 158. Human Rights and Correctional Systems: Therapeutic

### Jurisprudence Reflections from Law and Psychology Part II

## Solitary Confinement of Sentenced Prisoners: A Human Rights Perspective

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As early as 1890, the U.S. Supreme Court condemned the use of solitary confinement (*In re Medley*) due its devastating psychological impact on inmates. For the next one hundred years, solitary confinement was used sparingly and briefly. With the get-tough movement in the late twentieth century, the U.S. has returned to a practice deemed barbaric a hundred years earlier. Between 1995 and 2000, the number of inmates housed in isolated segregation increased 40%, although the general prison population increased by only 28% during those years (Vera Institute of Justice, 2007). Upwards of 25,000 inmates are confined



in supermax, and a growing body of research indicates significant psychological deterioration, high rates of suicide, and self-harm. Drawing on interviews by the author of over three hundred inmates in supermax prisons, this paper will examine conditions and penal practices from a human rights perspective. It will critically analyze findings from a recent longitudinal study conducted by the Colorado Department of Corrections, which found that supermax housing does not adversely affect inmates' mental health. In addition, it will consider the radically divergent responses of two state prison systems (New York and Mississippi) in the face of litigation. While New York State has made only minor improvements in supermax conditions and treatment availability for inmates with mental illness, Mississippi safely reduced its supermax population by an astounding 85%.

### Utilizing Forensic Psychology to Enhance Dignity: Addressing Moral Rights in Offender Rehabilitation

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In Australia, existing court-based avenues for protecting prisoner rights may be inadequate, but this does not mean that offender rehabilitation cannot be applied while enhancing offender dignity. Offender rehabilitation should effect criminal justice policy that is evidence-based (it works) and ethical (it is the right thing to do). A forensic psychology framework can apply therapeutic jurisprudence and international human rights to offender rehabilitation. Based on various United Nations documents, corrections should respect human rights, human dignity, and fundamental freedoms (including protection against cruel, inhuman, or degrading treatment and the provision of care, treatment, and rehabilitation). Ward & Birgden (2007) have developed a human rights model to be applied in corrections. We have argued that human rights are made up of legal rights prescribed by particular laws, social rights guaranteed by corrections, and moral rights underpinned by an articulated stance; a humane approach to offender rehabilitation. In terms of moral rights, the core values of freedom and well-being are required to protect the inherent dignity of offenders. Freedom may be curtailed (based on rational justification) but well-being should not be worsened as a result of imprisonment. This paper will demonstrate how a humane offender rehabilitation model may be applied to prison settings without compromising safety and security.

## A Good Live Framework for Ensuring Human Rights in Juvenile Justice

Sharon Casey, *Deakin University*  
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Article 40.4 of the Convention on the Rights of the Child (CRC) stipulates that a range of options should be made available for dealing with young offenders to ensure they are dealt with in a manner appropriate to their well-being and in a way that is proportionate to both their circumstances and the offence in question. The Good Lives Model (GLM; Ward & Stewart, 2003) offers a useful framework within which to make decisions about the best interests of young offenders. While the model has, to date, been used primarily to inform the treatment needs of adult offenders, the domains identified in the model as important to living a “good life” (e.g., healthy living, relationships, self-direction, knowledge) also reflect the underlying philosophy of the CRC. This presentation will illustrate how the GLM can be used in a juvenile justice context to identify the needs of the young offender (and thereby inform judicial decisions about appropriate outcomes), but also how the model can assist the young person to identify their goals and aspirations and how these might be achieved in a pro-social manner.

## Sex Offender Recidivism and a Humanistic Approach to Reintegration into Society

Heather Ellis Cucolo, *New York Law School*  
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States in the U.S. have enacted laws to contain sex offenders both in and out of society. Offenders removed from society by either incarceration or civil commitment are not adequately prepared or assisted when re-integrated back into the community. Once in society, offenders are ostracized and treated inhumanely. In my presentation, I will discuss how current laws are anti-therapeutic and inhumane. I will also suggest that separate, specialized courts are necessary to assist offenders in their transition to and adjustment in the community. Finally, I will discuss the UN Convention on the Rights of Persons with Disabilities and how that model can be applied in the humane treatment of offenders.

## 159. Judicial Perspectives on Therapeutic Jurisprudence in Australia

### Incorporating Therapeutic Jurisprudence into Mainstream Courts

Ian Dearden, *Queensland District Court, Beenleigh, Australia*  
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Therapeutic jurisprudence (TJ) principles have underpinned much of the progress in Australia and elsewhere of “special purposes” courts. There is still, however, much which needs to be done to incorporate TJ into the framework of the mainstream higher courts. The District Court of Queensland deals with a wide range of serious criminal offences, with the exception of murder, manslaughter and major drugs offences. It also has a wide civil jurisdiction. This presentation will examine practical steps which judicial officers can take to incorporate TJ into their daily court routine, serving to improve the quality of justice outcomes for all participants in the process, and to substantially increase the job satisfaction of the judicial officers concerned.

### Promoting Best Practice in Family Violence Courts in Western Australia

Brian Gluestein, *Magistrates Court, Rockingham, Australia*  
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In the metropolitan area of Perth, Western Australia, family and domestic violence courts have been operating in an informal way for several years but without any legislative support or status. Apart from a limited evaluation of the pilot court program, there has not been any formal analysis or review of the success of those courts. It is submitted that this lack of evaluation is impeding the further development and roll out of such “problem solving courts” in the State. There is a formidable case for legislative recognition of such courts and the adoption of therapeutic practices in domestic violence cases. Given positive outcomes of such courts in other jurisdictions, Western Australian courts are well placed to benefit from this success and experience. This presentation proposes a model for family violence courts in Western Australia that draws from best practice in family violence courts in other jurisdictions.

### Implementing Therapeutic Justice in Mainstream Summary Courts

Maxine Baldwin, *Magistrates Court, Gympie, Australia*  
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The development of specialised courts adopting a more therapeutic approach to justice has seen a greater emphasis on problem solving, particularly in the areas of drug and alcohol

abuse, mental health and indigenous defendants. However many non-metropolitan regional centres do not have access to specialised courts and often not the numbers to justify their establishment. Nonetheless, regional communities face increasing crime especially alcohol and drug fuelled as well as domestic violence and child protection issues all calling for a different approach. By calling the community together to be active participants in a problem solving approach, a greater understanding is forged to avoid public backlash and assist in developing a wider community effort in addressing issues and solve problems which underlie criminal behaviours. By integrating the resources of the community into local courts, a better understanding of the criminal justice system is promoted and a therapeutic approach is afforded a better chance of success.

### Mental State Defences: Interaction with the Mental Health Courts in Australia

Terry Hutchinson, *Queensland University of Technology*  
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Criminal law is a matter of state jurisdiction in Australia. This presentation examines the current Australian mental health legislative context including the history of the insanity and diminished responsibility defences in the various state jurisdictions. It compares the differences in structures and relevant terminology between the states. In doing so, it seeks to evaluate the efficacy of the mental health court and tribunal infrastructures and the interplay with the criminal courts as they operate in the various state jurisdictions.

### The Practical Mechanics of Construction and Delivery in a Court

Kieran Boothman, *Queen's University Belfast*  
(boothmak@gmail.com)

The delivery of therapeutic justice through a formal, adversarial court system, requires hard practical decision making. Staff must be selected and trained to assist at all levels. Prosecutors need to be re-trained and everyone needs to deliver quickly at all levels. This requires close liaison with executive government whilst simultaneously keeping it at arms' length. The issue of bail and surety for "voluntary perpetrators" is paramount and the needs of the victim must always be to the fore of the court's procedure. One must avoid "friendship" in the court thus avoiding possible querulous litigants.

## 160. Therapeutic Jurisprudence, Diversion, and Mental Health

## The Role of Service Providers in Therapeutic Courts: Finding a Voice in a Rights-Based Therapeutic World

Lisa Rieger, *Cook Inlet Tribal Council Inc., Anchorage, USA*  
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The therapeutic Family Care Court, in which families in dependency court agree to a more intensive court supervision as a last effort to reunify parents with children rather than terminating parental rights and seeking adoptive placements for the children, usually involve neglect predicated on parental substance abuse. Therefore, a large component of the therapeutic court involves verifying progress in treatment. A team of state social workers, guardians ad litem, and attorneys, as well as non-profit social service providers work together to create a holistic treatment plan that corresponds to court requirements. The treatment provider is placed in the difficult position of trying to create a therapeutic relationship with the parent while also providing evidence for and against the parent in court. Similarly, the attorneys for the parents, steeped in a rights-based legal structure, find themselves potentially compromising on the rights aspects of the case in order to fulfill the therapeutic goals. The guardian ad litem is charged with identifying what is in the best interests of the child in each individual case. In addition, the majority of cases involve Alaska Native families, who represent a disproportionate share of those identified by state agencies. This paper explores the tensions and possibilities of the therapeutic court in child neglect cases in Anchorage, Alaska, with particular emphasis on the cross-cultural issues that affect outcomes arising out of Alaska Native families operating in a western legal system.

## Advocating for Access to Treatment-Oriented Dispositions for Defendants with Mental Illness

Brian Shannon, *Texas Tech University*  
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In April 2010, the Texas Task Force on Indigent Defense concluded a two-year evaluation of two models of specialized attorney advocates for defendants with mental illness: mental health public defenders and mental health courts. The project was supported in part from a grant from the State Justice Institute, and I served as an advisor for the study. This data-driven evaluation confirmed that "these criminal justice interventions create means through which a contact with the justice system can be used to address therapeutic needs of people

with mental illness." The study also revealed that the more months of treatment people with mental illness "receive during the six months following an initial offense, the less likely they are to recidivate." These approaches provide enhanced opportunities for trained defense counsel "to take a leading role in advocating for clients' access to treatment-oriented dispositions." This talk will focus on the findings from this two-year Texas study, and discuss alternatives such as mental health public defenders, mental health private defenders, and mental health courts. Even within an adversarial judicial process, these processes can promote therapeutic alternatives.

### Mentally Impaired Offenders - Does Therapeutic Jurisprudence Require Special Courts?

Michelle Edgely, *Griffith University*  
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Therapeutic jurisprudence, as applied in various special court programs in many parts of Australia and the world, offers a special, boutique brand of sentencing justice to various classes of targeted offenders. This paper will briefly discuss two programs developed for mentally impaired offenders in Australia: Queensland's Special Circumstances list, which operates within the Brisbane Magistrates Court and the Magistrates Court Diversion Program in South Australia. The author will contrast sentencing under these programs with sentencing in mainstream courts using theoretical analysis and then an outcomes-based analysis. The presentation will consider whether 'special court' programs have anything to offer sentencing in mainstream courts or whether, alternatively, the impact of these programs is likely to be limited to those involved in the cases that come before the 'special courts'.

### Mental Health Courts and Diversion: Clinical Perspectives

Shaheen A. Darani, *The Centre for Addiction and Mental Health, Toronto, Canada*  
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The Canadian criminal justice system has had to deal with increasing numbers of mentally disordered accused. The courts have become the social safety net of last resort as a result of deinstitutionalization and inadequate community-based treatment for the mentally ill. The emergence of mental health courts, in particular diversion programs, is a novel response to address the unique needs of the mentally ill accused. One major initiative to divert mentally

ill adults to community care in a Unified Mental Health Court in Toronto, Canada, will be described.

## Diversion from the Criminal Justice System - A Foucauldian Analysis

Leon McRae, *University of Nottingham*  
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Our understanding of the decision-making processes behind the diversion of specific offenders with mental disorder from prisons to forensic hospitals during sentence under section 47 of the Mental Health Act 1983 is hampered by a focus on the decision-frame of clinicians (mostly psychiatrists). Accounts of how service users approach decisions concerning their future care and detention are largely ignored. This empirical study addresses this shortfall, and draws on the findings of qualitative interviews with service users who were successfully admitted to a medium-secure unit in England from various prisons, as well as all members of the multidisciplinary team involved in pre-admission assessment. The findings reveal that service users are highly 'active' in their engagement with the process: for instance, employing strategies to increase their chances of admission. Questions such as their underlying motivation for engagement with treatment are explored.

## 161. Therapeutic Jurisprudence as a Frame for Health Policy

Therapeutic jurisprudence (TJ) has grown in prominence over the past two decades as a means to reappraise the law and legal process. In recognition of the myriad of ways that law may have positive or negative therapeutic consequences on individuals, the past few years have seen in TJ's adoption extend beyond historical use in mental health law to a variety of areas, e.g., family law, bankruptcy law, and even military law. The panel chair (Campbell) has begun to explore whether TJ could further extend its reach from law-implementing to law-making endeavors. That is, what is the value of TJ as a frame for health policymaking in order to enhance the positive therapeutic consequences of policy-making and resulting policies, or at least to ameliorate the harmful consequences?

This session will begin with a brief overview of how TJ might conceptually be used to frame health policy (Campbell). The first two papers will cover health policy decision-making at the end of life. One paper will focus on how TJ could inform the current U.S. health care reform law's support for removing barriers between palliative and curative treatment in current hospice funding policy (Cerminara); the other will discuss a need for greater racial and

ethnic sensitivity in hospice policy (Perez). The next paper will offer a broader international perspective on the role of apology in public health systems and policy (Davidovitch and Alberstein). The final paper will shift the focus of attention to the education system, indicative of the “reach” of health-related policy beyond traditional health systems. This paper will explain how TJ could guide our understanding of the therapeutic impacts of special education and disability law (Peterson). These paper presentations will be followed by a brief commentary to summarize key themes across papers and suggested next steps in the evolution of the use of TJ to frame health (as broadly understood) policy. The session will conclude with time for questions from and discussion with the audience.

The goals of the session will be two-fold: (1) to briefly introduce TJ as a possible frame for health policymaking and (2) to offer, through the papers, tangible examples of what this might look like. It is hoped audience members will walk away with a greater understanding of the core concepts, at the theoretical and applied level.

### Hospice and American Health Care Reform

Kathy L. Cerminara, *Nova Southeastern University*  
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Most dying patients in America must accept the inevitability of impending death and renounce curative treatment for their terminal illnesses before their insurers will fund hospice care, largely because that is what the law governing the Medicare system provides. Such a state of affairs is far from optimal, for hospice services provide both physical and psychological benefits long before patients have accepted their fates. Health care reform in America may have paved the way to a more therapeutic method of funding hospice services, however. The new law authorizes demonstration projects in “concurrent care,” pursuant to which the currently existing false dichotomy between palliative and curative care would be eliminated. Such projects could provide empirical research supporting a change in the law and resulting in a more therapeutic system of funding hospice care for dying patients.

### Culture, Hospice and Minorities: Are Current Policies Negatively Impacting Hispanic’s and African-American’s Access to End-of-Life Care?

Alina M. Perez, *Nova Southeastern University*  
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Hospice services may provide invaluable physical and psychological benefits for many dying patients. However, current policies governing the provisions of those services may serve as barriers to access for some ethnic and racial minorities. Cultural practices and beliefs strongly influence how members of particular ethnic and racial groups deal with devastating news of a terminal illness, the type of services they may prefer at the end of life, and their acceptance of established policies. Existing requirements for access to hospice services may bring anti-therapeutic psychological consequences to individuals from some minority groups that may result in poor quality of care at the end of life and/or overall poor utilization of hospice services. Statistics show that Hispanics and African Americans use hospice services in disproportionately low numbers as compared to whites. A careful analysis of existing policies and their relationship with cultural practices and beliefs by these minority groups is the first step toward creating new policies or changing existing ones. Such changes may positively impact not only the psychological well-being of dying individuals and their families but may also improve access, quality, and cost of care at the end of life.

### Apologies in the Health Care System: From Clinical Medicine to Public Health

Michal Alberstein, *Bar-Ilan University*  
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Nadav Davidovitch, *Ben Gurion University of the Negev*  
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In this presentation we explore the role of apologies in the health care systems. In recent years both formal and informal initiatives have been promoting the inclusion of apologies in medical education, clinical practices and even as a legal requirement. After analyzing this relatively new trend, we move from the individualistic expression of apology within the doctor-patient relationship context to the collective expression of apology expressed in public health traumatic event. This tension between the individual and the collective aspect of the trauma felt by those exposed to either mistakes or even negligence, bring the different roles and practices of apology options. While some promoters of apologies in the health care system emphasize the utilitarian and economic advantages of such practice, we situate apologies in the medical and public health realm within broader social and political contexts.

### Caught in the Cross-Fire—The Psychological and Emotional Impact of the Individuals with Disabilities Education Act (IDEA) upon Teachers of Children with Disabilities: A Therapeutic Jurisprudence Analysis

Richard M. Peterson, *Pepperdine University*  
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This presentation addresses the psychological and emotional impact that the Individuals with Disabilities Education Act (IDEA) has upon teachers in the United States as they attempt to fulfill the various roles and expectations placed upon them by statute, regulation, administrative policy, and by parents of the children they serve. For nearly thirty-five years teachers and parents have been statutorily mandated members of a team of individuals who are supposed to develop an Individualized Education Program (IEP) for each child with a disability. However, parents and teachers are not the only required members of the child's IEP team. Among others, the local education agency is required to provide an administrator on the team who is knowledgeable about the availability of the school district's resources and an individual who can interpret the instructional implications of a child's assessments and evaluations. While Congress envisioned that these IEP team members would engage collaboratively to fulfill the purposes of the Act, the reality is that the process has been fraught with conflict between school districts and parents from its beginnings, and this toxic environment has significantly impacted teachers. Teachers are not only the primary educators responsible for the success of a child's IEP; they are also the daily face of school district educational policy and practice. Too often teachers are caught in the cross-fire between school district policy and the expectations of parents. Underlying this paradigm is the teacher's own judgments and values which may or may not be consistent with those of the school district and which are often muted either by the direct command of superiors, intuition that speaking out may constitute a "career choice," or by perceived negative consequences associated with a number of factors including the personality of team members, attitudes and behaviors of parents, institutional culture, or the complexity and difficulty of the child's educational needs. This presentation will evaluate these issues through the lens of therapeutic jurisprudence and will be accompanied by a paper on the topic.

## 162. Utilizing Therapeutic Jurisprudence to Enhance Outcomes in Tribunals and Courts: Immigration, Tax, Social Security, Child Support and Mental Health Courts

## Therapeutic Jurisprudence in the Work of Australia's Social Security Appeals Tribunal

Robert King, *University of Queensland*  
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The Social Security Appeals Tribunal (SSAT) has jurisdiction in relation to two areas of Australian law: the law regulating qualification for and provision of a range social security payments such as unemployment payments, disability payments and age pensions; and the law regulating the assessment and collection of child support payments from one parent to the other following separation. These are areas of law that strongly impact on the welfare and security of people who are in many cases vulnerable by reason of poverty, impairment, age or emotional insecurity. This paper examines the extent to which principles of therapeutic jurisprudence (TJ) inform both the relevant law and the operational principles and procedures of the SSAT. The scope and limitation of TJ in the work of the Tribunal is illustrated through reference to specific cases.

## Therapeutic Jurisprudence in Taxation Enforcement

Luis Osuna Sánchez, *Deakin University at Waterfront Campus*  
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The relationship between the taxpayer and the State is one of the longest in the life of an individual and it is important that it be as healthy as possible. Since Taxation is a very sensitive topic, law, procedures and the treatment from tax authorities have an impact on the emotional wellbeing of the citizens triggering emotions as anger, anxiety, fear, guilt, shame, hopeless, and so on. The principles promoted by Therapeutic Jurisprudence (TJ) such as voice, validation, self-determination, and respect are also necessary in taxation and it is imperative that the undesirable negative effects that emerge in the tax practice start to be taken into consideration and ways to minimise them be implemented. To date, a TJ framework has not yet been proposed for use in the taxation setting. The lack of implementation of the TJ approach to taxation can be attributed to various causes, but is not due to the absence of emotional consequences on taxpayers' wellbeing caused by the tax law and procedures. Based on face-to-face interviews with Australian taxpayers who were deemed to be abusing the system by the Australian Taxation Office, I will show some of the negative consequences on the psychological well-being of the taxpayers that can emerge when taxpayers have an encounter with tax authorities. Furthermore, I argue that procedural justice can be used as a tool for tax authorities to introduce therapeutic goals.

## Rights as Lived: A Therapeutic Jurisprudence Analysis of Child Support

Shelley Kierstead, *Osgoode Hall Law School at York University*  
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In earlier work I have raised issues relating to Canada's child support regime. Specifically, I have queried: (1) whether the balancing of interests undertaken in recent Supreme Court of Canada jurisprudence may result in an approach that is inconsistent with the objectives of the federal child support legislation; (2) whether the onus placed on recipient parents within the current regime is based on assumptions about women that are not borne out in their daily lives; and (3) whether the current approach to enforcement of support obligations may increase conflict within post-separation families. Affirmative answers to these questions may point to a regime containing significantly anti-therapeutic elements. I now aim to probe these questions by conducting a number of focus groups with child support recipients and payors. The sample will consist of between 5 and 8 individuals within each of 4-6 focus groups. While small in scope, the research will explore the "life as lived" of those who have direct contact with the child support regime. It will also serve as a vehicle for revealing further avenues for more broad-based research about the therapeutic and anti-therapeutic aspects of the child support regime. The focus groups will be conducted during summer and fall 2010, and my presentation at the July 2011 conference would consist of a discussion of the outcomes from the focus groups, situated within a Therapeutic Jurisprudence framework.

## Situations Which May Lead to Anti-Therapeutic Consequences in Mental Health Courts

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Charles Amrhein, *Bronx TASC and Mental Health Court, New York, USA*  
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Applying the principles of Therapeutic Jurisprudence (TJ), Mental Health Court (MHC) was created approximately 13 years ago in the United States to divert individuals with mental illness out of the criminal justice system and into community treatment. These special problem-solving courts apply a rehabilitative philosophy to certain types of cases under the assumption that treatment is more appropriate than punishment for some individuals who

suffer from mental illness (Petrila, 2003). In the context of MHCs, principles of TJ are applied not only by defense attorneys, but also by prosecutors and judges, who all adopt new roles by considering the psychological impact of defendants' legal choices with the aim of using the law to facilitate therapeutic consequences (Stolle, Wexler and Winick, 2000). MHCs have grown rapidly from two in 1997 to at least 150 in 2008 (Council State Governments, 2008). However, this proliferation has responded to a need to address the frustrations of the criminal justice system in managing a large number of defendants with mental illnesses and not necessarily to an empirical database demonstrating their efficacy (Steadman & Naples, 2005) or even a clear definition of what should be considered effective criminal justice diversion. This rush in the creation of jail sentencing alternatives has frequently led to poor implementation of MHCs and diversion programs which can actually result in anti-therapeutic consequences for the defendants involved. For example, with the goal of quickly linking defendants into treatment, plea agreements may be hurried. This can lead to pleas being taken by defendants who are not competent or fully informed about the mental health court process and treatment requirements. In addition, with the goal of minimizing defendants' jail time, treatment planning may be rushed, resulting in the placement of individuals with mental illness in treatment programs that do not match their individual needs appropriately. Through years of experience assessing and monitoring MHC participants, the presenters have become more alert to situations in which participation in a MHC might lead to anti-therapeutic consequences for defendants. This presentation will also suggest that may help avoid these damaging effects and optimize the emotional and psychological consequences of defendants' legal choices, as initially intended by the principles of TJ.

## 163. Analysing, Promoting, and Establishing Therapeutic

### Jurisprudence and Problem Solving Justice

#### Analyzing the Normative Nature of Therapeutic Jurisprudence

Dale Dewhurst, *Athabasca University*  
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Recent writings have debated TJ's normative nature. Some proffer TJ as the potentially dominant legal paradigm, capable of reinventing law and justice systems at their core. Critics assert that TJ: violates zealous representation and the right to effective assistance of counsel; is inappropriately patronizing; allows indeterminate sentencing; raises due process

issues; and violates individual rights. Strong arguments are presented on both sides of the debate but the conclusions are far from final or ultimately convincing. I have recently argued that adopting an Aristotelian natural law virtue theory of justice and drawing clear distinctions between three different normative levels (legal practice, legal theory, and legal order) provide the necessary tools to clarify these debates and support more definitive conclusions. In keeping with this approach, this paper argues that TJ is normative at the level of legal practice and perhaps at the level legal theory. However, TJ doesn't provide a higher order source of legal order norms. Further, the refutation of TJ as a source of legal order norms is critical for TJ to remain respectful of people's individual and cultural values; and, to uncover the relationship between TJ and the adversarial system as two parallel vectors in the comprehensive justice movement.

### Problem Solving Courts as Role Models for Justice in a Sustainable Society: Culture Style Assessments of Traditional Court Litigation, Mediation, and Problem-Solving Courts Compared.

Alexander F. de Savornin Lohman, *Attorney-at-Law, Utrecht, The Netherlands*  
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Organizational culture style assessments are appropriate means to improve the effectiveness of court systems and judicial practices. Human Synergistics' OCI Circumplex® organizational culture assessments created for mediation, for traditional court litigation, and for problem-solving courts unveil hidden working dynamics of these systems, dynamics that are responsible for the degree to which the system procures constructive outcomes. The OCI Circumplex matrixes distinguish twelve different culture styles, divided in Constructive styles, Aggressive-Defensive styles, and Passive-Defensive styles. Scores in Constructive culture styles represent the degree to which the system is aimed to procure outcomes that are constructive for the parties and so contribute to sustainability of society. Problem-solving courts and mediation appear to establish constructive culture style dynamics that foster sustainable outcomes. Traditional court litigation, missing a constructive culture style constellation, establishes anti-therapeutic dynamics that harm relationships. By consequence court litigation does not contribute to sustainability of society. The analyses unveil that judicial power can be a very strong agent to support sustainability of society, provided that it is applied in a constructive culture style constellation.

### Therapeutic and Other Jurisprudences – Lessons from Promoting Therapeutic Jurisprudence in Israel

Karni Perlman, *Bar-Ilan University*  
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Following our attempts to promote a broader recognition of TJ in Israel, we referred our efforts to three main groups. The target audiences were (1) legal professionals (basically lawyers and judges), (2) law students, and (3) professionals in other relevant fields, such as psychologists and social workers. Our goal is to spread the idea of TJ, to instill a more therapeutic attitude in lawyering and judging, and to establish problem-solving courts, especially those dealing with drug-related offenses.

To achieve these goals, we have done the following: published articles about TJ in Hebrew, organized conferences, allowed clinical students to participate in research investigating the level of therapeutic sensitivity in the courts, organized an advocacy group of those interested in the subject, integrated TJ studies in our law courses, and more. While doing the above I found that giving a different emphasis with each target group was very useful. For law students and the academic legal community, TJ is better understood and accepted if presented along a historical- ideological continuum. Relating to former jurisprudences or movements, such as Legal Realism or Cultural Feminism, can help this audience to better understand the essence of the new jurisprudence, and not to reject it as non suitable to the local legal system. For those in legal practice and for policy-makers, it is worthwhile to emphasize the promise that TJ offers of achieving qualitative results. For both groups, comparisons with other current movements, such as ADR and Restorative Justice, are also recommended. Referring to other legal movements can help to identify the TJ movement, to better define it as jurisprudence, to give content to the therapeutic role, and to ease the assimilation of some TJ ideas into the system.

This lecture will describe some of the main activities that we have undertaken to promote TJ in Israel, the content of the comparisons we have made with other jurisprudences, and some of our conclusions to date.

### The Main Game – Adjudication or Therapy?

Nigel Stobbs, *Queensland University of Technology*  
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A critical conceptual barrier to mainstreaming the principles of therapeutic jurisprudence is that in most, if not all, jurisdictions, a court exists primarily as a forum of adjudication. This

is usually a constitutional, legal, ethical, and practical reality. Given the rate at which the so-called problem solving courts are developing, the continuing dilution of the adjudicatory function of judging and the demands of the community for real solutions to deviant, tortuous, and unlawful behaviour, we need to ask whether the institution of 'the court' as anything other than a tribunal of law and fact is redundant. This paper proposes that the future of the problem solving jurisdictions may lie in the separation of the judicial and treatment roles into discrete fora, presided over by people with different skills and outlooks, rather than in the mainstreaming of TJ practices.

### Win-Some-Lose-Some Mode of Conflict Resolution: Therapeutic Jurisprudence, Pre-Adjudication Mediation and Muslim Positive Law

Muhammad Ahmad Munir, *Islamic Research Institute, IIU, Islamabad, Pakistan*  
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In this presentation, I will argue that in Islamic legal system arbitration and conciliation have precedence over the formal procedure of legal adjudication. In line with the modern concept of therapeutic jurisprudence, in Islamic legal system, it would be neither sufficient nor even correct to dwell on the law court as the exclusive vehicle of conflict resolution. What goes on both outside the court and prior to bringing litigation before it are stages of conflict resolution that are just as significant to the operation of legal system as any court process. Muslim jurists instructed disputants and qādīs alike to first consider intermediary arbitration to resolve conflicts. A judge might opt for conciliation in lieu of proceeding to trial, either steering disputants towards therapeutic settlement on their own, with the assistance of mediators, or mediate the case himself. Islamic legal debates on arbitration and intermediary conciliation during the formative period of Islamic law show that arbitration and mediation are integral to the legal system and the legal process and they even stand paramount over court litigation, which was usually seen as the last resort. Thus, a significant feature of mediation/arbitration is the win-some-lose-some mode of conflict resolution, which avoids all-or-nothing solutions at any cost. On the other hand, Muslim jurists struggled to balance competing ethical and religious ideals: those of conciliation and compromise with those of truth and justice. It is noteworthy that in some situations, the individual's right to his full legal entitlement should be upheld, and arbitration and conciliation should not be given precedence over the formal, truth-finding procedure of legal adjudication.



## 164. Snatching Wellness from the Jaws of Law School: Law Student Distress and What We Can Do about It

In recent years, Professors Ken Sheldon and Lawrence Krieger have empirically documented the alarming incidence of distress among law students. Their work has confirmed results of earlier studies finding a disproportionate prevalence of depression, substance abuse, and other dysfunction among law students and lawyers. In addition, Sheldon and Krieger have identified affirmative steps that both individuals and institutions can take to counteract what Krieger has called, *The Hidden Sources of Law School Stress*. The panelists will present some of Sheldon and Krieger's findings, and a number of institutional and individual responses to the problems they have exposed, to help our law students and the lawyers they will become, not only for their own sake, but for the benefit of the clients they will serve.

### The Role of the ABA Commission on Lawyer Assistance Programs in Promoting Law Student Wellness

Orgena Lewis Singleton, *South Texas University College of Law*  
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This talk will present some of Sheldon and Krieger's findings and describe the ABA work with American law schools to address those concerns. In response to the work done by the Association of American Law Schools' Special Committee and documented in its Report on Problems of Substance Abuse in the Law Schools (1993), the American Bar Association's Commission on Lawyer Assistance Programs (CoLAP) created the Law School Assistance Committee. In its mission to address substance abuse and mental health of lawyers at the earliest, most pragmatic stage, the Law School Assistance Committee published *Substance Abuse in Law Schools: A Tool Kit for Law School Administrators* and provided input for the ABA Law Student Division's Law Student Tool Kit for Mental Health. Dean Singleton will describe these and other efforts by which the Law School Assistance Committee promotes institutional and student awareness regarding mental health and substance abuse issues, and provides technical support for their redress.

### The Role of the Law School, the Faculty and the Administration in Promoting Law Student Wellness

Marjorie A. Silver, *Touro Law Center*  
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This talk will present institutional and individual changes that law schools, administrators, and faculty can easily employ to address law student distress and enhance student well-being. Towards this end, Professor Silver will report on the initiatives with which she has been involved at her own school, Touro Law Center. These include stress relief groups based on Krieger's *The Hidden Sources of Law School Stress* and Lawyer Assistance Program panels as a component of continuing orientation for first year students, and, just instituted this year, a school-wide peer assistance program, Students Helping Students.

### The Role of the Classroom, the Teacher and the Student in Promoting Law Student Wellness

Corie Rosen, *Arizona State University*  
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Drawing from the vast teaching and learning literature and the therapeutic literature of Positive Psychology, Professor Rosen will demonstrate teaching principles that empower students to feel and be in control of their own learning, to experience setbacks in a way that promotes resilience, to view the learning experience as a process of trial and error--rather than as a demonstration of intelligence, and to promote student happiness and academic well-being.

### The Role of Contemplative Practices in Promoting Law Student Wellness

Rhonda V. Magee, *University of San Francisco*  
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Neuroscientific and psychological research indicating the efficacy of mindfulness meditation and other contemplative practices as means of reducing stress among the population generally, and among student populations in particular, is mounting. With reference to her research on national trends, and her experience at her own institution, Professor Magee will discuss the movement for inclusion of mindfulness meditation and other contemplative practices in legal education, and its benefits to law students as a skills training aimed at enhancing their capacities to handle stress, enhance well-being and maintain a deep sense of meaning while in law school and throughout their careers as lawyers and leaders.

## 165. Therapeutic Jurisprudence and Multisensory Law

### Impulses from Multisensory Law and Therapeutic Jurisprudence for Better Coping with Client's Stress during Separation and Divorce Proceedings

Erna Haueter, *Attorney-at-Law, Zurich, 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 paper 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 paper 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-verbocentric 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.

### Enhancing the Wellbeing of Individuals Involved in Family Separation: The Therapeutic Benefit of a Narrative/Visual Communication Approach

Nicky McWilliam, *University of Technology*  
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Danielle Jaku-Greenfield, *Barrister and Solicitor, Sydney, Australia*  
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Sensory processing can be viewed as the foundation to a person's development and understanding of reality. In particular, the narrative/visual legal communication approach can provide effective communication, support for individuals, and can assist in the development of children, who are involved in family separation. These types of resources aid lawyers, psychologists, parents and family members in communicating family separation and accompanying changes in the family's situation by providing information and a context. An example of this narrative/visual communication approach is the self-help children's series *Two Birthday Cakes* published and written by lawyers/mediators Danielle Jakub-Greenfield and Nicky McWilliam. Recognising the interests of the children are paramount, this series focuses on the experience and perceptions of the children in a family separation scenario. The narrative/visual process of reading a picture storybook to young children about another family's separation and situation legitimizes the experience and gives broader understanding of the situation to all participants who are reading, looking, and listening. The books promote family reliance as well as continuity of family relationships post separation by emphasizing a very broad definition of family. The central message is that regardless of the nature of, and changes to, the parents' relationship, and physical surroundings, the children's needs remain the same. Increased and constructive communication of feelings is highlighted. By endorsing alternative dispute resolution processes, the books underline the need for future plans to be natted out collaboratively with an understanding of the uniqueness of each family situation.

### Visual Law for Children and Adolescents: A Book on Law, Justice, and Fairness

Caroline Walser Kessel, *University of St. Gall*  
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In legal psychology, many studies show that young children and adolescents have little specific knowledge of the law and particularly of legal proceedings despite being increasingly participatory in these. Conversely, children and adolescents aged 6 – 18 do share an elemental and nuanced understanding of the principles of justice regardless of their age, country of origin, ethnicity, and socioeconomic background, as attested by the multisensory law study "Fair Play," conducted in Zurich, Switzerland, from 2003 to 2005. In this investigation, a total of 700 subjects were able to depict a law text accurately and with full comprehension, meeting standards of legal visualization.

These findings have been channeled into a guide to law and fairness for young people aged 12 - 16. The guide has two purposes: it is structured for school use as well as informal individual reading. Each chapter presents cases and stories encouraging consideration of

relevant legal principles and procedures. International in scope, the book treats law issues broadly, focussing thematically on the ideal of fairness. Nine chapters are dedicated to youth-specific legal questions such as the difference between laws, orders and contracts; the rights of personal property including copyright, liability, criminal, family, and contract law; and, lastly, a discussion relating to clemency (grace) and justice. All chapters are illustrated by historical pictures, comics, photographs, and the children's own drawings. Young readers form an impression of the places where law is practiced by pictures showing the inside of a prison for adults as well as for young people, but also of a lawyer's office to show them where their parents are discussing divorce agreements. Interviews with law practitioners like a judge, a youth judge and a lawyer but also with a client of a lawyer give an impression of how these persons are thinking about law and justice. A short glance back to former times shows how much our legal system is the result of a long tradition and evolution. Questions and tasks in each chapter shall provide space for creativity and reflection. The aspect of fairness is always present and forms the guideline through this book. The big number of pictures and the incentives to own creative activities make this book worth being considered as an example for scientific and applied multisensory law. We hope that this interactive way to explain legal problems to young people will open their mind and awake their interest in law, justice, and fairness.

### Enhancing Client-Lawyer Communication: Integrated Communicative Approaches from Therapeutic Jurisprudence and Multisensory Law

Colette R. Brunschwig, *University of Zurich*  
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In lawyering, the legal problems and related questions are often quite numerous and complex, regardless of whether a family law, a tort law, a criminal law case, or another case is concerned. Faced with this situation, the lawyer may experience great difficulties in intelligibly communicating the multitude and complexity of these problems and related questions to their clients. Consequently, clients may misunderstand or even not understand their lawyers. Such communication difficulties may prevent clients from properly disclosing their emotional needs and from conveying their legal, social, and economic interests. Therefore, this paper explores how integrating approaches from therapeutic jurisprudence and multisensory law could offer sustainable communicative solutions. It outlines how an integrated therapeutic jurisprudence and multisensory law approach could enable lawyers to render their client communication more intelligible, and thus more efficient and effective. It demonstrates that integrating these two approaches provides lawyers with vital tools and methods to enhance client communication and therefore client well-being.

Further developing these tools and methods requires stringent application and examination in legal practice.

## 166. Addressing the Psychological Impact of the Victim/Plaintiff in Civil and Criminal Courts through Trial and Mediation

### Overdrawn Emotional Bank Account: On the Non-Pecuniary Needs of Personal Injury Victims and the Promotion of Emotional Recovery

Arno J. Akkermans, *VU University Amsterdam*  
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A constant outcome of research on the needs and experiences of PI victims is that they appear no less concerned with needs of a non-pecuniary nature than with financial compensation. Psychological research shows that suffering harm from a wrong disturbs the emotional balance between victim and wrongdoer. This can be expressed by the metaphor that the accident also caused an overdraft of the victim's emotional bank account. Proper settlement of PI claims should therefore not only aim to redress the pecuniary harm suffered, but also to close this emotional deficit. The most prominent non-pecuniary need of victims is that the person who caused the harm (and his representatives such as insurers and loss adjusters) acknowledges responsibility in word and deed for the accident and its consequences. This acknowledgement can take several forms. A very tangible one is the offering of apologies. The acknowledgement of responsibility, the expression of empathy, and the undertaking of action (compensation, prevention) are an apology's effective elements. Yet the same elements can also be expressed implicitly by the insurer and his personnel. Not by an apology, but by taking and keeping the initiative in the settlement process, by utilizing the formal legal acknowledgement of liability to bring across also a more symbolic message, and in general by presenting themselves to the victim as the 'owners' of the problem that damage was caused that now has to be confined, assessed and compensated. There is an inherent symbolic message in the way PI claims are being settled, which can be greatly improved by a more active posture and a more conscious approach of the emotional dimension of the settlement process.

### Taking Care of Patients Harmed by Medical Errors in Dutch Hospitals: An Explorative Study

Kiliaan van Wees, *VU University of Amsterdam*  
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It is estimated that each year more than 1,700 people die and more than 30,000 people are harmed by treatment in Dutch Hospitals. Recent reports show that the needs of patients being confronted with adverse outcomes of treatment are often poorly addressed. Patients experience lack of disclosure, do not have access to neutral medical advice, and are being confronted with financial barriers to initiate a claim. This may result in additional physical and emotional damage and inadequate financial compensation of victims. The purpose of this study is to identify the specific needs of patients harmed by treatment and to explore ways to improve the position of patients in the aftermath of (potential) medical errors.

### Recent Developments in Personal Injury Court Proceedings in the Netherlands

Dineke de Groot, *Court of Amsterdam, The Netherlands*  
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The process of assessment of personal injury claims can have a detrimental effect on the victim that is often referred to as 'secondary victimization'. This presentation is about Dutch initiatives to improve this situation within the administration of justice. Recently, a statute introduced a new type of civil procedure for personal injury claims. A party can ask for a limited judicial intervention in the ongoing out of court settlement of a personal injury claim. The court is not to decide on the claim as whole, but only on the particular topic(s) that keep the parties apart. The aim of the court intervention is to enable the parties to return to the negotiation table and to reach a settlement. This mix of dispute resolution mechanisms aims to combine the best of two worlds, negotiation and adjudication, with the purpose to simplify and speed up the settlement of personal injury claims. In addition, it is conceivable within the existing framework of criminal procedure to create another possibility to settle claims of victims of traffic accidents or violent crimes without the need of further litigation. These issues will be presented in the context of opening up new perspectives for courts to contribute to the improvement of the settlement process of personal injury claims.

### Therapeutic Jurisprudence and ADR Models: A Comparison

Sara Quiriconi, *European University Institute, Florence, Italy*  
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According to different authors, the aim of Therapeutic Jurisprudence and of Alternative Dispute Resolution methods seems to be directed towards the same logic of cooperation and collaboration among parties involved into a legal trial. Moreover, the presence of a healing process, designed to gratify interaction and improve satisfaction, is a common feature of the two models. Adding that the focus on individual interests to create additional value at the resolution goes through a complete participation of the clients –and often of the plaintiff too-, offering new opportunities of resolution. However the two informal models are different because TJ realizes its aim through the State’s courts –stressing the judge’s role as a therapeutic agent-, while ADR methods represent a private strategy that should be requested by the subjects interested in following the procedure. In addition, the element of voluntariness of the choice of an alternative method should be a central feature of both models: it is to be hoped that the individual has to be not coercively put into a mechanism that he/she is not asking to follow. The risk is that the elements of satisfaction and beneficial outcomes could not be grasped at all.

## 167. Mental Health Courts

### Mental Health Courts: A Review of Where We Are at with Respect to Establishing Their Efficacy

Richard Schneider, *Ontario Court of Justice, Toronto, Canada*  
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Mental health courts have been making an ever-increasing presence in the criminal justice systems throughout North America and Australia. These courts, based upon principles of therapeutic jurisprudence, began to appear in the 1990’s and have been enthusiastically embraced as partial solutions to the influx of mentally disordered individuals into the criminal courts. Curiously, their proliferation had preceded any empirical support as to their efficacy. Many authors have brought this reality to light and have advocated for more and better designed research efforts aimed at answering basic questions such as for whom do these courts work? In what ways? Under what circumstances? Recently, research has been reported which is beginning to answer some of these questions. This presentation will bring us up to date with respect to what the research is beginning to show, caveats which still must be recognized, and where we should be going in the future.

### How Mental Health Courts Function: Outcomes and Observations



Kelly Frailing, *University of Cambridge*  
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The present study examines legal, service use, and substance abuse outcomes for a sample of participants in the Washoe County, Nevada MHC and suggests what occurs during MHC enrollment that is associated with these outcomes. A comparison of participants and graduates to a comparable control group reveals significantly fewer jail days for the MHC participants and graduates, both when measured against the control group and their own pre-mental health court histories. There was also a significant drop in psychiatric hospitalization days for the MHC participants and graduates and a decrease in positive drug and alcohol tests over the course of enrollment in the court. Observations of the MHC sessions reveal a nonadversarial atmosphere in which participants interact directly with the judge and in which praise and encouragement are issued far more often than sanctions. These interactions with the judge, which are frequent and common among all MHC participants who are engaged in the process, are associated with the observed outcomes and serve to contextualize them. It is imperative that research continue on a variety of aspects of the MHC process to determine whether these courts are truly effective and if so, for whom and why.

### Why the Dutch Do Not Have Mental Health Courts

Michaël van der Wolf, *Erasmus University Rotterdam*  
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Merel Prinsen, *Tilburg University*  
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In this presentation the speakers explain why there are no mental health courts in The Netherlands. As essential objectives underlying these Courts are mentioned; expediting the assessment of the accused's fitness to stand trial, diverting and decriminalizing perpetrators of minor offences, treating the accused's operative mental disorders, and addressing the so-called "revolving door" phenomenon (Scheider et al, 2007). In The Netherlands these

objectives are either less relevant, for example in an inquisitorial justice system fitness to stand trial is less of a concern, or met through different means. Diversions to treatment facilities (either belonging to the mental health- or criminal justice system) are possible in all stages of the criminal process (the discretionary decision to prosecute, the pre-trial detention, the sentencing, and the execution of the prison sentence), for notions of care and special prevention. But even though there is a lesser need for Mental Health Courts in the Netherlands, it does not mean that certain features of those Courts (such as the practice of problem solving and the emphasis on decriminalizing) would not be of added value in the Dutch system, since the presence of legal provisions does not necessarily entail the appropriate application of those provisions in practice.

### Successful Completion of Mental Health Courts

Virginia Aldige Hiday, *North Carolina State University*  
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Heathcote W. Wales, *Georgetown University Law Center*  
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Bradley Ray, *North Carolina State University*  
(brray@sa.ncsu.edu)

This presentation will examine court process variables as possible predictors of graduation from a large metropolitan mental health court with high caseloads in the United States. The court accepts competent mentally ill arrestees charged with misdemeanors and monitors them for treatment and behavior compliance at monthly status hearings. All participants are represented by council, receive case management from a mental health unit of the judicial district's pretrial release service, are linked to mental health treatment, and for those with substance abuse, receive drug testing and treatment from the judicial district's drug program. The sample will consist of all participants in the first two years of the court's operation (N = 548). Completers will be contrasted with those who opted out and those who were ejected from the court on the process variables of length of court participation, frequency of contact with the court and with case managers, frequency of treatment, frequency of drug testing, and substance abuse compliance. In multivariate analysis, controls will be placed for socio-demographic, clinical and-criminal history variables.

## 168. Implementing Drug Treatment Courts: The International Experience

This panel, composed of representatives from seven countries who have been involved with the operation of drug treatment courts (DTCs), will address common issues relating to the implementation of these programs in their respective countries. Topics will include: (1) rationale for creating DTCs and impacts to date; (2) changes in the traditional criminal justice and treatment service delivery processes resulting; (3) targeting populations and lessons learned; (4) anticipated and unanticipated challenges encountered; and (5) plans for the next year.

### Jamaica

Henry Winsome, *Montego Bay Resident Magistrate Court, Montego Bay, Jamaica*  
(winsomehenry-06@hotmail.com)

### Mexico

Jorge Luis Mancera Maldonado, *Treatment Center for Drug Court, Nuevo León, Mexico*  
(drjorgemancera@hotmail.com)

Salazar Jesus Villegas, *Addictions and Mental Health Department of the Ministry of Health, Nuevo León, Mexico*

### United States

Rogelio Flores, *Santa Barbara County Superior Court, Santa Barbara, USA*  
(rflores@sbcourts.org)

## 169. Teaching Social Justice and Communication Skills to Law Students In Order to Enhance Therapeutic Outcomes

The Ultimate Challenge: Teaching and Learning Law in a Rapidly Changing Social, Economic, and Intellectual Environment - A South African Perspective

Enid Coetzee, *University of Johannesburg*  
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Elmarie Fourie, *University of Johannesburg*  
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In a rapidly changing social, economic, and intellectual environment it is imperative that teaching and learning should transform from the primary concern with the transmission of knowledge (learning about) to a primary concern with the practices of a knowledge domain (learning to be). This presentation will illustrate the challenges in teaching first year law students and the difficulties associated with the diverse social, cultural, economic, and linguistic background of our students in South Africa. As legal professionals, they will encounter clients from similar backgrounds. Law lecturers in South Africa have a responsibility towards both students and the community to incorporate therapeutic jurisprudence methods in their teaching. The paper will investigate the use of mooting and other legal skills as therapeutic jurisprudence methods to allow students to experience knowledge as a process and instrument of inquiry to solve problems. Teaching methods include role play to transform knowledge to encompass more than mere conveying of facts, equipping students with an enquiring mind and the creation of a learning environment that supports collaboration and to encourage students to act purposefully in such an environment. The authors will consider the teaching of first generation students and how to overcome the existing social, cultural, economic, and linguistic barriers, whilst upholding guiding values, such as integrity, respect for diversity, and human dignity.

### Therapeutic Jurisprudence and the Mechanics of Mediation: Looking at Community Programs

Nicky McWilliam, *University of Technology*  
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Preliminary findings of a recent study of a school mediation program emphasise the critical importance of training students to participate effectively so as to optimise therapeutic outcomes for themselves and other constituents in the school community. The peer mediation program under study incorporates critical elements of processes which have been suggested in TJ literature to be therapeutic, and there are parallels between the peer mediation program and processes described in TJ literature. Preliminary findings highlight the lack of attention paid by the legal system to valuable scholarship in the area of school

conflict resolution and peer mediation and when viewed through a TJ lens may provide valuable insights into how to optimally configure programs for development and adoption in schools and other community settings. Furthermore there may be implications for the understanding and development of legal processes and the law in general.

## Turning the Tables on the Holocaust: Using the “Rescuers” to Teach Social Justice

Christina A. Zawisza, *University of Memphis*  
(czawisza@memphis.edu)

An increasingly global characteristic among the millennial generation of law students and young lawyers is the motivation to make a difference in the world as well as a desire to learn from and be mentored by older generations. I apply the Therapeutic Jurisprudence framework, its techniques of rewinding and reframing problems, and its focus on law as a healing profession to discuss the motivations of, not the aggressors, but, rather, the “helpers” or “rescuers” during the Holocaust. I apply this rewound or reframed lens or view of the Holocaust’s lessons and the motivation of the helpers in order to teach, inspire, and guide this generation of students and young lawyers in doing pro bono work and aspiring to careers in social justice. Due to my cultural roots, my research centers primarily but not completely on the Polish rescuers of World War II. The impetus for my application of the TJ lens here comes from a 2004 Global Alliance for Justice Education conference in Krakow on “Using the Example of Lawlessness to Teach Social Justice.” I use concrete examples of how I have applied my research to my teaching and mentoring.

## The Therapeutic Jurisprudence Amicus Brief: Six Case Studies

Bernard P. Perlmutter, *University of Miami*  
(bperlmut@law.miami.edu)

In an article published in a 2002 TJ symposium issue of the *University of Cincinnati Law Review*, *Do Juveniles Facing Civil Commitment Have a Right to Counsel?: A Therapeutic Jurisprudence Brief*, Professor Bruce Winick and Judge Ginger Lerner-Wren urged therapeutic jurisprudence lawyers and scholars to expand the influence of TJ work in the courts by submitting amicus curiae briefs in cases involving issues of public importance. They described the “TJ amicus brief” as a “new frontier” for TJ lawyers and scholars, as well as law school clinics, in contributing to judicial decision-making in a variety of legal contexts.

This presentation explores that new advocacy frontier by describing and analyzing the legal and policy arguments of six TJ amicus briefs submitted by faculty and students at the University of Miami School of Law's Children & Youth Law Clinic in cases involving issues of public importance for children in the state of Florida. Two of the cases were heard by intermediate appellate courts, and four were heard by the Florida Supreme Court. In each of the amicus briefs submitted from 2003 to 2009, the Clinic urged the court to consider therapeutic jurisprudence analysis in its decision-making process. The cases involved the shackling of children in the courtroom; the due process rights of foster children committed to state psychiatric facilities; the rights of foster children in hearings involving the administration of psychotropic medications; a mature minor's right to assert the psychotherapist-patient privilege to limit a guardian ad litem's access to the minor's former psychologist; and a minor's right to claim damages for a breach of confidentiality concerning the minor's sexual orientation by a school chaplain. The presentation evaluates how the filing of such therapeutic jurisprudence amicus briefs contributed to the judicial decision-making process in each case. It also looks at how the preparation of the briefs can serve as an important tool in law school clinical education, providing law students with an opportunity to use TJ policy argument and research to contribute to judicial decision-making in different legal contexts.

## 170. Proactive Strategies and the Use of Therapeutic Jurisprudence in Child Welfare Courts in the United States and Sweden

Improving Outcomes in Drug Court in the Child Welfare System: Results from a randomized study in Miami Dade County, Florida

Jeri Beth Cohen, *Miami Dade County Court, Miami, USA*  
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The Engaging Moms Program is based on multidimensional family therapy and has been adapted for use in family drug court in Dade County, Florida. EMP counselors conduct a series of integrated individual and family sessions organized in 3 stages: Alliance and Motivation; Behavioral Change; and Launch to an Independent Life. EMP was designed to help mothers succeed in dependency drug court by complying with all court orders such as attending and benefiting from substance abuse and other intervention programs, attending court sessions, remaining drug free, and demonstrating capacity to parent her children. The presentation will include an overview of each model, presentation of preliminary data on

treatment outcomes and discussion of the collaborative processes which contribute to their success.

## Child Advocacy Centers in Sweden from a Therapeutic Jurisprudence Perspective

Eva Diesen, *Stockholm University*  
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A study performed in Sweden (2009), comparing districts with and districts without a Child Advocacy Centre (CAC) shows that the establishing of such a centre leads to better interdisciplinary cooperation, more adequate social measures, and a better service for children and parents. But the cooperation itself does not lead to better crime investigations or more prosecutions – other parameters, such as individual competence and interrogation techniques; seem to be of greater importance. The personal involvement, courage, and empathy of the prosecutor are the crucial issue for the prosecution rate.

## Proactive and Therapeutic Ambitions in Swedish Child Protection

Pernilla Leviner, *Stockholm University*  
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Sweden is sometimes advertised abroad as a welfare state being particularly cognizant of the needs of vulnerable groups such as children at risk. Swedish child protection legislation clearly emphasizes the importance of child protection through timely intervention in preventing abuse. Child protection issues have been on the agenda for a long time. Sweden was the first country in the world to introduce prohibition of corporal punishment (anti-spanking law, 1979) and was also one of the contributing countries in the institution of the UN Convention on the Rights of the Child adopted in 1989. Sweden has a long-established and well-developed social security system in regard to families (with 1.5 years long paid parental leave, subsidized day-care, etc.) focusing on general preventive measures.

When it comes to child protection the Swedish legislation strongly emphasize voluntary measures in favor of coercive measures. The latter may be used only in exceptional cases when certain criteria are fulfilled, e.g., if the situation is really serious and voluntary commitments are deemed insufficient. Coercive measures may then be taken and the child may be removed from its home against the parents' will. This is why, even though voluntary solutions are prioritized, and intervention by the state can be seen as a legal obligation if the

child's welfare is at stake. Child protection legislation in Sweden thus includes both proactive and therapeutic elements. Despite the efforts of the child protection system, cases of serious child maltreatment still occur. These cases are then typically followed by a heated debate over why the social services have not discharged their duties and why they have failed to ensure compliance with the legislative intentions in the area. From a legal point of view such high-profile cases raise questions about how capable the legal system and practice really are to provide adequate protection and care for those children in need.

The overall objective of this on-going research project is to analyze the legislative and regulatory frameworks for child protection and also to examine the application of the law (child protection case management including the judicial inquiry in administrative courts), in order to gain a better understanding of the law, its effects and links between theoretical objectives and practical outcomes (law in books and law in action). The key questions concern the implications of goal-regulations with open and vague provision, the meaning and interpretation of the principle of the best interest of the child, the gap between voluntary and coercive measures and the search for a fair balance between children's right to protection and care and the parent's right to respect for his or her private and family life – in other words the complex balancing between intervention and integrity. In presenting these thoughts I would like to discuss the complexity of the Swedish legal and regulatory framework of family support and child protection, focusing especially on those aspects of law that may lead to reactive law enforcement and bring anti-therapeutic effects in their wake, despite the intention of the legislature.

## 171. Utilizing Therapeutic Jurisprudence in Criminal Courts and Diversion Programs: Emerging Practice in the United States, France, Australia, Belgium, and Sweden

### Legal Transplants: Issues Relating to the Establishment of Therapeutic Jurisprudence in Belgium

Bieke Claes, *Center for Therapeutic Jurisprudence, Miami, USA*  
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TJ has been spreading throughout the world. Recent work by Nolan underscores how matters of local culture facilitate or inhibit the acceptance of drug courts and TJ in a number



of locations. This presentation will look at TJ specifically and certain provisions of Belgian law generally (not necessarily related to drugs and drug court) that are TJ friendly or unfriendly and will propose strategies for the incorporation of TJ's ethic of care into the Belgian legal system in ways not at odds with the local culture.

### Therapeutic Principles as Applied by France's "Judge de L'application Des Peines"

Martine Herzog-Evans, *University of Reims*  
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Have community/reentry courts existed for decades on continental Europe? It indeed appears so when examining the sentences implementation courts which operate in Germany, Belgium, Italy and France. This presentation will focus on the French 'juge de l'application des peines' (called 'J.A.P.'), which was created in 1945 and generalised in 1957. This judge has the power to release inmates under multiple measures which involve obligations he then supervises with the probation service. He also supervises offenders subjected to community sentences. He can also grant furlough and remission, criminal records expunging and can transform short custody sentences into community sentences or measures. Lastly, he is in charge of sanctioning breach. We shall argue that the J.A.P. is indeed a problem-solving court. Studying his 60 years experience is consequently of great interest to the problem-solving court movement at a point in its history where it is wondering how to go to scale without losing its soul. Indeed, the J.A.P. has lost part of his soul – but gained other positive traits along the way. He also is regularly – and today even more than yesterday – under attack. This also teaches us that 'Good courts' existence are never guaranteed in the late modernity punitive context.

### Best Practices: Use of Therapeutic Jurisprudence Techniques by a General Jurisdiction Sentencing Judge

Michael Jones, *Superior Court, Maricopa County, Arizona, USA*  
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Judges should now understand that the use of Therapeutic Jurisprudence or "problem-solving" techniques, such as those pioneered by the Drug Courts or Mental Health Courts, are effective in cases heard every day by the general jurisdiction judge. There are many effective TJ, or "problem-solving" techniques available for creative judges to use in everyday criminal case sentencing proceedings, which include:

- Active Listening by the judge;
- Verbal engagement of the defendant encouraging insight as to addictions, problems, job, family, goals;
- Engage defendant's family/partners in courtroom discussion;
- Utilization of a contract with substance abuse, counseling treatment, employment and education goals; and
- Periodic review hearings following the Drug Court and Mental Health Court models.

This author (a general jurisdiction Superior Court Judge in Arizona) has long used many of these TJ techniques in criminal proceedings, particularly sentencing hearings where the court intends to impose probation for a first-time offender. Though the anecdotal evidence supports the effectiveness of the 'TJ approach', statistical hard data would prove its effectiveness. With a goal of proving the statistical effectiveness of the use of TJ during felony sentencing proceedings, the author has devised an experimental model to measure recidivism and probation violations of TJ-judged Defendants versus non-TJ-judged Defendants in criminal felony cases based upon a review and study interval of six and nine months post sentencing, using randomly selected cases. This study will measure successes and failures based upon the filing of a petition to revoke probation or filing of new criminal charges. The control group of probationers will consist of all those not selected for TJ-judging.

### The Trial as a Therapeutic Platform for the Crime Victim

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A major idea within "the Comprehensive Law Movement" is to avoid trial – a trial is time-consuming, conflict-driving, stressful, and often frustrating, wherein the wrangling between the lawyers is mostly beyond the comprehension of the parties. Although a therapeutic perspective would suggest mediation (or other forms of cooperative conflict resolution) in order to promote participation, insight and responsibility, sometimes a trial cannot or should not be avoided. In such cases, a trial can serve as fresh start for the individuals involved. Whether the trial can serve as a therapeutic platform for healing and renewal depends on such factors as the roles the parties are given in the proceedings and what support they get for their perspectives. The Swedish reform of the 1990s, recognizing the crime victim's status as a party (beside the prosecutor) and appointing legal counsel for her (at the expense of the state), represents an illustrative example of the trial as a therapeutic process.

## San Francisco's Behavioral Health Court: "The Essential System of Care" in Practice

Jennifer Johnson, *San Francisco Office of the Public Defender, San Francisco, USA*  
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In the United States, decades of failed public policy have caused a dramatic increase in the number of people with mental illnesses in jails and prisons throughout the country. In September of 2009, the National Leadership Forum on Mental Health and Criminal Justice (NLF) published a paper entitled Ending an American Tragedy: Addressing the Needs of Justice Involved People with Mental Illnesses and Co Occurring Disorders. The NLF makes four straightforward recommendations on how to reverse this trend and break the cycle of homelessness, hospitalization and incarceration that are often the norm for this population. The focus of this presentation is on the Essential System of Care outlined in the fourth recommendation. The NLF identifies eight evidence-based practices designed to improve access to treatment and to enhance the quality of mental health services. By proposing these core services at the local level, the NLF transforms a theoretical policy document into a practical handbook for communities who are striving to make effective changes at the intersection of mental health and criminal justice. Using the experience of San Francisco's Behavioral Health Court, this presentation will discuss the practicality of the NLF approach, and identify common hurdles communities face when implementing the Essential System of Care.

## 172. Comprehensive Law/ Therapeutic Jurisprudence Student Forum

### Diagnosing the Problem: Connecting the Dots for Juvenile Justice Involved Youth with Mental Health Needs

Sarah Murillo, *Phoenix School of Law*  
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**Abstract:** This presentation will explore the juvenile justice system through the lens of a youth with mental health needs, first looking at the history of juvenile justice. Next, the critical stages within the criminal justice system will be enumerated and anti-therapeutic methods in which the juvenile justice system handles children will be discussed. Finally, alternatives to the current system will be proposed introducing therapeutic modalities. A comprehensive therapeutic model of change will be introduced designed to identify youth

who suffer with mental health needs at different entrance points, provide intervention programs, accelerate judicial processing, and decrease the amount of time youth with mental health needs spend incarcerated. Efforts to improve outcomes for justice involved youth include collaborating with all child serving stakeholders, identifying critical intervention points within the justice system to divert youth, and utilizing evidence based treatment programs. Community wide mental health education and training, specialized mental health probation caseloads, juvenile mental health courts, and joint technology and information sharing are components of a comprehensive approach to dealing with justice-involved youth with mental health issues.

### **Leave No One Behind: Why Veterans Need a Specialized Court, How Those Courts Should Operate, and How Attorneys can Obtain Similar Results Outside of a Specialized Court.**

Jason Holmes,

There is a growing movement across America to establish Veteran Courts that specialize in dealing with veterans involved with the criminal justice system. In addition, there are some attorneys successfully identifying their defendants as veterans suffering from PTSD, and getting the courts to direct appropriate treatment for the veteran (rather than just sentence the veteran for the offense). The purpose of this article is to; first, explain what veteran courts are, how they work, why we need them, and why we need to expand their capabilities, and second, provide an effective working model attorneys can use when representing a veteran defendant outside of a specialized veteran court. Intrinsic to both of these purposes is the need to apply Therapeutic Jurisprudence principals and techniques.

### **A New Vector in Comprehensive Law: Why Properly Regulated Non-Lawyer Legal Document Preparation Should be Embraced by the Legal Community**

David J. Enevoldsen,

The legal services industry is fraught with problems. Attorneys are too expensive and the billable hour system used by most law firms motivates attorneys to prolong litigation. Prolonged litigation has adverse effects not only financially, but also on the psychological well-being of the parties. The comprehensive law movement has become acutely aware of these issues and has taken efforts to remedy the problem through various vectors. Offering non-lawyer legal document preparation services to the public is a solution not traditionally thought of as being within the scope of comprehensive law. Although legal document

preparation cannot by its nature be the only solution, it should be considered another vector in the comprehensive law movement. The problem is that unauthorized practices of law (UPL) regulations in many states prevent anyone other than licensed attorneys from helping people with legal problems. Because lawyer assistance costs so much and UPL laws prevent anyone else from helping, low to middle-income families are effectively barred from assistance when confronted with a crisis of legal import. The recent and ongoing rise of non-lawyer legal document preparation presents a unique solution. For purposes of this article, “legal document preparation” means the compilation, by someone other than an attorney, of an instrument designed to secure legal rights on behalf of another. Although states have largely taken efforts to stop legal document preparation, document preparers have made their potential benefit known. The public needs affordable legal alternatives. Properly regulated legal document preparers offer a solution. Accordingly, they should be embraced by the legal community and adopted as a vector in the comprehensive law movement.

### Animal Violence Court: A Therapeutic Jurisprudence Based Model Problem Solving Court for the Adjudication of Animal Cruelty Cases Involving Juvenile Offenders and Animal Hoarders

Debra Muller-Harris,

This paper is intended to begin a discussion on the useful applications of a problem-solving court to adjudicate animal cruelty cases involving juvenile offenders and animal hoarders. As a structural and operational blueprint, this court looks to the victim-centered Domestic Violence Courts that have been successfully implemented in many jurisdictions across the United States. This new kind of problem-solving court, or Animal Violence Court, would offer offenders charged with animal abuse or animal cruelty, an alternative to traditional criminal court proceedings. The Animal Violence Court is designed to integrate the criminal justice system with animal protection agencies, humane law enforcement officers, probation officers, case managers, and community-based mental health treatment providers. All of these entities must work together if they are to achieve the primary mission of the Animal Violence Court; to safeguard and protect the animal victim. Holding an offender accountable for their acts of cruelty to animals is the most effective means to achieve this goal.

### A Comprehensive look at Attorney Advertising in Arizona

Jaimee Oliver,

This paper will analyze how the concepts of comprehensive law can be applied to the Arizona Rules of Professional Conduct, which regulate attorney advertising in Arizona, to bolster the consumers' experience and assist attorneys in building their client base in a professional and ethical way. By focusing on more than just the strict legal rights and duties surrounding attorney advertising, Arizona can look beyond the traditional resistance to attorney advertising and shape future ethical guidelines to maximize the emotional, psychological, and relational well being of the individuals affected by restrictions on attorney advertising (primarily attorneys and the unsophisticated client). This paper will briefly discuss the history and major milestones of attorney advertising and then will address the current ethical guidelines in Arizona and whether they should be modified in light of the rapid development of internet based client development tools.

### Changing the Law School Landscape with Therapeutic Jurisprudence: Looking Beyond the Trees to See the Forest.

Kimberly R. Culver, *Phoenix School of Law*  
(kkculver@student.phoenixlaw.edu)

Should lawyers, especially those working in family and/or juvenile law, receive training in counseling/psychology and therapeutic jurisprudence so they can effectively address the holistic client and/or family during their representation of them? In juvenile law for example, especially, mental health is an area that is prevalent amongst today's teens and in having a basis for what this means for the client, the attorney trained in the "vectors" of comprehensive law will be more effective in advocating, representing, and ultimately getting the best possible outcome for them in handling their case. I propose that just as Torts, Contracts and Civil procedure are basic requirements to the law school curriculum, so should be the vectors of comprehensive law. By ensuring that future attorneys receive this during their core training years in law school, we can further the profession and perhaps decrease some of the negative views toward the legal profession. By offering the training in law schools, funding issues will not become problematic for government agencies, private firms or other legal entities to search for how to provide the training. On-the-job-training, or the "learn as you go" approach is not enough and does not provide the client with the representation they deserve or the justice they seek.

## 173. Remembering Bruce Winick and his Contributions to Therapeutic Jurisprudence Scholarship

Bruce Winick was prolific and creative in developing, synthesizing, and promoting TJ. This panel will allow individuals to come and pay tribute the scholar and the human being, share memories, highlight intellectual contributions, and generally honor the life of Bruce.

### The Re-Imagined Lawyer: Bruce Winick's Vision for Lawyering in the 21st Century

Sean Bettinger-Lopez, *University of Miami*  
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This presentation will both describe and critically evaluate a comprehensive vision for the future of lawyering set forth by Bruce Winick in his final book-length treatment of the subject. In his book, Professor Winick elaborates a model of lawyering from a therapeutic jurisprudence/preventive law orientation that is perhaps the most unified, comprehensive, and (for practitioner purposes) 'user-friendly' statement on the subject to date. This remarkable book has the potential to transform legal culture and values within the profession and to spur real changes in legal institutions such as law schools and bar associations.

In his first chapter Winick begins by taking stock of dissatisfaction with the legal profession among clients and lawyers, and the reasons for that dissatisfaction. In Chapter 2, he outlines the key features and theoretical underpinnings of a "therapeutic jurisprudence/preventive law model" of lawyering that will correct the present malaise. Chapter 3 starts a tour of the lawyering process from "soup to nuts," beginning with the first client interview where the tone is set and the client re-educated into a new kind of lawyer-client relationship. Chapter 4 describes the preventive law orientation and how it dovetails with therapeutic jurisprudence, using examples from the law of wills, advanced directives, driving & aging, small business planning, and the role of in-house counsel. Chapter 5 focuses on the importance of lawyers having an orientation toward settlement and alternatives to litigation, detailing both the psychological mechanisms at play in most disputes and techniques for dealing with them in the settlement context. Chapter 6 explains the expanded role of the lawyer as healer or therapeutic agent, focusing on the criminal justice system and ways in which public defenders and prosecutors can embrace such a role.

Chapter 7 deals with how a therapeutic jurisprudence/preventive lawyer should behave when litigation becomes necessary. Chapter 8 performs a “rewind” of the Terry Shiavo case and considers whether outcomes in that case may have been different had the lawyers involved employed a therapeutic/preventive approach. Finally, Chapter 9 discusses legal education and how this new model of lawyering can be infused into legal culture, starting with law schools.

The presentation will review the book and examine -- from a practitioner’s perspective -- both the overall vision and some of the specific practical suggestions set forth. It will also consider compatibility of this model with other models or new directions in lawyering and the legal profession.



## FRENCH SESSIONS

### 174. Responsabilité légale et maladie mentale à la lumière de la neuroéthique

#### Trouble de la personnalité, neuroimagerie et responsabilité pénale

Gérard Niveau, *Université de Genève*  
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L'influence des troubles de la personnalité sur la responsabilité pénale est un vieux serpent de mer de la psychiatrie légale. Si certains psychiatres admettent volontiers que les troubles graves de la personnalité peuvent avoir une influence déterminante sur les facultés volitives de l'auteur d'un acte criminel, beaucoup plus rares sont les juges prêts à accepter une diminution de responsabilité en rapport avec une pathologie de la personnalité. L'imagerie cérébrale, en objectivant une particularité de la morphologie ou du fonctionnement cérébral des sujets diagnostiqués trouble de la personnalité, en particulier dans le cas de la psychopathie, est-elle susceptible de réduire ces différences d'appréciation? En nous appuyant sur une revue de la littérature et une étude des cas publiés à ce jour, nous tenterons de développer un profil d'argumentaire pour l'expertise psychiatrique de demain.

#### Neurobiologie de la pédophilie: Explorer les limites du cadre prescriptif des sanctions pénales

Frédéric Gilbert, *Dalhousie University*  
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Une kyrielle d'études neuropathologiques et neurobiologiques récentes semblent suggérer que l'origine des crimes pédophiles pourrait être le résultat de propensions biologiques et non uniquement le résultat d'un libre arbitre. De telles découvertes soulèvent la question controversée de l'irresponsabilité pénale de cette population. Traditionnellement, en opposant irresponsabilité et responsabilité, la justice pénale s'est contrainte insidieusement à effectuer un choix, binaire, entre traiter et punir cette population, sans réconciliation possible. Comme si traiter signifiait nier la culpabilité et punir nier l'origine biologique du comportement. Bien que toute conclusion hâtive fondée exclusivement sur des explications

biologiques doit être évitée, cette présentation vise à effectuer un recensement des recherches neurologiques portant sur l'origine de la pédophilie développementale et acquise afin d'explorer les limites du cadre prescriptif des sanctions pénales touchant cette population.

### Directives anticipées en psychiatrie: «plus ça change...?»

Samia Hurst, *Université de Genève*  
(Samia.hurst@unige.ch)

Les directives anticipées, qui véhiculent le consentement ou le refus de consentement d'un patient pour le cas où il deviendrait incapable de discernement, reposent sur deux présupposés: 1° Le porteur de la responsabilité, le patient capable de discernement, sera réduit au silence dans les situations où s'appliqueront les directives anticipées. 2° Dans les situations envisagées, les interventions médicales indiquées – et que le patient pourrait refuser – ne visent pas directement le rétablissement de sa capacité de discernement, même si c'est souvent une conséquence indirecte de ces traitements. Ces deux présupposés sont souvent inexacts en psychiatrie. Quelles conséquences cela peut-il avoir sur la validité d'un consentement ou d'un refus véhiculé par des directives anticipées en psychiatrie ? Cette présentation examinera cette question sous l'angle des valeurs éthiques qui sous-tendent l'injonction de respect de l'autonomie, ainsi que ses limites.

### Punir ou soigner: les neurosciences modifient-elles les termes du débat ?

Bernard Baertschi, *Université de Genève*  
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«Criminel» et «malade» sont deux «rôles sociaux» bien différents du point de vue de leur évaluation, mais qu'il est souvent difficile de bien distinguer dans la réalité. La difficulté est ancienne, mais la neuroimagerie a récemment permis d'y jeter de nouvelles lumières. Au-delà des données, la question se pose de savoir qu'en faire au niveau du droit pénal. Pour certains (par exemple Joshua Greene), il faut réformer profondément notre système pénal; pour d'autres (par exemple Stephen Morse), il n'est pas nécessaire d'y changer grand chose, de simples aménagements suffisent. Je me propose d'examiner ces deux interprétations à la fois du point de vue de leur logique interne et de leur adéquation pour répondre à la question posée, d'une manière qui soit à la fois éthiquement cohérente et socialement acceptable.

## 175. L'aide médicale à la mort : réflexion et débats en cours au Québec

### L'euthanasie et l'aide au suicide : la position des travailleurs sociaux du Québec

Valérie Chamberland, *Université du Québec à Montréal*  
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Plusieurs personnes ont fait les manchettes au Québec pour avoir aidé des proches à mourir au cours de la dernière décennie, ravivant le débat sur les choix, les limites et les droits des personnes en fin de vie ou gravement atteintes par une maladie ou un handicap. On constate aussi que les études qui ont porté sur l'euthanasie et l'aide au suicide s'intéressaient surtout à d'autres professionnels de la santé qu'aux travailleurs sociaux qui accompagnent pourtant, dans leurs émotions et leurs décisions, de nombreuses personnes en fin de vie ou gravement atteintes par la maladie ou le handicap. Cette communication présente les résultats d'une recherche menée dans le cadre de la maîtrise en travail social à l'UQAM. Cette recherche documente la position des travailleurs sociaux du Québec au sujet de l'euthanasie volontaire et de l'aide au suicide par l'exploration de leurs attitudes, leurs expériences, leurs ressources et leurs difficultés en lien avec ces pratiques. Nous y présentons aussi un comparatif des résultats avec une recherche de Ogden et Young (1998) réalisée auprès des travailleurs sociaux de Colombie-Britannique (Canada).

### La réflexion sur les soins appropriés en fin de vie menée au Collège des médecins du Québec

Michèle Marchand, *Collège des médecins du Québec, Montréal, Canada*  
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Pour certains, l'euthanasie volontaire et planifiée est encore le moyen le plus sûr d'éviter les soins acharnés ou futiles en fin de vie. Avouons-le, il existe encore des situations, exceptionnelles, où la mort est inévitable, imminente et difficile malgré les soins apportés : des situations où l'agonie se prolonge et où on demande aux médecins de poser des gestes avec lesquels ils seraient probablement d'accord si ce n'était du fait qu'ils sont interdits par la loi. Mais l'euthanasie préventive nous semble une réponse excessive, qui repose sur la crainte des désaccords quant à l'intensité des soins, alors que ceux-ci sont plutôt rares et qu'il est possible de les régler. Comme dans plusieurs pays, l'encadrement du domaine des

soins gravite maintenant autour du processus décisionnel et au Québec, la loi donne beaucoup de pouvoir aux patients et à leurs proches. En fait, la difficulté contre laquelle nous butons tous dans ces cas, ne réside pas dans les désaccords possibles, bien au contraire. Elle vient plutôt du fait qu'une loi, qui n'a rien à voir avec les soins, puisse faire irruption dans le processus décisionnel et s'y substituer. Selon nous, il vaudrait mieux réorienter le débat sur l'euthanasie dans la direction des soins appropriés et continuer à miser sur le processus décisionnel.

### **Demander et obtenir des soins appropriés pour une « bonne mort »**

Diane Laflamme, *Université du Québec à Montréal*  
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Le réseau de la santé du Québec relève de l'État provincial et la loi du Québec sur les services de santé encadre l'intervention des équipes soignantes et des établissements, leur enjoignant de dispenser les « soins appropriés ». La personne apte à consentir participe activement à la détermination du niveau de soins appropriés pour elle et peut refuser les soins si elle les juge inappropriés, même en sachant qu'un arrêt de traitement entraînera sa mort. Le terme « d'euthanasie passive », auparavant utilisé pour décrire de tels cas, est ainsi devenu désuet. C'est aussi sous cet angle des « soins appropriés en fin de vie » que le Collège des médecins du Québec, dans un document de réflexion publié en octobre 2009, recommande maintenant d'aborder la question de l'euthanasie active car, dit-il, c'est de cette façon que se présente le problème pour le médecin et son patient confronté à une mort imminente et inévitable. Ce que la personne recherche, c'est une « bonne mort » et même, diront un certain nombre de citoyens, l'exercice du « droit de mourir dans la dignité ». En associant ainsi ces deux notions de « soins appropriés en fin de vie » et de « bonne mort », placerons-nous les équipes soignantes en situation de dilemme éthique ? À la recherche de balises pour répondre à cette question, nous examinerons la réflexion sur la vie bonne que le philosophe Paul Ricoeur intègre à sa définition de l'éthique ainsi que sa présentation de ce qu'il appelle « l'invention morale ».

### **Mourir dans la dignité : le Barreau du Québec propose une ouverture légale dans le cadre juridique canadien actuel**

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Suite au débat lancé au Québec par le Collège des médecins du Québec, l'Assemblée Nationale du Québec a mis sur pied une Commission spéciale sur la question de mourir dans la dignité. Cet organisme composé de représentants de tous les partis reconnus à l'Assemblée Nationale a lancé une vaste consultation de la société québécoise portant entre autre sur la question de l'euthanasie active et de l'aide au suicide, dans le contexte des soins de fin de vie. Le Barreau du Québec, à partir de l'analyse rigoureuse de l'état du droit québécois et canadien ainsi que de l'évolution de la société québécoise et des avancés du droit international, a proposé, dans le contexte canadien, d'ouvrir la possibilité qu'une personne puisse demander de mettre fin à ses jours avec assistance médicale sans conséquence criminelle dans deux cas bien précis, soit le cas de la maladie terminale et celui des souffrances intolérables. Toutefois, le Barreau du Québec a proposé de solides balises afin d'exclure ces pratiques à l'égard des personnes vulnérables. La position du Barreau définit comment ces pratiques peuvent devenir possible sans même devoir changer le Code criminel canadien, qui est de juridiction fédérale. La position du Barreau en faveur de l'ouverture de l'aide médicale à la mort dans certaines circonstances s'inscrit dans une reconnaissance plus vaste des droits des personnes en fin de vie. Elle constitue un apport important dans le débat, tel qu'en fait foi l'accueil que lui a réservé la Commission spéciale sur la question du droit de mourir dans la dignité.

## 176. Préoccupations éthiques pour étudier l'application des mesures d'isolement avec ou sans contention

### Les préoccupations des patients et des familles sur l'application des mesures d'isolement

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De nombreux résultats de recherche montrent que les pratiques d'isolement et de contention (IC) sont des événements traumatisants pour les personnes atteintes de troubles psychiatriques. Toutefois, peu de recherches se sont intéressées à documenter comment la personne qualifie le soin et l'accompagnement tout au long de l'épisode d'IC. Il s'agit donc de décrire les perceptions des personnes quant aux soins obtenus lors de l'épisode d'IC. L'échantillon est composé des personnes atteintes de troubles psychiatriques proviennent d'un centre psychiatrique de l'Est du Québec. Les données d'entrevue par questionnaire auto-administré comportent 47 questions réparties en trois volets : 1) respect du protocole

d'IC; 2) relation avec les intervenants; 3) questions reliées au contexte de l'IC. Les questionnaires sont analysés par SPSS et les trois questions ouvertes sont utilisées pour enrichir les réponses au questionnaire. Le questionnaire a été soumis à une validation de contenu. Les résultats actuels montrent que la relation avec l'intervenant est déterminante lors de l'évènement et que la participation des personnes qui ont vécu un épisode d'id est difficile à obtenir étant donné la charge émotive associée à l'évènement et le souci des intervenants à protéger le patient. La discussion portera sur la difficulté à obtenir le témoignage des personnes ayant vécu l'isolement

### Les facteurs prédictifs de l'utilisation de mesures d'isolement et de contentions (IC) sur les unités d'hospitalisation en psychiatrie : la perspective du personnel soignant

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L'incidence de l'usage de l'IC en milieu psychiatrique varie entre 4% et 44% parmi la population adulte et celle avec contentions fluctue entre 3,8% et 11,5%. Pour certains professionnels en santé mentale, l'usage de l'IC demeure une intervention nécessaire. Cependant, d'autres professionnels s'opposent à l'usage de l'IC en invoquant qu'il s'agit d'une atteinte aux droits du patient quant à sa liberté et sa dignité. La décision d'utiliser l'IC est fondée sur des besoins rationnels, mais aussi par certains facteurs externes. Trois-cent-neuf (n =309) membres du personnel soignant ont été recrutés dans huit établissements psychiatriques du Québec et ont rempli un questionnaire entre le mois d'avril 2008 à avril 2009. Les données sociodémographiques, la détresse psychologique, la perception des comportements agressifs ainsi que la perception de leur fréquence, le climat d'équipe et les facteurs organisationnels ont été évalués. Les résultats montrent que le climat d'équipe, la perception de l'agressivité, certains facteurs organisationnels influencent l'usage des mesures d'IC. Enfin, le type d'unité psychiatrique (urgence et soins intensifs), l'expression de la colère parmi les membres du personnel soignant, la perception de la fréquence de gestes autoagressifs et la perception de mesures de sécurité dans le milieu de travail sont des prédicteurs indépendants de l'utilisation de l'IC. De nouvelles techniques pour gérer la violence, basées sur des interventions psychologiques et visant à éviter l'escalade, devraient être élaborées en ce sens.

### Effets de l'utilisation d'un instrument d'évaluation du comportement agressif dans une unité de soins intensifs psychiatriques

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Le risque d'agression en milieu psychiatrique est un problème clinique et administratif majeur qui occasionne des effets néfastes pour les intervenants et les usagers. Ce projet de recherche évaluative a pour but d'analyser les avantages de l'utilisation d'une grille de détection précoce du comportement agressif dans une unité de soins intensifs (USI) d'un hôpital psychiatrique d'envergure. Il vise à : 1) estimer l'amélioration de la cohérence, de la rigueur de l'évaluation de l'équipe des soignants et de la qualité de vie au travail; 2) évaluer l'amélioration de la qualité des soins par la prévention des mises en isolement, la réduction de la durée et de la fréquence des mises en isolement. Le devis comprend des données qualitatives et quantitatives avant et durant l'implantation afin de présenter une vision plus complète d'un phénomène par l'intégration de différentes vues et s'inscrit dans une perspective de partenariat entre chercheurs, cliniciens et gestionnaires. Le projet débutera à l'automne 2010. Deux populations seront sollicitées : les membres de l'équipe soignante et les patients. Tous les membres de l'équipe soignante seront recrutés (n= 30). L'échantillon des patients comprend ceux admis sur l'USI durant une période de 6 mois (N=90). Le projet clinique permettra de mettre en relation les retombées de l'utilisation d'un outil d'évaluation infirmier sur l'amélioration des soins aux usagers. Un tel projet conduira à la promotion de pratiques exemplaires et d'interventions appropriées devant une manifestation de comportement agressif.

### L'obtention du consentement dans un contexte d'isolement : entre autonomie et protection, le dilemme éthique des soignants

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La participation des patients à leurs décisions de traitement représente, pour certains, un des éléments essentiels du succès thérapeutique. Cet engagement réciproque dans un dialogue entre patient et soignants peut déboucher sur un contrat de soins. L'obtention du consentement libre et éclairé représente donc plus qu'une obligation déontologique et juridique, mais surtout une responsabilité de nature éthique. En matière de mesures de contrôle, l'obtention du consentement est prévue en ce qui concerne les « mesures planifiées », celles-ci étant assimilées à un traitement et devant répondre aux règles habituelles concernant les soins. Mais qu'en est-il de la situation exceptionnelle et urgente des « mesures non planifiées »? C'est ici précisément que se pose la question des obligations et responsabilités morales des soignants. Ne se doivent-ils pas d'intervenir au

nom du principe éthique de bienfaisance, dans le meilleur intérêt de leur patient? Cette perspective clinique, bien que jusqu'à un certain point antagoniste avec les principes de l'alliance thérapeutique ainsi que ceux du *Code de déontologie* et du *Code civil*, témoigne tout de même d'une réalité: le soignant n'est-il pas, grâce au savoir et à l'expertise qu'il possède, le mieux placé pour faire des choix de santé judicieux? Peut-il, et doit-il, éventuellement à l'encontre d'une certaine interprétation de son *devoir primordial* de protection du bien-être des individus, ou de bienfaisance, laisser un malade prendre des décisions ou opter pour un comportement stérile ou dangereux?

## 177. Les trajets de soins pour les personnes relevant de la loi belge dite de "défense sociale": organisation et caractéristiques des structures de soins médico-légales impliquées

### Organisation d'un trajet de soins pour internés libérés à l'essai dans le contexte de la loi de défense sociale

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La loi belge de défense sociale du 1<sup>er</sup> juillet 1964 organise tout le système d'internement des délinquants malades mentaux en état de démence, en état grave de déséquilibre mental ou de débilité mentale les rendant incapable du contrôle de leurs actions. Cette loi, qui régit tout le devenir des internés, crée des intrications permanentes entre le système judiciaire et le système médical. L'exposé vise à dresser un tableau du parcours de l'interné depuis l'annexe psychiatrique des prisons jusqu'à sa libération définitive. Il s'agit de mettre en évidence la multiplicité des institutions (établissements de défense sociale, hôpitaux psychiatriques, maisons de soins psychiatriques...) et des acteurs du système médico-légal (Commissions de Défense Sociale, assistants de justice, psychiatres de tutelle...) qui interviennent dans le parcours de l'interné. Face aux difficultés récurrentes liées à l'offre de soins offerte aux internés, différents projets pilotes ont été créés en 2001 à l'initiative du Service Public Fédéral de la Santé Publique. L'exposé développe leurs objectifs essentiels



visant à améliorer la qualité et l'organisation de la prise en charge réalisée au sein d'un trajet de soins pour les internés libérés à l'essai.

**Caractéristiques descriptives de la population des internés au sein de l'établissement de défense sociale (E.D.S.) « les Marronniers » à Tournai en regard de la population hospitalisée au sein des unités de psychiatrie médico-légale (U.M.L.)**

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La cellule de recherche de l'E.D.S. travaille à une description affinée de la patientèle internée. Avec l'appui du personnel de l'E.D.S. et du Centre de Recherche en Défense Sociale (C.R.D.S.), la cellule tend à décrire leurs caractéristiques psychiatriques, psychologiques, sociales, légales et neurophysiologiques. Ces caractéristiques doivent éclaircir le profil des patients internés et permettre de suivre leur trajectoire au sortir de l'E.D.S. A titre d'exemple, les données psychologiques et psychiatriques évaluées concernent les troubles mentaux majeurs (MINI) et de personnalité (SCID-II). Nous avons également évalué le degré de psychopathie (PCL-R) pour les patients présentant un diagnostic positif aux troubles de la personnalité antisociale et/ou narcissique, le quotient intellectuel (WAIS) ainsi que les risques de récurrence violente (HCR-20) ou sexuelle (RSVP). Dans le cadre de cette présentation, nous essayerons de mettre en exergue la diversité, l'hétérogénéité des profils psychopathologiques, des situations sociales et judiciaires des patients internés en E.D.S. et présenteront les critères stricts et donc limitatifs d'admission au sein des deux U.P.M.L. (« Hegoa » pour le Centre Hospitalier Jean Titeca à Bruxelles et « Itéas » pour le Centre de Soins Régional les Marronniers à Tournai) au travers d'une description comparative des deux patientèles.

## Prise en charge des internés « medium risk » au sein des unités psychiatriques médico-légales (UPML)

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Depuis 2007, une partie du trajet de soins pour internés a été développé par zone d'action provinciale. Chaque trajet comprend un hôpital psychiatrique, une maison de soins psychiatriques, une initiative d'habitations protégées, et une équipe d'outreaching. Il est prévu un ensemble de missions de soins spécifiquement orienté vers les internés qui répondent au profil de « medium risk » avec des critères d'inclusion et d'exclusion (tels la présence d'un diagnostic psychiatrique selon la classification du DSM IV, et un degré de risque qui soit maniable au sein de l'infrastructure). La mission principale consiste à faire passer autant que possible les internés vers les structures de soins régulières et, vers leur domicile. La présentation développe les objectifs et les interventions des équipes pluridisciplinaires des UPML partant du processus de candidature précédent l'admission jusqu'au développement d'un projet de réinsertion sociale soumis à l'approbation de la Commission de Défense Sociale permettant la fin du séjour hospitalier. Les questions concernant notamment la diminution du risque de récurrence, le développement de la conscience morbide, les problématiques sociales, les enjeux liés au statut légal, la transition vers un milieu de vie ambulatoire sont abordées.

## Maisons de soins psychiatriques (M.S.P.) et Habitations Protégées (I.H.P.) : deux maillons de la postcure

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Ces lieux de soins s'adressent aux personnes souffrant d'un trouble psychique stabilisé ne demandant pas de traitement hospitalier. Ils s'inscrivent directement parmi les différentes possibilités de vie qui s'offrent aux patients relevant, parmi d'autres, de la sphère médico-légale. Etablis en zone urbaine ou rurale, ils permettent de retrouver peu à peu les assises nécessaires à mener une existence au sein de la Société de tous. La M.S.P., résidentielle et familiale, assure une permanence continue et poursuit le travail entamé à « l'Hôpital » afin de recouvrer l'autonomie suffisante pour passer, le cas échéant, à une étape suivante : I.H.P., communauté thérapeutique, habitat propre. L'I.H.P. se caractérise par l'hébergement et l'accompagnement dans des maisons et appartements communautaires ou individuels. Elle demande une autonomie importante et une grande convivialité. Situés en aval des lieux de « cure » (pénitentiaires ou privés) le dénominateur commun de ces structures est l'accompagnement, en relation étroite avec le soin médico-psycho-social. Ces projets n'ont de chance d'être efficaces qu'avec l'accord du candidat, contraint par le tiers judiciaire. Ils nécessitent que, tout au long du trajet de soins, s'accordent les équipes d'encadrement et le résidant mais aussi les thérapeutes extérieurs et le représentant judiciaire.

### L'outreaching comme développement du suivi pro-actif des internés en milieu ambulatoire en collaboration avec le réseau de soins existant

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La création d'une équipe d'outreaching est issue de la volonté des pouvoirs publics et des professionnels de la santé concernés de renforcer l'offre de soins existant autour des projets de réinsertion sociale des internés. Ce concept d'outreaching se différencie, sous certains aspects, de modèles existants. La mission principale est de favoriser le développement et le

maintien de ces projets. L'enjeu majeur réside dans la capacité des structures de soins impliquées à articuler leurs pratiques pour encadrer et soutenir le maintien d'un dispositif de soins post- ou pré-hospitalisation. En effet, plusieurs études criminologiques mettent en évidence que près de 60% des agressions commises par les personnes souffrant d'une maladie mentale ont lieu dans les 20 semaines qui suivent la sortie de l'hôpital. Par ailleurs, la réalité actuelle de l'offre de soins destinée aux internés oblige à poser le constat que de nombreuses structures se montrent encore réticentes à les soutenir. Le projet thérapeutique de l'équipe prévoit donc une coordination des interventions des structures partenaires impliquées dans le projet de vie du bénéficiaire, tout en soutenant une continuité dans les soins proposés jusque là, développer l'accessibilité au réseau ambulatoire médico-psycho-social existant et, favoriser la réinscription sociale.

## 178. Greffes et dons d'organes

### Accès à la liste d'attente et attribution des greffons en transplantation d'organe

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L'accès à la liste d'attente est une priorité. Absolue dans nos systèmes de santé afin d'espérer une greffe d'organe pour tout patient présentant ce besoin vital ou fonctionnel. Dans nos sociétés occidentales, l'accès à la liste est déterminé par des conditions médicales bien reconnues par les praticiens. Les listes d'attente sont de préférence nationales et le régionalisme est évité. Assurer une allocation des organes selon des critères de justice et d'équité demeure un problème d'envergure. En greffe rénale, ces critères sont modélisés de façon mathématique et le résultat étudié prospectivement afin de s'assurer de l'effet désiré sur l'allocation équitable et juste en ce qui concerne les patients. En transplantation hépatique, l'attribution est basée sur des critères de tests sanguins permettant une évaluation objective du risque vital et l'accès à la greffe accordée de façon appropriée. Les grands principes de justice, d'efficacité, d'équité, de respect, de priorité des urgences et de transparence demeurent ceux qui guident le développement des critères d'allocation des organes en transplantation. Malheureusement, le grand public participe peu à l'élaboration de ces critères et une plus grande participation serait certainement souhaitable. En conclusion, l'accès à la liste d'attente est universel. L'allocation des greffons se fait en fonction des principes de justice, d'efficacité et de priorisation des urgences. Les changements rapides dans la pratique médicale créent de nouveaux défis auxquels il faut

répondre rapidement afin de permettre un développement encore plus efficace de la greffe d'organe.

## Les particularités pédiatriques de la transplantation d'organe

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Les particularités pédiatriques de la transplantation d'organe sont nombreuses car elles s'effectuent sur un être en développement dont le parcours est à son début. Ici comme dans toute la médecine pédiatrique il s'agit non pas de maintenir les acquis mais plutôt de les favoriser le développement au maximum. De plus, l'enfant ne s'évalue pas ex vacuo mais plutôt toujours dans un contexte familial impliquant souvent d'autres enfants aussi en évolution. L'ensemble des soins s'appliquera au bien-être de l'enfant en tenant compte des contingences familiales. Les greffes de foie et de cœur, possibles dès la naissance commandent une réflexion profonde mais souvent bousculée sur le bien-fondé de cette opération salvatrice surtout lorsque le pronostic neurologique ne peut être assuré. Les complications chroniques et le suivi médical envahissant et restreignant parfois le développement font partie de la problématique et mettent en relief la notion de meilleur intérêt de cet enfant dans sa famille. La période de l'adolescence pose aussi tout un défi aux soignants, car la greffe repose particulièrement sur une alliance solide entre le transplanté et l'équipe. Le don vivant plus fréquent en pédiatrie, souvent d'origine parentale, suppose un réaménagement des relations familiales provoquée et parfois un sentiment de dette difficile à supporter pour le receveur.

## L'Attribution des organes pour transplantation rénale au Québec : Une évolution continue

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Dès 1969, les trois premiers centres de transplantation du Québec se sont regroupés en un organisme pour établir des règles de partage des organes prélevés : ainsi était né Métrotransplantation (aujourd'hui Québec-Transplant). Les règles initiales prévoyaient qu'un organe était gardé pour transplantation dans le centre préleveur et l'autre offert pour transplantation dans un autre centre. Cette règle avait pour buts d'encourager l'activité d'identification de donneurs d'organes et de donner une chance égale à tous les receveurs en attente indépendamment de leur centre d'appartenance. Plus tard, se sont ajoutés

quatre autres programmes de transplantation et, très tôt, s'est posée la question d'une distribution équitable des organes indépendante de l'activité de prélèvement. Les règles établies ont été basées essentiellement sur la compatibilité HLA parce qu'elles avaient l'avantage d'être objectives et de s'appuyer sur certains arguments scientifiques. Avec le temps, l'activité de transplantation a progressé, les résultats de la transplantation se sont améliorés et la transplantation a été proposée à des receveurs dont les conditions sont plus complexes. Les règles d'attribution ont été modifiées périodiquement pour tenir compte maintenant des incompatibilités HLA, des transplantations d'organes doubles, de la priorisation des enfants, du temps d'attente démesurément long de certains groupes de receveurs et de la démographie vieillissante des donneurs et des receveurs. Mais la pénurie d'organes persiste. Alors se pose toujours avec la même acuité la question de la justice, de l'équité et de la transparence dans l'établissement des règles d'attribution.

### La greffe de moelle osseuse: aspects entourant le donneur

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Le geste de donner une partie de sa moelle osseuse n'est pas un geste anodin. En plus des inconvénients physiques associés à la procédure, le don de moelle osseuse représente un stress psychologique significatif. En fait, ce geste de la part d'un frère ou d'une sœur provoque à la fois de grands moments de fierté, mais peut également susciter une détresse et un sentiment de culpabilité importants pour le donneur si la greffe devait échouer. La moelle osseuse peut également être obtenue d'un donneur non-apparenté, par contre, ce geste représente encore plus un acte d'altruisme étant donné que la personne accepte de faire un don à un pur étranger. En effet, être un donneur de moelle osseuse non-apparenté signifie habituellement ne jamais connaître le résultat du don et par conséquent empêcher le donneur de fermer la boucle sur cette expérience (« sens of closure »). Alors que bon nombre d'études ont regardé l'impact chez le receveur, il n'en existe que très peu qui se soient attardées à l'expérience chez le donneur, particulièrement chez celui d'âge mineur. Durant cette présentation nous aborderons les aspects physiques, psychologiques et éthiques entourant le don de moelle osseuse à partir d'une recension des écrits et des résultats d'une étude qualitative effectuée auprès de frères et sœurs donneurs et l'impact sur la famille.

### 179. Aptitudes et inaptitudes

## La confiscation des droits fondamentaux des personnes inaptes dotées d'un mandat en cas d'incapacité

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Au Québec, une personne peut, en prévision de son incapacité, rédiger un mandat dans lequel elle désigne à l'avance la personne qu'elle voudrait voir la représenter advenant son incapacité à prendre soin d'elle-même et à administrer ses biens. Elle peut également, dans ce document, qui ne prend théoriquement effet que lorsque l'incapacité de la personne est constatée, y insérer des directives en ce qui concerne différents éléments, tels que son lieu de résidence, les soins qu'elle voudrait recevoir en fin de vie, l'utilisation de ses avoirs, etc. Dans sa forme actuelle, le mandat en cas d'incapacité pourrait avoir comme effet pervers de priver les personnes inaptes représentées par un mandataire de l'exercice de certains droits fondamentaux. Une révision en profondeur des règles régissant le mandat en cas d'incapacité est nécessaire afin d'assurer, en tout temps, le plein respect des droits des personnes inaptes représentées par un mandataire et de s'assurer que le mandat ne devienne pas un outil juridique qui pourrait être utilisé à l'encontre du meilleur intérêt de la personne incapable.

## Vie privée et psychiatrie

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L'article 8 de la Convention européenne des droits de l'homme et des libertés fondamentales consacre le droit au respect de la vie privée et familiale, du domicile et de la correspondance. Les atteintes à ce droit ne sont admissibles que lorsqu'elles sont prévues par la loi et sont nécessaires dans une société démocratique à la sécurité nationale, à la sûreté publique, au bien-être économique du pays, à la défense de l'ordre et à la prévention des infractions pénales, à la protection de la santé ou de la morale, ou à la protection des droits et libertés d'autrui. La présentation vise à exposer les enseignements qui peuvent être tirés de la jurisprudence de la Cour européenne des droits de l'homme sur cette base en termes d'administration forcée de médicaments à une personne internée en clinique psychiatrique, d'investigation psychiatrique ordonnée par les tribunaux, d'internement psychiatrique forcé, de constitution et d'accès au dossier psychiatrique, de visite à son enfant handicapé, de nécessité d'adopter des mesures pour protéger les personnes vulnérables, et de la prise en charge psychiatrique en prison. Dans chaque cas d'espèce, la

Cour a évalué l'inclusion de la situation dans le champ de la vie privée avant de déterminer s'il y avait été porté atteinte ou s'il y avait été manqué de respect visant par là aussi la question des obligations positives à charge des Etats d'assurer l'effectivité du droit au respect de la vie privée, prenant aussi en considération l'étendue de l'autodétermination susceptible d'être reconnue à une personne souffrant de troubles psychologiques ou psychiatriques.

## Consentement à la recherche en santé mentale: inaptitude des malades au Bénin

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Le consentement éclairé protège la liberté individuelle de chacun d'exercer des choix conformes à ses volontés. Ce consentement repose toutefois sur la capacité des éventuels participants à comprendre ce qui leur est présenté, à évaluer les avantages et inconvénients des diverses alternatives offertes et, ultimement, à choisir librement de participer ou non à une recherche. Bien qu'elle s'inscrive dans une perspective éthique de bienfaisance, la recherche en santé mentale s'effectue avec des malades souvent en état d'incapacité à consentir tant au niveau des soins qu'à celui de la recherche. Cette incapacité accroît en fait leur vulnérabilité puisque d'une part elle les oblige à dépendre du choix exercé par autrui et, d'autre part, elle entrave le développement de recherches et soins susceptibles d'améliorer leur état. Le CIOMS (2003) précise que des dispositions doivent être prévues pour protéger les droits et le bien-être de ces personnes vulnérables cependant au Bénin, il n'existe aucune disposition normative à cet effet. Dans cette communication, nous discuterons des mesures prises par des chercheurs béninois et des comités d'éthique afin d'assurer la protection de cette population. Nous exposerons le processus de l'examen éthique des propositions de recherche dans ce secteur et des critères utilisés au Bénin pour permettre aux participants inaptes de participer à la recherche.

## La notion d'aptitude en fin de vie

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Lorsqu'une personne arrive au terme de sa vie, la question de son aptitude à décider pour elle-même peut se poser différemment selon les causes de son décès ou l'évolution du processus de mourir : sommes-nous en présence d'une mort subite ou d'un long processus tel celui observé chez les malades atteints de démence. En toute fin de vie, lorsqu'une



personne est alitée, qu'une grande faiblesse envahit son corps, que ses fonctions cognitives sont ralenties par la maladie, des problèmes surgissent, dont la résolution nécessite un consentement de la part de celle-ci. Nous pensons au consentement au traitement des différents symptômes, de l'établissement du niveau de soins souhaités, du choix du lieu du décès, du souhait de modifier un testament. Une décision éclairée, reflétant les souhaits du malade peut s'avérer difficile pour certains dont le niveau d'attention, de concentration sont altérées par la maladie, les traitements. Une approche respectueuse des volontés du malade peut être assurée par l'établissement d'un mandat en cas d'incapacité, la rédaction de directives préalables, mesures qui doivent être suggérées tôt dans l'évolution de la maladie par l'équipe soignante. Avec l'autorisation du malade, l'implication précoce d'un proche significatif, une rencontre de famille sont d'autres avenues possibles. La présente communication propose de revoir les différentes façons de mourir, de présenter les problèmes observés et enfin de discuter les stratégies proposées par une équipe de soins palliatifs, afin de respecter les souhaits du malade.

### Aptitude et incapacité : perspective du « risque sensé » et du respect de la personne âgée

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Des organismes canadiens comme le Conseil consultatif national sur le troisième âge soutiennent que « le droit des aînés de choisir un mode de vie 'à risque' doit être respecté tant et aussi longtemps que la personne en cause possède toutes ses facultés intellectuelles et qu'elle n'est pas susceptible de blesser autrui ». Cette position sensée met en exergue diverses notions implicites de bioéthique et de droit, notamment la liberté, la dignité et le respect de la personne âgée celles-ci convergent vers l'aptitude et l'incapacité et la qualité de vie. C'est dans cette perspective que nous situerons d'abord ce que signifie le concept de « la personne » ensuite, nous analyserons la portée du « risque sensé » appliquée aux divers moments de la vie quotidienne des personnes âgées. Ces éléments de bioéthique et de droit s'inscrivent dans une conjoncture socio-économique très circonscrite où des statistiques précisent que la population des aînés est en croissance, que les aînés vivent plus longtemps, que les ressources publiques de services à domicile qui permettent aux aînés de vivre dans leur milieu s'avèrent limitées puisque bon nombre de besoins demeurent non comblés (BNC). Émergent des notions comme la capacité chapeautée par la justice sociale.

## 180. L'estime de soi et l'état émotionnel chez les détenus et jeunes délinquants

### Le Soi et l'autre chez de jeunes détenus : modélisation clinique de l'hostilité

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La recherche présentée est un essai de modéliser les facteurs influant les traits concourant à la délinquance, en comparant les résultats d'un groupe de jeunes détenus (m=20 ans) à un groupe témoin. Nous étudions les liaisons existantes entre traits de personnalité influençant l'adaptation sociale (versus relation à autrui), l'identité (versus représentation de soi), la maîtrise de soi - en recourant à une modélisation statistique permettant de mesurer les influences des uns sur les autres. Nos résultats montrent que les jeunes conformes socialement sont aussi sensibles que les délinquants au regard d'autrui, pas moins cyniques, pas moins « hostiles » et n'ont pas une tendance inférieure ou supérieure aux délinquants à surestimer leur Moi, mais ils ont moins de difficulté à exprimer leurs émotions, moins de problèmes avec l'autorité et se contrôlent mieux. L'analyse des corrélations montre que l'interaction entre les dimensions les plus fréquentes et communes aux deux groupes crée la différence : ce qui semble initier la réaction délinquante est une boucle potentialisant l'hostilité du jeune délinquant quand il est confronté au regard d'autrui : l'absence de capacité à communiquer ses émotions génère un renforcement d'échanges hostiles avec l'environnement et pousse le sujet dans une spirale de transgression.

L'implantation d'un programme d'estime de soi auprès de patients souffrant de troubles mentaux graves et persistants ; l'expérience d'un hôpital de psychiatrie légale

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L'estime de soi a été identifiée dans la littérature comme une dimension importante de l'« empowerment ». Dans notre contexte de réadaptation en psychiatrie, l'« empowerment » est défini comme le développement d'une perception positive de soi où le patient en vient à se percevoir compétent, capable et motivé de se prendre en main. Ainsi, il peut se mobiliser davantage dans son propre processus de réadaptation. Le développement et la consolidation de l'estime de soi sont à la base de l'« empowerment ». L'implantation d'un programme d'estime de soi s'est appuyée sur des données de recherche encourageantes auprès de schizophrènes dans des hôpitaux québécois. L'intervention sur l'estime de soi visait l'augmentation des capacités d'adaptation, la réduction de la symptomatologie positive mais surtout à ce que les patients se perçoivent plus compétents, capables d'agir plus activement dans les situations de leur vie courante. Le programme (24 sessions sur 24 semaines) s'est adressé principalement à des schizophrènes au sein d'une clinique externe de psychiatrie légale. Il a couvert les 5 composantes de base de l'estime de soi reconnues dans la littérature : sécurité, identité, appartenance, direction et compétence. Un volet « relance » a également été réalisé. La durée totale du programme fut d'une année. Cette présentation discutera des implications fortes positives d'un tel programme et des avenues futures.

### Facteurs de protection chez l'adolescent violent

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Longtemps la recherche et l'évaluation de patients violents s'est concentrée sur les facteurs de risque. Depuis quelques années, l'intérêt se porte de plus en plus sur des facteurs qui peuvent minimiser ce risque ou de moins le rendre plus gérable, et qui constituent des forces sur lesquelles cibler l'intervention. Il s'agit des facteurs de protection. Dans les dernières années, divers instruments ont inclus ces facteurs (START, IORNS, et, plus récemment, SAPROF). Le SAVRY, qui résume des facteurs de risque de violence chez l'adolescent, a inclus également six facteurs de protection. La présentation portera spécifiquement sur cet aspect, et illustrera par des données de recherche le rôle de ces facteurs dans l'évaluation et la gestion du risque chez des adolescents violents. Par ailleurs, elle cherchera à étudier la possible application du SAPROF (Structures Assessment of

protective factors, de Vogel, de Ruiter, Bouman et de Vries Robbé, 2009) chez l'adolescent, avec les modifications qui pourraient être requises.

## La validation française du How I Think Questionnaire (HIT) auprès des jeunes délinquants

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Cette présentation décrit le processus de validation française du How I Think Questionnaire (HIT) de Barriga et Gibbs (1996). Cet instrument nous fournit de l'information spécifique sur les distorsions cognitives des jeunes délinquants. Le How I Think Questionnaire offre des applications cliniques intéressantes pour évaluer la délinquance cachée, spécialement dans un contexte où la désirabilité sociale peut être un obstacle à l'évaluation du comportement délinquant chez certains adolescents.

## 181. La psychiatrie en milieux pénal

### Evaluation des facteurs de risques de violence chez des femmes autochtones delinquantes hospitalisees en milieu psychiatrique securitaire

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La population autochtone du Canada représentait, en 2006, 3,8% de la population canadienne. Selon les données de l'Enquêteur correctionnel du Canada, ces Canadiens sont surreprésentés au sein du service correctionnel: ainsi plus de 27% des détenus fédéraux de sexe masculin sont autochtones alors que, dans le cas des femmes, cette surreprésentation

atteint 32% des délinquantes sous juridiction fédérale. Notre étude porte sur un groupe de 20 femmes autochtones admises à l'Institut Philippe-Pinel de Montréal (IPPM) depuis 2004. L'évaluation des facteurs de risques de violence selon la HCR-20 fait partie du protocole d'évaluation de ces patientes à leur admission. Notre présentation portera sur la comparaison de la prévalence des différents facteurs de risques de violence chez ces patientes, en comparaison à un groupe de 50 femmes caucasiennes ayant connu le même parcours judiciaire et ayant également été évaluées à l'IPPM. Le volet strictement descriptif sera complété par différentes analyses non-paramétriques permettant de mieux saisir les associations statistiquement significatives présentes. Enfin, nous mettrons en évidence les stratégies cliniques et les apprentissages proposés afin de diminuer les risques de récidive violente chez ces clientèles.

### Les trajectoires pénales des personnes ayant une déficience intellectuelle : une typologie

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Le projet de participation sociale des personnes ayant une déficience intellectuelle (DI) s'inscrit dans une perspective visant à faire une société plus inclusive, dans laquelle la diversité est perçue comme une richesse. Toutefois, la participation sociale des personnes ayant une DI, bien que tout à fait souhaitable, n'a pas que d'heureuses conséquences. Dans les faits, il arrive que certaines d'entre elles fassent l'expérience de l'intégration dans la communauté en endossant des rôles sociaux négatifs tel celui de *contrevenant*. Cette présentation rapporte des résultats d'une étude cas-témoin menée dans trois établissements de détention montréalais. À la lumière des analyses, il s'avère que les contacts des personnes ayant une DI avec le système de justice pénal (SJP) ne se distribuent pas au hasard mais se regroupent en fonction de cinq trajectoires pénales types : la trajectoire « continue », la trajectoire « événement unique », la trajectoire « événements

isolés », la trajectoire « en alternance » et la trajectoire « tardive ». L'intégration d'éléments qualitatifs à la lecture des trajectoires graphiques conduit à l'identification de facteurs susceptibles d'influencer le contact et le traitement pénal réservé aux personnes ayant une DI.

### Traitement auprès de parricides psychotiques en milieu hospitalier sécuritaire et réorganisation des relations familiales

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L'Institut Philippe-Pinel de Montréal est un hôpital sécuritaire provincial qui accueille une clientèle médico-légale ou qui présente une dangerosité psychiatrique. La majorité des patients ont commis un délit violent et ont été jugés non responsables criminellement pour cause de troubles mentaux (article 16 du Code Criminel). L'unité multidisciplinaire où nous travaillons se spécialise dans le traitement de patients masculins qui ont commis un délit violent au sein de leur famille (parricide, filicide, tentative de meurtre, voies de fait graves, etc.). Au fil des ans, nous avons traité une vingtaine de parricides psychotiques et étudié une quinzaine de cas traités ailleurs dans l'hôpital. La communication se veut un partage sur notre expérience clinique de plus de 20 ans auprès de cette population. Nous traiterons de la crise aiguë déclenchée par le passage à l'acte parricide psychotique, du cadre thérapeutique, d'observations clefs à la base du traitement, des différentes étapes de la prise en charge, des fonctions du séjour hospitalier, du rôle de l'équipe traitante auprès du patient et de sa famille ainsi que des différentes formes de réaménagement des relations familiales post délictuelle.

### Services documentaire à l'IPPM : Un soutien essentiel au maintien et transfert des connaissances

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La mission du Centre de documentation de l'IPPM est de soutenir les équipes cliniques et la recherche. Nous ferons un compte rendu des moyens que nous mettons en œuvre pour favoriser le maintien et le transfert des connaissances dans un contexte de soins aux

malades difficiles. L'accès aux données probantes, la veille informationnelle, la formation à la recherche documentaire et la publication de données en français sont au cœur de nos préoccupations quotidiennes. Nous aborderons la question du développement éventuel de communautés de pratique en soutien aux équipes cliniques et nous ferons le point sur la publication Psychiatrie et violence.

## 182. La responsabilité médicale et le droit

### Les psychologues et la torture

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Dans l'Ethics Committee's Response to the Council of Representatives' Directive to Review a Discrepancy Between the Aspirational and Enforceable Sections of the Ethical Principles of Psychologists and Code of Conduct (2002) Related to Conflicts Between Ethics and Law and Conflicts Between Ethics and Organizational Demands, l'American psychological association (A.P.A.) réaffirme que, pour un psychologue, la participation à un quelconque acte de torture est injustifiable. Cette prise de position morale, qui semble aller de soi, donne un repère clair au psychologue et soulève des questions importantes notamment en termes de rapport à l'autorité. Toutefois, face à une situation réelle et pour un psychologue déterminé, elle ne permet pas de faire l'économie de la réflexion éthique (strictosensu) qui apprécie, au cas par cas, le poids respectif des valeurs en conflits et aboutit à une action singulière.

### La responsabilité du psychiatre- piste de réflexion à l'issue du procès de Geneviève Lhermitte

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À l'issue du procès Lhermitte, qui a vu reconnaître coupable et condamnée à la réclusion à perpétuité une mère cinq fois infanticide, la vindicte a pointé du doigt un autre coupable potentiel du drame, le psychiatre de celle-ci qui n'avait pas réagit aux courriers alarmants que lui avait adressé sa patiente. Dans ce contexte, il est utile, de rappeler, plus particulièrement à l'intention des psychiatres, les outils qui leur sont offerts par le droit, et plus particulièrement par la loi belge de protection des malades mentaux, lorsqu'ils se trouvent face à un patient présentant les indices d'une dangerosité qui pourrait menacer

son intégrité physique ou celle de tiers. De même, il est également opportun d'examiner brièvement les risques de voir leur responsabilité pénale mise en cause en cas d'abstention jugée fautive dans leur chef.

## Recherche sur la situation de la santé mentale dans la Législation iranienne

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Les services de la santé mentale sont présents depuis bien longtemps en Iran. En général, on peut diviser leur évolution selon 4 périodes. La Première expérience faite en ce qui concerne la santé mentale a été commencée par la construction de quelques hôpitaux Psychiatriques à Téhéran et d'autres villes d'Iran et a été continuée jusqu'en 1940. La deuxième époque débute par la création de la première faculté iranienne de médecine et par l'instauration de la psychologie comme une branche de la médecine moderne. Cette époque se poursuit jusqu'en 1961 en même temps que se développent des départements et des hôpitaux Psychiatriques. La troisième période phare dans l'évolution des services de santé mentale se situe dans la décennie 1970-1980, avec la création d'une association ayant pour but d'aider les personnes handicapées et de leur proposer de nombreux services. Enfin, la dernière période qui commence à partir d'octobre 1986 a vu le jour grâce à une autorisation gouvernementale permettant à une équipe de soin, d'exécuter son programme concernant la santé mentale. Après la révolution de 1978, bien que l'urbanisme et le progrès de l'industrie aient rapporté des bénéfices, ils ont ôté la tranquillité et la confiance aux gens dans le monde entier. C'est dans ce contexte de déception et de stress que la quantité a remplacé la qualité et que le nombre de maladies mentales a évolué fortement; C'est pour cela que le législateur iranien a consacré beaucoup de lois à la santé mentale des personnes, (par exemple : loi de budget et lois concernant le progrès économique, social et culturel). Lors de cette présentation, on va essayer d'analyser l'évolution Historique de cette notion dans la législation iranienne.

## Réflexion éthique à propos de la position du psychothérapeute appelé à témoigner en justice

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Le psychothérapeute (psychologue ou psychiatre) peut être convoqué comme témoin lors d'un procès concernant un de ses patients ou clients. Dans ce cadre, la Loi prévoit une exception à l'obligation du secret professionnel et autorise le professionnel à dévoiler des éléments liés à la psychothérapie. Cependant, si la Loi autorise la levée du secret professionnel, l'éthique et la déontologie professionnelle ne recommandent pas nécessairement de suivre cette voie. En effet, de nombreuses questions, telles que l'utilité, les risques et les conséquences de cette divulgation, se posent aussi bien au niveau de la relation thérapeutique avec la personne concernée que pour l'ensemble de la profession et le cadre thérapeutique de la pratique clinique de manière générale. Cette communication présente une réflexion autour des divergences qui apparaissent entre ce que préconisent la Loi, l'éthique et la déontologie. En outre, nous proposons d'alimenter la discussion en distinguant les situations dans lesquelles le patient ou client du psychothérapeute est la victime ou au contraire, l'auteur de faits délictueux.

## 183. Tueries de masse, comportements sériels et troubles de comportement

### Troubles de la personnalité agressive à comportement sériel

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Le DSM IV décrit dix troubles de la personnalité : paranoïaque, schizoïde, schizotypique, antisociale, borderline, histrionique, narcissique, évitante, dépendante, obsessionnelle-compulsive. Les tueurs et agresseurs en série non atteints de troubles mentaux, soit environ 85% d'entre eux présentent tous, dès l'enfance, d'importants troubles de la personnalité et du comportement. Si de nombreux comportements de ces individus peuvent se classer dans les caractéristiques du trouble de la personnalité antisociale ou psychopathie, l'on retrouve chez le psychopathe des caractéristiques non-présentes chez l'agresseur sériel (par exemple, une grande impulsivité) et inversement (comportements obsessionnels entre autres). En effet, l'agresseur sériel possède une personnalité infiniment complexe qui, outre les caractéristiques empruntées au psychopathe, présente d'autres traits de personnalité

empruntés à d'autres troubles. Nous essaierons donc de définir les traits de personnalité de ce type d'agresseurs que nous regrouperons sous le terme de « trouble de la personnalité agressive à comportement sériel ». L'agresseur sériel peut être décrit selon plusieurs facettes de sa personnalité, mosaïque de divers troubles, avec observation le plus souvent d'un rituel précis dans l'accomplissement de ses crimes, une recherche de perfection, un comportement manipulateur, l'existence de fantasmes sexuels déviants qu'il met en œuvre sur la scène de crime à travers sa signature, une personnalité "caméléon" lui permettant de mener le plus souvent une vie sociale et familiale d'apparence normale, ses victimes seules découvrant son vrai visage lors de son passage à l'acte. La présente étude porte sur 21 tueurs en série, originaires de France, Etats Unis, Russie, Angleterre.

### Risque de tuerie de masse : Évaluation clinique à la Cour

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Après les faits, on se questionne toujours si une tuerie de masse aurait pu être évitée. Les auteurs auraient-ils pu être identifiés et interceptés avant leur passage à l'acte? Des individus sont régulièrement arrêtés suite à des menaces de cette nature. Avaient-ils réellement l'idée ou l'intention de passer à l'acte? Une intervention préventive clinique et légale est-elle possible? Cet atelier a pour objectif d'exposer le tableau clinique que présentent les prévenus ayant fait des menaces de tuerie à l'endroit d'établissements scolaires, d'entreprises ou d'institutions gouvernementales. Nous décrirons sommairement la clientèle, le contexte des menaces ainsi que les actes d'accusations auxquels ils font face. Nous regarderons les impacts de ces menaces sur les personnes et les établissements ciblés. Nous examinerons les principaux facteurs retenus pour l'évaluation, en lien avec la littérature et en fonction du profil criminologique et psychiatrique des accusés. Une attention particulière sera portée sur les caractéristiques sociales et psychologiques de ces accusés. Nous analyserons les enjeux cliniques et légaux liés à leur remise en liberté. Ces évaluations criminologiques sont effectuées dans le cadre du service d'Urgence Psycho-Sociale de l'Institut Philippe-Pinel de Montréal. Il s'agit d'un service spécialisé qui effectue de l'intervention clinique évaluative auprès des accusés, à la Cour provinciale de Montréal.

### Perspectives thérapeutiques pour la prise en charge des enfants ayant des troubles de l'alcoolisation foetale au sein du tribunal

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L'alcoolisation fœtale est une cause importante de retard mental dans le monde. Une forte proportion des personnes atteintes de troubles causés par l'alcoolisation fœtale (du SAF - pour syndrome d'alcoolisation fœtale - à l'ETCAF - pour ensemble des troubles causés par l'alcoolisation fœtale) risque de développer des problèmes de santé mentale et d'avoir des démêlés avec la loi et le système judiciaire. Comme le diagnostic et l'intervention précoces constituent des facteurs de protection pour les personnes atteintes, les actions prises au sein d'un tribunal peuvent améliorer la trajectoire de ces personnes, particulièrement chez les enfants. Quelles pistes d'actions l'approche de «justice thérapeutique» propose-t-elle pour améliorer l'intervention auprès des enfants et des adolescents atteints d'ETCAF qui font face au système judiciaire?

### Utilisation des plans de modification de comportements en milieux de psychiatrie légale: enjeux éthiques et politiques

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Depuis plusieurs années l'utilisation des plans de modification de comportements fait l'objet de critiques sévères de la part de chercheurs, cliniciens, associations professionnelles et groupes de défenses des droits des personnes souffrant de troubles mentaux. L'objectif de cette présentation est de réfléchir, de manière critique, aux tensions éthiques associées à l'utilisation d'une telle approche dite "thérapeutique" alors que le personnel infirmier oscille continuellement (idéologiquement et cliniquement) entre ses obligations professionnelles et un plan de traitement infantilisant.

# SPANISH SESSIONS

## 184. Emotional Dependence, Freedom and Psychotherapy

(Dependencia, libertad y Psicoterapia)

### Dependence, Freedom, and Psychotherapy

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In this presentation, the author analyzes some of the limitations of human freedom experienced by those diagnosed with dependent personality disorder. It will examine the concept of dependence from an anthropological point of view in order to distinguish between human dependency and dependent personality disorder. From that same perspective, the relationship between dependence and psychotherapy, and psychotherapy and freedom will be examined. This perspective has allowed us to uncover some of the paradoxes of the human condition, including the notion that personal freedom can be understood as inter-dependent. Treatment outcomes can be optimized by combining the clinical and anthropological views of dependent personality disorder.

### Anthropological Principles in the Therapy of Addicts

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The human person is incarnate in nature. The possibility of making this claim rests on the distinction between human person and human nature. All human beings share the same nature, with a distinction of radical importance, in a man or woman mode; for this reason the human person can be male or female. The installation of the human person in the course of history is world-like. But it is not like one single kind of world, but three different modes of installation: corporeality, affectivity and mentality. They are the so-called worlds of the ego. Addictions are possible pathological modes of any of these instances, but it is the human person - in its unique and unrepeatable originality - that the term "addiction" can be applied to. An addiction is not just something, but it is essentially someone. The protagonist

of this tragic reality is the 'titleholder' of the addiction. If unrelated to the who of the dependency, any therapeutic approach to any of the multiple dependencies, is insufficient to understand them and to find the always plural approaches to their treatment. The Transcendental Anthropology Spanish philosopher Leonardo Polo, has an original and daring proposal allowing to reflect on the issue before us.

## Dependence and Temperance

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The recent psychology of virtue (Peterson, Seligman) has highlighted the connection between mental health and virtues. In this presentation we propose to focus on this connection from a particular point of view: that of dependency, and its connection with temperance, which in Greek is called "sophrosyne," "health of the reason" or "of the mind". From an Aristotelian perspective, this virtue is characterized by moderate internal movements and drives to action, and consistency with the dictates of reason. The various forms of psychological dependence are characterized by impulsivity and compulsive behaviour. Personality disorders associated with dependent behavior often have traces of impulsivity. Therefore, we propose to connect the theory of virtue with the psychopathology of dependence.

## El psicoterapeuta y la dependencia física y psicológica en la tercera edad

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El mundo envejece. Cada vez son más la cantidad de personas mayores tanto en países desarrollados como en vías de desarrollo. Ser mayor no significa ser dependiente. Sin embargo, muchas personas mayores necesitan temporal o definitivamente ser atendidas por otros para actividades de la vida cotidiana. Delicados aspectos relacionados con la dependencia y el control aparecen cuando una persona se convierte en responsable de otra. Aunque parece que una persona que necesita que la cuiden no puede tener el control de la situación, puede hacerlo. Por su parte el cuidador puede experimentar un sentimiento de dependencia de la persona a la que cuida. Cuidadores y personas cuidadas comparten una relación recíproca en la que cada comportamiento de uno configura el del otro. Hay una serie de principios que, aunque parezcan paradójicos, nos ayudan a pensar mejor como psicoterapeutas la relación entre el cuidador y la persona que necesita que la cuiden: a)

aceptar ayuda es un acto de generosidad; b) ayudar puede ser un acto egoísta; c) ayudar puede ser gratificante incluso cuando implica una gran cantidad de trabajo; d) renunciar al control implica madurez personal y e) establecer límites proporciona una mayor libertad.

## An Integrated Approach to the Treatment of Dependent Personality Disorder

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A person with Dependent Personality Disorder (DPD) presents pervasive and excessive need to be taken care of that leads to submissive and clinging behavior and fears of separation. Categorical diagnoses do not capture the complexity or range of psychopathology relevant to treatment planning. It is also necessary to take into account other problems and psychopathology like symptoms, situational problems, regulation and control of impulses and emotions, maladaptive traits, interpersonal problems and self or identity problems. Several treatments are effective in treating DPD and outcomes do not differ substantially across treatments. We propose a model of how to organize an integrated treatment for DPD, integrating and combining methods in a coordinated way to give the patient what he needs. Different skills from dialectical behavior therapy, transference-based therapy, mentalizing based therapy, rational emotive therapy and cognitive behavior therapy could be used to make an individual psychotherapeutic treatment planning that allows the person to face the change initiative and full knowledge of the work done. First motivation and a commitment to change, second abandon dysfunctional patterns, third transition to new forms of thinking, fourth feel and behavior, fifth patterns start to change and sixth maintenance of new adaptive patterns.

## 185. Denegación de los derechos humanos de los niños que viven en las calles del estado de Río de Janeiro

### Aspectos legal y sociales de niños de la calle

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La situación que enfrenta "niños y niñas que viven en la calle" son emblemáticas de la desigualdad social y el proceso perverso de selectividad de la sociedad brasileña, que

representa el borde más visible de una serie de violaciones de los derechos del niño y el adolescente. En nuestras ciudades, desde la década de 1980, la población de niños y adolescentes que viven en la calle creció. Sin duda es necesario dar respuestas urgentes y ofrecer posibilidades de vida a uno de los segmentos más vulnerables de la población. En vista de los principios establecidos en la Constitución Federal (art. 227) y en la Ley Federal 8.069/90 – Estatuto da Criança e do Adolescente y más concretamente, en conformidad con el artículo 87 de la ley, lo que se refiere a las líneas de acción política, esta propuesta es articuladas con las políticas sociales básicas y con las reglas y, más concretamente, pretende fortalecer y promover acciones que tienen como beneficiarios los niños y adolescentes que viven en la calle y sometidas a condiciones que denegam sus derechos fundamentales.

### Explotación comercial y sexual de niños de la calle

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Un mapa hecho sobre la ciudad de Río de Janeiro revela que hay 11 distritos donde los niños y adolescentes, entre 10 y 18 años sufren explotación sexual. La realidad de estas niñas, que a veces usan drogas y vienen de familias pobres, se levantó desde el enfoque del trabajo realizado por los trabajadores sociales y educadores sociales en las calles. De acuerdo con la Secretaría de Asistencia Social Municipal, esta encuesta se realizó por primera vez en 2007. Encuesta de este año reveló nuevas ubicaciones de la explotación sexual comercial y que no había sido notificada en el primer estudio, que demuestra que el cuidado y la protección de niños y adolescentes se necesitan multiplicar, ya que esta práctica nociva ha crecido en la ciudad de Rio de Janeiro. Este cambio en la geografía de la explotación comercial y sexual condujo la Secretaría para expandir el servicio para luchar contra el abuso y la explotación sexual de niños y adolescentes. Después de que se distribuyen al servicio, las víctimas reciben ayuda psicológica y están incluidas en los programas sociales. Hay explotación en las cuatro zonas de la ciudad, especialmente en las paradas de ómnibus. Toda la información asignada se reenvían a la Oficina de Seguridad, los fiscales y el poder judicial. El año pasado, 258 casos de abuso sexual de niños y adolescentes fueron acompañados por la Secretaría. Este año, sólo en la primera mitad, este número llega a 196.

### Delincuencia y justicia terapeutica

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Los menores que viven en situación de riesgo, llamados "niños de la calle" son un grupo de riesgo en términos de salud pública y cuestiones de seguridad involucradas, como víctimas de violencia física, la explotación sexual por el sufrimiento y sin embargo porque son los usuarios de alcohol y drogas. De hecho, la adicción a las drogas los hace en gran medida a ser delincuentes, algunos incluso con extrema violencia. Y así, para convertirse en delincuentes en tan temprano en sus vidas están sujetos a factores que dan cuenta de su degeneración y en consecuencia, cada vez que niegan sus derechos básicos, humanos y sociales. La desigualdad social, la política fracasada de la distribución de renta, los servicios públicos ineficientes y prematura institucionalización de estos individuos, hacen el estrecho vínculo entre la delincuencia juvenil y la drogadicción vinculadas de forma permanente. Por esta razón, hay la justicia terapéutica como una solución para paliar estos graves problemas proponiendo celebrar una serie de acciones para fortalecer los canales de apoyo efectivo a estas personas, para garantizar sus derechos humanos básicos y la promoción de su cuidado y sus necesidades sociales y de salud. En consecuencia, el tribunal de drogas es de valor primordial en la misión de la defensa de los desfavorecidos, a los que por falta de acceso a los bienes sociales y servicios de calidad, se ha reservado el peor lugar en la sociedad brasileña que es decir el camino de la exclusión social. Los tribunales de drogas surgió como una de las necesidades prioritarias de la comunidad, si la complejidad del problema de las drogas en la sociedad cuyos actores son niños y adolescentes y que la garantía de los derechos fundamentales de acceso a servicios de calidad en salud, educación y bienestar, o por aspectos relacionados con la seguridad pública y la delincuencia de menores. En este sentido, el curso sobre Justicia Terapéutica y Delincuencia Juvenil tiene por objeto demostrar que la inversión en los tribunales de tratamiento de drogas surte efecto tanto en el ámbito social con la reintegración de estas personas en la sociedad, sino también en el ámbito penal, reduciendo drásticamente la delincuencia juvenil cuando propiciado el tratamiento adecuado, individualizado y de calidad.

## Violencia y abuso de sustancias

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La creciente demanda de niños de la calle usuarias de crack en Río de Janeiro es alarmante, especialmente en espacios llamado crackolândia (crackland). A pesar de la información epidemiológica sobre la prevalencia de crack en estas poblaciones son todavía incompatibles, datos del departamento de policía dice que crack es consumido por nueve de cada diez residentes de calle de la ciudad de Rio de Janeiro. En Brasil, las encuestas de CEBRID con niños y adolescentes en situación de calle (1987, 1989, 1993, 1997 y 2003) ya



indicado un aumento progresivo en el consumo de crack. Se sabe que el uso de drogas como el crack está en relación con el aumento en la violencia y la delincuencia juvenil (Springer). Además del análisis de datos sobre el uso constante de drogas, la muerte por causa de la violencia, la pronta entrada en la delincuencia y la presentación a la explotación sexual, este trabajo se pretende indicar una modalidad de protocolo y un modelo de la intervención para lidiar con niños de la calle y los menores delincuentes que abusan de sustancias. Las intervenciones incluyen centros de acogida y de rehabilitación que se inserta en la red para la protección especial y la inclusión social para este grupo de niños y niñas vulnerables.

## 186. Sistema Penitenciario en Brasil desde la perspectiva de la Psicología y de la Psiquiatría

### Autonomía de rechazar procedimientos diagnósticos y terapéuticos para pacientes con depresión en un hospital general del sistema penitenciario en Brasil

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Al aplicar el principio de autonomía que está garantizada por los artículos 13 y 15 del Código Civil brasileño, en el ámbito de la relación médico-paciente, importantes cuestiones éticas pueden surgir, especialmente cuando el paciente está bajo custodia y la protección directa del Estado, como en el caso de los presos. Cabe señalar que a los pacientes presos son asegurados todos los derechos no afectados por la sentencia penal condenatoria. Así, un paciente preso puede negarse a procedimientos diagnósticos y terapéuticos que se ofrecerán, siempre que su capacidad de auto-determinación no se ve comprometida por medios físicos o mentales. No obstante, una cuestión especial presentase a esa situación, ya que los pacientes presos están bajo la responsabilidad del Estado. Este trabajo se presenta con el fin de discutir el conflicto entre los principios de autonomía y beneficencia en el tratamiento del paciente preso. La autonomía debe ser respetada, a pesar de que el paciente sea declarado culpable y encarcelado bajo la responsabilidad del Estado, el médico puede intervenir sin el consentimiento del paciente, sólo cuando se han justificado sus

acciones por un peligro inminente de muerte que, según con el artículo 146, párrafo 3 del Código Penal brasileño y los artículos 46, 51 y 56 del Código de Ética Médica del Consejo Federal de Medicina de Brasil. La intervención médica contra la voluntad del paciente también se justifica cuando hay incapacidad civil de los mismos, o todavía comprometimiento de su competencia para tomar decisiones, como en el caso de algunos pacientes con trastornos mentales.

### La contribución de la Psicología y psicólogos en el Consejo Penitenciario del Estado de São Paulo, Brasil: Estancamiento y posibilidades

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El Consejo Penitenciario del Estado de São Paulo, Brasil, órgano colegiado que hasta hoy tiene carácter consultivo para el gobierno del estado, tuvo su instalación oficial en 24.12.1926, por la Ley 2168-A, y solamente en 1986, o 60 años después de su instalación, pasó a contar con profesionales de la Psicología, cuando fue editado el Decreto estadual 26.372, de 04 de diciembre de 1986. Eso significa que se pasaron 24 años después de la institución de la profesión de Psicología en Brasil, por medio de la Ley 4.119, de 27 de agosto de 1962. Todos los miembros del Consejo Penitenciario tienen atribuciones previstas en el Artículo 5º del Decreto 26.372/86, y son designados por el Gobernador del Estado, después de consulta a los órganos de clase profesional respectivos para un mandato de cuatro años, existiendo la posibilidad de ser reconducidos a la condición de consejeros. Entre otras tareas previstas, los consejeros deben visitar presidios y contribuir, con comentarios, discusiones y estudios en materias pertinentes al área penitenciaria. Nuestro punto principal para este trabajo será discutir si, en estos 24 años de presencia de los psicólogos, todos expertos en el área de Derecho Penal, Procesal, Penitenciario (Artículo 3º, Parágrafo 1º, del Decreto 26.372/86), en el Consejo Penitenciario, la profesión, de facto, se mostró presente con toda su complejidad, en el nivel profesional, teórico o en su praxis. Acreditamos que, todavía reciente, la Psicología brasileña tiene mucho para contribuir en las diferentes áreas o sectores de actuación.

## Características de reclusos atendidos en el servicio de urgencias psiquiátricas del Centro de Atención Integrada a la Salud Mental de la Santa Casa de Misericordia de Sao Paulo, Brasil

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**Objetivo:** El objetivo de este trabajo es presentar el servicio de atención psiquiátrica de emergencia prestado por el Centro de Atención Integrada a la Salud Mental de la Santa Casa de Misericordia (CAISM) a los pacientes de las cárceles públicas de la ciudad de Sao Paulo, Brasil, donde las personas son conducidas después de su arresto. **Presentación:** En el período de seis años, 657 pacientes fueron atendidos, de los cuales 85,7% eran hombres. Casi la mitad de esa población era analfabeta o tenía la escuela primaria. La mayoría de los individuos eran solteros y 40% de ellos eran menores de 24 años. Alrededor de 48% de los delitos fueron cometidos contra la propiedad, y el 12% estaban relacionadas con el tráfico de drogas. Alrededor del 10% de los delitos fueron homicidio y el 8% de intento de asesinato. Los crímenes sexuales se cometieron en el 3,5% de las veces, como la violación sexual y asalto indecente. En cuanto al diagnóstico psiquiátrico, el 47% de los pacientes tenían síntomas psicóticos en el momento de la atención y alrededor del 20% de los individuos presentaban la adicción como principal diagnóstico psiquiátrico. Del total de pacientes atendidos, 35% tenían trastornos mentales tan graves que requirieron hospitalización. Estos datos ilustran la realidad de la falta de asistencia a esta población, compuesta de individuos analfabetos, con trastornos psiquiátricos graves, que deberían estar sometidos a cuidados adecuados con el fin de evitar verse envueltos en crímenes que les haría daño, como también a la propia sociedad.

## Aspectos psicosociales de presas resocializandas en el estado de são paulo

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Introducción: Estamos desarrollando en el Estado de São Paulo, Brasil, proyecto de investigación para evaluar la morbilidad psiquiátrica entre las presas resocializandas. En nuestra situación, la principal causa de encarcelamiento femenino es el tráfico de drogas. Esta es la población carcelaria a que no se ha dedicado mucha investigación, sendo que las pocas existentes indican una morbilidad psiquiátrica alta entre las presas. También hay importantes efectos sociales, ya que la mayoría de las presas tienen hijos pequeños y son cabezas de familia. Objetivos: Evaluar la morbilidad psicosocial y psiquiátrica entre las prisioneras de los centros de socialización en el Estado de São Paulo. Método: entrevistas con: SCID – Eje I, SIDP-R, MMSE e prueba de inteligencia no verbal (INV), así como abordar la historia social-familiar de la presa. Resultados preliminares: Estudio que nosotros realizamos (en prensa) en uno de los centros de rehabilitación social del Estado (São José do Rio Preto), a través de entrevista semiestructurada que nosotros elaboramos, la evaluación de 50 resocializandas entre 170 presas, nos muestra que la dimensión estadística de mayor homogeneidad en la muestra (mejor caracterización de la misma, por lo tanto) son los antecedentes familiares adversos (variables como la separación de los padres, participación de la familia con drogas y delincuencia). Constatamos heterogeneidad en la historia médica (incluyendo psiquiátrica), en relación a la historia personal criminal y de relaciones interpersonales de las presas.

### **Incidencia de la violencia sexual documentados en los archivos del tribunal en la ciudad de Catalão-GO Brasil (1990-2008)**

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El registro de la incidencia de la violencia sexual estricta surge por sí mismo como un elemento importante de análisis para el diagnóstico y la intervención, ya que su incidencia muestra la violación de los derechos sexuales y reproductivos. La dimensión socio-psicológica se recompone a través de los restos de la información relativa a los documentos de la corte, y que distingan a cada acusado. Procedimiento utilizado para documentar la investigación, cuyo objetivo es recoger información y analizar las dimensiones cuantitativas del perfil socio-demográfico de los autores de violencia sexual en Catalão-GO (Brasil), en el periodo de 1990 a 2008. En base a datos cuantitativos, que se extiende la base de datos

sobre el tema en la provincia brasileña de Goiás, destaca la posibilidad de evaluar la incidencia de los registros, orientar las acciones en el ámbito de la prevención primaria y secundaria y el desarrollo de políticas públicas orientadas a garantizar los derechos sexuales y reproductivos.

### Fortalecimiento del individuo encarcelado y el rescate del proyecto de vida en la prision de Catalão, Goiás, Brasil

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El trabajo tuvo como objeto el estudio de las consecuencias de encarcelamiento y posibilidades de fortalecimiento del encarcelado, rescatando a su proyecto de vida y contribuyendo para su reinserción social. Dirigido a fortalecer a los participantes y conducirles en el desarrollo de un proyecto de vida que implicaba la planificación de acciones, expresión de las emociones y llevar a cabo actividades en la dinámica de grupo.

### 187. Aspectos psicosociales: Salud, Educación y Forense en diversos segmentos de la población de Lima, Perú

### Consumo de bebidas alcohólicas en un grupo de estudiantes universitarios limeños

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Los estudios sobre el consumo de bebidas alcohólicas en estudiantes universitarios dan cuenta existe una asociación entre las razones para beber y lo que esperan ellos encontrar al realizar dicha conducta. En ese sentido, Cox y Klinger (1988) postularon un modelo motivacional del uso de alcohol en el que señalaron que el origen de esta conducta es motivacional, debido a que una persona decide consciente o inconscientemente consumir o no una bebida alcohólica, de acuerdo a si espera que las consecuencias afectivas positivas de beber, tengan un mayor peso, que aquellas de no hacerlo. En el caso de la motivación

para usar bebidas alcohólicas, ha sido demostrado que las expectativas acerca de los efectos del alcohol están presentes desde antes que la persona lo consuma (Christiansen, Golman e Inn, 1982). Las expectativas de las personas acerca de beber alcohol influyen dramáticamente en su motivación para hacerlo y en los efectos sobre su comportamiento. Es por ello, que los estudios que se presentan a continuación dan cuenta de ello. El objetivo de este trabajo es presentar dos estudios realizados con estudiantes universitarios; el primero de ellos buscó identificar las relaciones entre el consumo de bebidas alcohólicas, la tipología del bebedor, las motivaciones para hacerlo, los problemas relacionados con la bebida y los estilos de afrontamiento en un grupo de universitarios de uno y otro género, matriculados en los primeros ciclos de una universidad privada en Lima. El segundo profundiza en los aspectos psicológicos como el estrés y afrontamiento, buscando identificar qué caracteriza al grupo de bebedores y qué al de no bebedores.

### Estudio de Resiliencia en Internas de penal de máxima seguridad

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De las experiencias humanas encontrarse en un penal de máxima seguridad enfrenta a las personas a sinnúmero de situaciones adversas, por un lado la culpabilidad del delito cometido, el tiempo de la pena, y por otro la posibilidad de su reinserción y aceptación en el ámbito social. En este proceso y como parte del objetivo principal que es lograr la "reeducación, readaptación y reincorporación del recluso a la sociedad ", nos interesamos en investigar si era posible establecer programas de Resiliencia que permitieran a las internas contar con la capacidad de aceptar la situación actual, de prevenir su reincidencia y lograr mejorar su calidad de vida al encontrarse en libertad. Con esta finalidad se administró una escala de Resiliencia (SV-RES Saavedra- Villalta) a un grupo de 25 internas recluidas en un penal de máxima seguridad, resultados que fueron contrastados con la entrevista, la historia personal y la observación en el período de su asistencia a clases. Estos resultados permiten determinar los niveles de resiliencia encontrados así como la posibilidad de establecer programas coadyuvantes a su reinserción social.

### Impulsividad y bienestar en mujeres encarceladas en un penal de 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.

### La afectividad en niños con experiencia de vida en la calle de Lima metropolitana Rorschach-Exner

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**Introducción:** Los Niños con “experiencia de vida” en la Calle constituyen un grupo de riesgo con historias personales y familiares muy complejas, cargadas de privación, limitaciones y frustraciones, cuyas experiencias vivenciales han afectado la naturaleza y características de su afectividad. Considerando la importancia de la naturaleza, calidad y características de la afectividad de los niños con “experiencia de vida” en la calle, se ha realizado esta investigación sobre el tema. **Método:** La muestra está constituida por 70 niños varones de Lima Metropolitana, de 12 a 14 años de edad. **Grupo de estudio:** 36 niños con “experiencia de vida” en la calle. **Grupo de Contraste:** 34 niños de nivel socioeconómico bajo, con las mismas características, quienes viven en una casa con sus padres y asisten regularmente a un colegio estatal. El presente trabajo tiene por objeto acceder al mundo interno de estos niños, específicamente al área de los afectos, a través del Cluster de la Afectividad del Sistema Comprensivo Rorschach-Exner, usando un diseño descriptivo-comparativo. **Resultados:** El estudio ha permitido identificar las condiciones de riesgo inminente en que se encuentran los Niños que viven en sus Casas. Asimismo, los valiosísimos recursos del mundo interno que presentan los Niños con “experiencia de vida” en la Calle –los que en la actualidad se encuentran en situación potencial- pero, con muy escasas posibilidades de actualización, dada la indiferencia e irresponsabilidad de la sociedad y sus gobernantes, que desconocen los Derechos de los Niños a su autorrealización, al logro de un desarrollo

saludable y a la construcción de un futuro digno para ellos, sus familias, la comunidad y el país.

### Coping Styles among Peruvian Women Living in Extreme Poverty

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The theoretical frame used was Lazarus' Transactional Model of Stress. The sample consisted of 80 women that live in extreme poverty in a shanty town of Callao-Lima, Peru. The instrument used was the Stressful Life Events, constructed for this study, in addition to the Ways of Coping questionnaire by Folkman and Lazarus (1989). A three-factor solution that explained 58.6% of the variance was found: 1) coping was related to problem solving on items including Planned Problem Solving and positive reappraisal; 2) coping is directly linked to social responsibility and seeking social support; 3) coping was aimed to provide emotional relief. The results showed that only problem-focused and social-support-focused domains were significantly correlated ( $r=.33$ ;  $p=.003$ ). The conclusion in a regression model was that the emotion-relief-focused style was significant and highly relevant to coping with stressful events for women living in extreme poverty.

## 188. Violencia domestica, psicopatologia y homicidio en la familia

### Variables psicosociales de mujeres y hombres que matan a sus parejas

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*Antecedentes:* La evidencia señala que la gran mayoría de los homicidios son cometidos por hombres y entre éstos el femicidio constituye una forma especial de agresión. A diferencia de ellos, que muchas veces matan a personas que apenas conocen, los estudios plantean que las mujeres asesinan principalmente a quienes aman, sus parejas y los hijos. Y quienes



matan a la pareja constituyen aproximadamente un 60% del total de parricidios, mientras que en varones es cerca de un 56% de éstos. *Objetivos:* Describir y comparar en función del sexo las variables sociodemográficas, psicopatológicas y criminológicas que se asocian a hombres y mujeres que matan a sus parejas. *Material y métodos:* Se realizó una evaluación retrospectiva de los informes incluidos en la base de datos del Servicio Médico Legal de Chile, que incluyó una muestra de 60 mujeres acusadas de matar a su pareja, peritadas entre los años 2005 -2009. Los datos se compararon con una muestra de 60 hombres acusados por el mismo delito. *Resultados:* Los autores evaluaron las características individuales de las mujeres y hombres en relación con la edad, escolaridad, antecedentes de maltrato y abuso sexual en la infancia, antecedentes psiquiátricos previos, consumo de alcohol y sustancias, y variables como el tipo de relación existente con la víctima, existencia de amenazas y denuncias previas por violencia intrafamiliar y consultas en otras instituciones, a fin de evaluar el contexto en que ocurrió el crimen y posibles predictores psicosociales.

### Caracterización de una muestra de filicidas: patrones diferenciales entre neonaticidas e infanticidas

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Introducción: El objetivo del presente trabajo fue describir y comparar en base a variables sociodemográficas, criminológicas y psicopatológicas, a dos grupos de padres que asesinaron a sus hijos. Método: Se analizó el registro de todos los casos de neonaticidio e infanticidio que fueron evaluados psiquiátrica y psicológicamente en la Unidad de Psiquiatría Forense del Servicio Médico Legal de Santiago de Chile durante los años 1998 y 2009. La muestra final estuvo compuesta por 98 sujetos, correspondiendo un 30.61% ( $n = 30$ ) a neonaticidios y un 69.39% ( $n = 68$ ) a infanticidios. Resultado: Los datos muestran diferencias significativas según el tipo de delito, relacionadas con variables como el género, grupo edad, estado civil y comportamiento posterior al delito. El análisis predictivo confirmó estas asociaciones, encontrándose que el grupo de neonaticidas se caracterizan por ser mujeres, jóvenes, solteras y que utilizaron la asfixia o la negligencia como método para dar muerte a sus hijos. Los datos son consistentes a nivel general con lo encontrado en la literatura. El estudio representa un avance hacia el entendimiento de los factores de riesgo asociados con este tipo de delitos.

### Estudio de la psicopatología en penados por violencia de género

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Para concretar una intervención individualizada y programada para cada penado por violencia de género, que potencie su reeducación y reinserción es necesario identificar las disfunciones que puedan mediar la eficacia del tratamiento. En este sentido, el Programa Galicia de Reeducación de Maltratadores de Género (Arce y Fariña, 2005, lleva a cabo una evaluación inicial en la que se analiza, entre otras (p.e. psicosocial, estructural, sociocultural, o riesgo), el área clínico-sanitaria. Concretamente, en este trabajo, con el objetivo de evaluar el estado clínico inicial de los penados, se procede con el estudio de la psicopatología. Para ello se aplica el SCL-90-R (Derogatis, 2002) en una muestra de 50 penados con medidas de suspensión o sustitución de condena en el Programa Galicia. Finalmente, se discuten los resultados obtenidos y sus implicaciones para la eficacia del tratamiento.

## Oficina de violencia domestica. Corte Suprema de Justicia de la Nacion Argentina

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El carácter complejo del fenómeno de la violencia domestica requiere una intervención en la que haya unidad de criterio y un abordaje interdisciplinario. La existencia de esta oficina, que funciona todos los días del año, las veinticuatro horas del día, supone immediatez, racionalización de los recursos materiales y humano y facilitación del acceso a la justicia de las personas afectadas por violencia domestica, las que en muchos casos desconocen las vías de entrada al sistema judicial. Asimismo la realización de estadísticas llevara a realizar un análisis que permita apreciar la verdadera magnitud del fenómeno, a fin de articular la prevención de manera más efectiva. Esta iniciativa llevada a cabo por la Corte Suprema de Justicia de la Nación Argentina ha generado que los estados provinciales, a través de sus Supremos Tribunales, comiencen a realizar igual tarea en sus territorios, con similar lineamiento y adaptado a sus idiosincrasias. Promover una iniciativa de esta naturaleza, supone comenzar a modificar la percepción de esta clase de violencia, quitándole la significación que se le daba y sacándola del ámbito privado. Desde el punto de vista de la Justicia Terapéutica, la concreción de este proyecto, acentúa la vocación de la justicia argentina, de prestar un servicio eficaz y eficiente, al intervenir en estas familias disfuncionales, no desde el ángulo tradicional sino desde un enfoque interdisciplinario mas profundo, que persigue la cesación de este tipo de situaciones, intentando la concientización de los miembros de la familia de la afectación que sufren como consecuencia de la violencia doméstica. La sociedad toda debe concientizarse también, a fin de luchar contra este flagelo.

## Es posible la salud mental cuando har violencia doméstica ?

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Este trabajo examina la violencia doméstica en Brasil, los cambios existentes con la nueva ley “María da Penha” y la importancia del concepto de género para la comprensión de esa violencia. Un estudio en 15 capitales brasileñas y en el Distrito Federal ha revelado prevalencia global de agresión psicológica (78,3%), abuso físico “menor” (21,5%) y abuso físico grave en la pareja (12,9%) respectivamente. Los mayores índices de violencia entre compañeros íntimos ocurrieron en las ciudades del Norte/Noreste, con mujeres menores de 25 años y escolaridad menos que 8 años, que vivían en bajar condiciones socioeconómicas y

con abuso de alcohol y otras drogas. En 2006 fue homologada la Ley “María da Penha” (Ley 11.304/2006) con la intención de dotar más severidad en el afrontamiento de los delitos intrafamiliares. La ley posibilita la creación de Juzgados de Violencia Doméstica y Familiar contra la Mujer, con competencia pena y civil con más protección en la atención policiaca a la mujer. Bajo la óptica del género, la violencia doméstica es un fenómeno complejo e a veces completamente invisible dado sus características de naturalización. En Brasil la ley ayuda en la protección, sin embargo las condiciones reales se traducen en problemas de orden psicológico, traumas e incluso muerte.

## 189. Justicia therapeutica y procesis de intervencion y reeducacion familiar

### Justicia terapéutica en procesos de familia : Programa de intervención “Ruptura de pareja no de familia”

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La Justicia Terapéutica tiene por objeto abordar los asuntos legales de una forma más comprensiva, humana y psicológicamente óptima. Desde una perspectiva interdisciplinar, considera que la Ley es una fuerza social que produce comportamientos y, por tanto, consecuencias que pueden ser positivas o negativas para la vida emocional y el bienestar psicológico de los usuarios del sistema legal, resultando así, terapéutica o antiterapéutica (Wexler y Winick, 1996). En este trabajo se expone una experiencia pionera en España, el programa “Ruptura de Pareja no de Familia” propuesto por Fariña, Novo, Are y Seijo (2001). Éste se fundamenta en los principios de la Justicia Terapéutica, dando apoyo a las parejas que rompen su relación y a su familia, con el objeto de desjudicializar la relación y favorecer la relación parental, encaminada a la coparentalidad. En esta comunicación se presenta los

contenidos y la metodología de intervención del mismo, en las modalidades: Programa Breve y Programa Largo, en éste último en las versiones para adultos y para hijos.

### Opinión y valoración de los usuarios del programa de intervención “Ruptura de pareja no de familia”

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Los progenitores, cuando rompen su relación de pareja, debido a su estado psicoemocional negativo y, en muchas ocasiones, también a causa de sus fuertes sentimientos de rechazo y odio entre ellos, se olvidan de lo que es importante y conveniente para sus hijos. Este hecho ha provocado, desde hace más de dos décadas, que en Estados Unidos y Canadá, se vengán desarrollando programas de carácter psicosocial para intervenir con estas familias (p. e., Achtem y Hett, 1988; Bornstein, Bornstein y Walters, 1985; Pedro-Carroll y Cowen, 1985; Roseby y Deutsch, 1985; Stolberg y Garrison, 1985). En España, asumiendo los principios de la Justicia Terapéutica, la Psicología Positiva y los Derechos de los niños, Fariña, Novo, Are y Seijo (2001) propusieran el programa “Ruptura de pareja, no de Familia” el cual se viene aplicando desde la Unidad de Psicología Forense, de la Universidad de Santiago de Compostela. En este trabajo se presenta la valoración que esta intervención merece para los usuarios del mismo, para ello se utiliza una muestra de 50 usuarios adultos.

### Programa galicia de reeducación de maltratadores de género : Una experiencia desde la justicia terapéutica

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Con la entrada en vigor en España de la Ley Orgánica /2004, de Medida de Protección Integral contra la violencia de género, se ha venido desarrollando el Programa Galicia de Reeducción de Maltratadores de Género (Arce y Fariña, 2005), programa de reeducación y tratamiento psicológico para la sustitución de la pena a reos primarios condenados por violencia de género. El objetivo general del programa es la reeducación psicosocial del penado mediante el aprendizaje y la generalización de una serie de habilidades y destrezas, así como la erradicación de patrones conductuales y culturales inadaptados. Este programa de reeducación que se implementa en medio abierto, se impone en la sentencia que dicta el juez como medida de suspensión o sustitución de condena. Esta contingencia es reveladora del nexo entre el proceso judicial y la reeducación del penado en el marco de la justicia terapéutica (Wexler, 1997). En este trabajo, se presenta la versión básica del programa, desde la evaluación previa a la intervención, en la que se pretende identificar las necesidades, carencias o déficits que puedan mediar la eficacia del tratamiento, pasando por la intervención y el seguimiento.

### Ausencia de una justicia terapeutica ene los niños confinados en carcel por delito de sus madres

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Necesidad de revisar circunstancias: Tipo de delito; psicología y/o patologia materna; padre, familia extendida; adquisicion de conductas desfavorables en el niño en sus primeros años. Contradiccion con la convencion sobre los derechos de la niñez, posibles soluciones, obligacion del estado.

### Valoración del daño psicológico en Víctimas de Delitos de Lesa Humanidad

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Definir la dimensión del daño psicológico en víctimas de violencia política, implica acudir a otras formas tradicionales de valoración que la ley ha establecido como el denominado daño moral, o el daño en la vida de relación o el nada claro daño psicológico en general. Es

importante señalar que éste cruel daño es fundamentalmente una afectación a la totalidad de la persona y básicamente a su proyecto vital de existencia. ¿Qué elementos se deben tener en cuenta, cómo se podría valorar este tipo de daño y cuáles deben ser los principios éticos que sostiene esta valoración? son preguntas que requieren ser contestadas de manera urgente. La dimensión terapéutica de la justicia en éste tipo de sufrimiento debe contemplar la comprensión global del sufrimiento, identificar la intencionalidad de los victimarios y la consecuente normalidad o anormalidad de la respuesta psicológica de las víctimas que ameritan una adecuada reparación integral. Hay por lo tanto una necesidad ética de abordar la problemática que la violencia intencional genera en sus víctimas. Se hace imprescindible identificar la naturaleza étnica y cultural que identifican aquellos factores precipitadores de la violencia que singularizan su sufrimiento y que están alejadas de las tradicionales categorías clínicas que no contemplan la extraordinaria complejidad para comprender el sufrimiento humano desde ésta perspectiva.

## 190. Diversidad en los escenarios de transgresión y violencia

### El acoso (moral) en los trabajadores bancarios en Brasil: punto de vista forense de tres casos

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University of Sao Paulo School of Medicine Marcia Vieira da Motta, DDS, MS, PhD University of Sao Paulo School of Medicine Julia T. Fontana-Rosa University of Mogi das Cruzes São Paulo La globalización determina la competencia más severa entre las empresas. De ahí la necesidad de ofrecer productos con mejores condiciones para competir en el mercado. Por lo tanto, lo más altos requisitos de ingresos de los empleados. Los diferentes tipos de demandas pueden tener consecuencias para el empleado. Esta tensión hace que la angustia psicológica se encuentra en la llamada intimidación. El acoso es una forma de malestar psicológico debido a que afecta la dignidad y ofende su honor. Evaluado como un testigo experto en casos de acoso a los trabajadores en general. Se pide una indemnización por la pérdida de experiencia en la capacidad de trabajo, a causa de los trastornos mentales como consecuencia de condiciones de trabajo insatisfactorias. De modo especial, hemos observado que se produzca en los bancos. Una de las formas de acoso está en la necesidad de las actividades y el ritmo hasta la cantidad apropiada (venta de productos como tarjetas de seguro, crédito, etc.) Solicitud de supervisores para las tareas de los empleados que recibieron formación, asesorar a un empleado en la presencia otros colegas; advierten con

agresividad, las víctimas de asaltos, etc. Los bancos dicen : En Recursos Humanos ofrecemos una propuesta de valor para que exista el equilibrio entre las demandas de los empleados y las necesidades de negocio. Pero, en la realidad esto no es verificado. Los casos evolucionan hacia una forma de un estado de ánimo alterado, en forma de un trastorno adaptativo (CID - 10 F 43.1), con estado de ánimo depresivo mayor parte. Por lo general, estos casos también hay el miedo de volver a las mismas actividades. En algunas situaciones, las personas no pueden ni siquiera entrar en una sucursal bancaria. En algunos de ellos también tomó nota de la aparición del trastorno de pánico. El pronóstico no es nadie favorable en estos casos. Un factor que complica el pronóstico es el hecho de que los bancos no suelen dar al empleado la oportunidad de regresar a las actividades compatibles con sus limitaciones. Se discuten tres casos de especial importancia

### Procesos de recuperación en víctimas de violencia y sucesos terroristas

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Procesos de recuperación en víctimas de violencia y sucesos terroristas. Psychosocial recovery processes in victims of violence and terrorist events. Juan de D. Uriarte Universidad del País Vasco / EHU. Las víctimas de la violencia política sufren una conmoción a nivel físico, emocional, cognitivo y social mayor que las causados por los accidentes, los desastres naturales u otras formas de violencia interpersonal, con secuelas psicológicas más persistentes y difícil de superar incluso con tratamiento psiquiátrico (Echeburúa, 2004). La perspectiva de la resiliencia muestra que la mayoría de ellas son capaces de recuperarse y de llevar una vida adaptada y sin problemas de salud importantes varios años después (Cuesta, 2000; Fullerton et al. 2003). El conocimiento de los recursos resilientes puede servir de orientación para las víctimas que tienen dificultades psicológicas más persistentes. El perdón, que no implica necesariamente el olvido ni debe estar sujeto a ningún tipo de imposición, es una disposición individual de la víctima si encuentra en él un camino para romper con el vínculo autodestructivo con el victimario que le dificulta recuperar el bienestar psicológico. La consideración de los traumas de tipo terrorista como traumas psicosociales nos llevan a contemplar la dimensión comunitaria de la resiliencia en la medida en que la recuperación individual está vinculada a un discurso social que las dignifique, las proteja y contribuya a terminar con los terroristas.

### Estrategias de rehabilitación para infractores contumaces y delincuentes de tráfico. El caso español



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El derecho a la vida, a la integridad física y a la salud constituyen derechos fundamentales que se encuentran integrados en todas las actuaciones de prevención de comportamientos viales de riesgo. Hará unos 50 años pasó a considerarse la accidentalidad viaria como un problema de salud pública, susceptible por tanto de actuaciones rehabilitadoras, como en otros problemas de salud, centrados en los principales responsables de los accidentes de tráfico, aquellos y aquellas que infringen deliberadamente las normas de tráfico.

En el proceso orientado a alcanzar los objetivos del Programa de Acción Europeo de Seguridad Vial 2003-2010, dentro del que se articulan el Plan Estratégico de Seguridad Vial 2003-2008 español y el vigente, enmarcado el último en la política general de ese Decenio de Acción para la Seguridad Vial 2010-2020 planteado desde la Conferencia de Moscú se se han producido profundos cambios normativos (reforma de la normativa en materia de conductores; reforma de la configuración de los delitos contra la seguridad del tráfico; introducción del permiso por puntos). Su objetivo, habida cuenta del protagonismo en la accidentalidad de los reincidentes, ha sido enfatizar la dimensión rehabilitadora de las actuaciones encaminadas a los infractores.

Se ha alcanzado el objetivo estratégico, pero... se ha retirado más de 9 millones de puntos, dos millones y medio de conductores han perdido algún punto y 30.000 han perdido el permiso... Se han impartido casi 5.000 cursos en toda España, en los que han participado más de 50.000 conductores... la Fiscalía General del Estado ha detectado un crecimiento del 70% de la reincidencia en delitos de tráfico, los juicios rápidos por delitos contra la seguridad vial, se constituyen un año más en los que mayor porcentaje obtienen del global alcanzando en torno al 50 por cien de los 230.680 juicios rápidos incoados, alcanzándose a principios de 2010 se el millar de condenados por delitos contra la seguridad vial que han ingresado en prisión (conducción temeraria, circular bajo los efectos del alcohol o las drogas, conducir sin permiso...).

En el trabajo se ofrece una valoración, a partir de datos empíricos, de la eficacia de los principales intervenciones rehabilitadoras de los psicólogos.

## Inimputables y convictos mentalmente insanos: Antes y después del nuevo sistema psiquiátrico forense y penal chileno

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Objetivo del estudio: Así como ocurre en otras sociedades democráticas latinoamericanas, también se entiende que en Chile, se deben respetar los derechos de las personas mentalmente enfermas y en conflicto con la justicia, y que es deber del Estado otorgarles protección y tratamiento, y velar por su bienestar. En esa línea doctrinaria es que en esta última década el Sistema de Justicia Penal y la Red de Salud Mental han experimentado profundas reformas, como a continuación se esbozan: Interés del tópico: Consideramos que resulta de particular interés la revisión y análisis del objeto de estudio aquí propuesto, toda vez que dichas materias están relacionadas con áreas tan diversas como son los sistemas de justicia penal, y las redes de salud mental y psiquiatría forense; más aún si se considera, prácticamente la inexistencia de investigaciones contemporáneas que hayan centrado su foco de atención, desde un ángulo globalizador, sobre los efectos que las reformas en dichos sistemas pudieran acarrear en la población de enfermos psiquiátricos involucrados en el sistema legal. Resumen: La Nueva Red de Psiquiatría Forense ha ido desarrollando importantes progresos en el sentido de ofrecer tratamientos y evaluaciones periciales, tomando en consideración el respeto de los derechos civiles de la población mentalmente insana. Al mismo tiempo, la Reforma Procesal Penal ha posibilitado la existencia de condiciones legales para el mejor ejercicio de una justicia, que permita resolver los problemas de las personas inimputables, y de convictos que contraen enfermedades psiquiátricas, durante el cumplimiento de penas con privación de libertad. Desde el punto de vista del autor, todos esos cambios están provocando un profundo cambio cultural en la mentalidad de la ciudadanía chilena, respecto de cómo debe concebirse el ejercicio de la justicia, y respetarse los derechos de los pacientes psiquiátricos en conflicto con la ley.

## Un Psicologo en la Corte. Las leyes y la interdisciplina.

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La actuación de profesionales de la psicología integrando equipos profesionales, cuya misión es detectar el riesgo psicosocial implicado en los casos de violencia doméstica, resulta un notable avance en la consideración de esta problemática por parte del máximo nivel de decisión en la justicia argentina. La complejidad de las tramas implicadas en esta sería

problemática, y lo delicado de las intervenciones y resoluciones judiciales que suelen ser necesarias propiciaron a su vez la llegada de cuerpos técnicos multi e interdisciplinarios que facilitaran tanto el acceso a la justicia de las víctimas, como una más ágil y ampliamente basada técnicamente resolución de los magistrados intervinientes. La evaluación técnica de los riesgos involucrados para las víctimas es una herramienta interdisciplinaria que se da la administración de justicia, y que permite graduar la intensidad y oportunidad de las intervenciones, arrojando un panorama previo que puede guiar también el rumbo de los procesos judiciales, llegando a un ordenamiento más integrado de las situaciones conflictivas traídas a consideración. La experiencia de la Oficina de Violencia Doméstica de la Corte Suprema de Argentina, en Buenos Aires está sentando un precedente en el tratamiento de problemáticas complejas y urgentes, que está intentando ser replicado por otras jurisdicciones del país.

## 191. Psiquiatría y la ley en Chile

Perfil socio-demográficas de los imputados de la etnia mapuche evaluados en el Servicio Médico Legal de Osorno, Chile. Abril 2004 a abril 2010

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Al Servicio Médico Legal de Osorno son derivados para evaluación psiquiátrica forense los imputados desde las fiscalías de la región de Los Ríos y región de Los Lagos de la República de Chile, donde habitan 1.073.135 personas. Entre Abril de 2004 a abril de 2010 se evaluaron 871 personas de las cuales 150 fueron imputados de origen Mapuche. El objetivo es describir el perfil de las personas de la etnia mapuche acusadas de diversos delitos, sus variables socio-demográficas, su historia familiar, como antecedentes clínicos de carácter psiquiátrico, características cuantitativas y cualitativas de su actividad delictual, además de su imputabilidad y compararlos con los evaluados no mapuches.

Primeros casos de demandas por responsabilidad médica en Chile contra Psiquiatras. Revisión Informes periciales SML 2007-2008.

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Se revisó 7 informes psiquiátrico periciales emitidos por expertos del SML entre el 2004 y 2008, que representan un porcentaje mínimo del total de pericias por responsabilidad médica, evaluadas por el SML, pero son una alta proporción de las demandas por causa psiquiátrica. Esta revisión busca identificar los motivos de demandas contra psiquiatras, las características de los pacientes, el diagnóstico y curso de su enfermedad, así como también el modelo de trabajo de los expertos, y sus criterios para establecer responsabilidad como indicador de uniformidad en el entrenamiento de los peritos. Las demandas por responsabilidad contra psiquiatras han sido pocas en Chile, pero parecen ir en aumento paralelo al crecimiento de las demandas por responsabilidad contra médicos en general. Se resumen los elementos conceptuales fundamentales de la teoría de la responsabilidad médica, y se enfatiza en la importancia de una buena relación médico paciente. 6 de las 7 causas parten de la muerte del paciente, la distribución por sexo es paritaria, 4 casos son fallecimientos hospitalarios por cuadros graves como complicaciones a tratamientos, o a un curso desfavorable de la enfermedad mental de base. 3 casos son del sistema público y 4 del privado. El único caso en que el paciente no falleció, la paciente mejoró cuando se trató como depresión y no demencia... El universo de informantes son 6 peritos psiquiatras, dos mujeres y 4 varones, cuatro con más de diez años de experiencia pericial. En un peritaje se contó con participación de neurólogo, y solo en 2 de ellos se consideró había ocurrido una falta al deber contraído.

#### Acoso Laboral, asociado a cambio de gobierno. Mobbing Político, Osorno, Chile

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El objetivo es describir como el cambio de gobierno, una vez mas, y como ahora, con la llegada de nuevas autoridades a las Instituciones del Estado, crean serios trastornos organizacionales, al margen de normativas legales, y sin respeto por la institucionalidad; donde los nuevos directivos, en una actitud de gran hostilidad y agresión, respecto de directivos y técnicos altamente calificados, que se les vincula con gobiernos anteriores, son denostados en su integridad moral; se les humilla, buscando que renuncien, a sus cargos,

con un afán antidemocrático y fundacionalista. Los afectados son personas con demostrada competencia laboral y lealtad institucional, entregando su inteligencia, creatividad, integridad, talento y dedicación, al bien superior del Servicio Público. Se presentan las características clínicas de personas afectadas en su integridad moral por asociarse a un pensamiento político opositor, no vinculado al gobierno de turno, que sin embargo desempeñan funciones de estado, no adscritas a los partidos políticos.

### Servicio de Hospitalización Psiquiátrica de Corta Estadía (CABL) Egresos por año, y otros Indicadores de Salud Mental. (Aspectos Médico Legales)

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Revisamos el diagnóstico, origen, sexo, edad, tipo de internación (voluntaria/involuntaria) más otras variables estadísticas, de todos los pacientes que se hospitalizaron durante el período 2007 al 2009 en la unidad. También obtuvimos información sobre los rendimientos y funcionamiento de la unidad: promedio de días estada, altas por año. El total de egresos fue 1052 casos, con 53,6% de sexo femenino y un 46,4% de sexo masculino. El rango etario fue en hombres de 15 a 80 años y el de mujeres entre 15 y 73 años con un promedio de días de estada de 25,94 días. Estos resultados contrastan con datos sobre egresos de urgencias del mismo hospital durante los 90, mostrando que, con 18 camas de urgencia psiquiátrica, los egresos por mes ascendían a 58, con un promedio de días de estada cercano a los 11 días. La fuente principal de información de este trabajo fue la unidad de apoyo del Complejo Asistencial B Luco-Trudeau. Solo el 4,09% de los egresos correspondió a Hospitalizaciones No Voluntarias, que incluye dos grupos: Judicial, (Tribunales de Justicia), y Administrativos, (autoridad en salud). El 1,23% obedeció a disposición Judicial y 2,86% a resolución Administrativa. Esto parece mostrar una baja proporción de ingresos ordenados por tribunales en los tres años revisados. Capacidad insuficiente del sistema de salud? Baja tasa de requerimientos desde el sistema de justicia? En el Trienio (2007- 2009) hubo un descenso en las hospitalizaciones totales de Corta Estadía en un 7,7% .de 364 a 336 pacientes, lo que correspondió a 28 cupos menos en el año, cuya equivalencia es de 2,3 cupos menos por cada mes. También entre los años 2007 y 2009 los ingresos a la Unidad de Hospitalización Psiquiátrica de Corta Estadía desde el Servicio de Urgencia disminuyeron en

un 5,94% (desde un 60,4% a un 54,46% ).En cambio los Egresos del CDT aumentaron en un 3,52% (desde 31,9% a un 35,42%).

## ITALIAN SESSIONS

### 192. "Criminology yesterday and today" - Criminologia ieri e oggi

#### Le baby-prostitute: Dall'obbligo alla libera scelta

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Cambiano i tempi, migliorano gli strumenti tecnologici, cambiano gli usi ed i costumi della società moderna e mutano anche gli atteggiamenti sessuali. Da un'indagine svolta in Italia su un campione scuole milanesi dall'Osservatorio Nazionale sulla salute della Donna (Onda), in collaborazione con l'assessorato alla Salute di Milano, si è riscontrato che per una ragazza su cinque la scoperta del sesso avverrebbe a soli 13 anni. Probabilmente però le notizie più preoccupanti riguardano il modo di relazionarsi con la sessualità a volte slegandola completamente dall'affettività. Il fenomeno di "microprostituzione" e "baby squillo" può diventare per molte adolescenti – che concedono prestazioni sessuali o si ritraggono in pose erotiche via web cam o tramite foto sui cellulari – un vero e proprio business, richiedendo in cambio una ricarica del cellulare, abiti e oggetti firmati all'ultima moda, per arrotondare la "paghetta" dei genitori. Tutto questo accade non solo nelle discoteche o, nel caso delle "webcam girl" tra le pareti colorate della propria cameretta, ma anche tra i banchi di scuola o nei bagni durante le pause.

Filmtherapy ed empowerment per la salute mentale nel sistema penale. Due anni di esperienze in Ospedale Psichiatrico Giudiziario.

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Dal 1989 la Cattedra di Psicopatologia Forense della "Sapienza" Università di Roma (Prof. V. Mastronardi) si occupa di ricerche mirate alle ripercussioni emozionali della visione filmica

su pazienti in terapia. I film scelti sono stati poi classificati per tematica psicologica; ed inoltre ad ognuno è stata associata la relativa prescrizione terapeutica, incluse le modalità psicologiche con cui approcciarsi al singolo film: problemi di comunicazione di coppia, stress lavorativo, adolescenza, conflitti familiari, disturbi fobico-ossessivi, sono soltanto alcune delle voci dell'“enciclopedia psicofilmica” sperimentata e rivolta a tutti. Le ricerche sulla Filmtherapy hanno verificato come il mezzo filmico fosse un efficiente veicolo per supportare il paziente nel processo di guarigione, autonomia e responsabilizzazione, e sono state applicate in diversi ambiti: presso il Carcere di Reggio Calabria, con pazienti di servizi psichiatrici territoriali, su pazienti internati presso l'OPG di Castiglione delle Stiviere, ed attualmente presso la Casa Circondariale di Mantova. Obiettivo del progetto è quello di modificare i gap esperenziali e le proprie inadeguatezze che hanno sorretto la crisi psicopatologica, offrire un percorso di comprensione di sé e del relazionarsi all'altro, facilitare già dall'inizio della detenzione la comunicazione individuale e di gruppo quale strumenti di effettivo reinserimento sociale, dotare l'equipe multidisciplinare di strumenti di approccio e analisi innovativi.

### Paradosso estetico – sintattico e criminogenesi nel fumetto, cartone animato e videogame pedopornografico giapponese

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Per via di una radicata e secolare tradizione il Giappone e i suoi prodotti culturali, che sono espressione della stessa cultura, offrono all'Occidente una chiave di lettura della sessualità e dell'erotismo molto lontana dalle concezioni euro-americane. Tutto ciò si fonda su motivi prettamente etici e religiosi. La rappresentazione della donna come una bambina, il tipico libertinismo sessuale dei Giapponesi, la ricerca a livello immaginifico (e non) di giovanissimi partner per rapporti sessuali, si scontra e non è compreso dagli occidentali, figurarsi l'effetto che può avere su soggetti affetti da parafilie. Per tale motivo la presente ricerca si pone quale obbiettivo primario l'analisi del fenomeno dell'Hentai, insito in molti prodotti di genere quali i manga (comics), anime (cartoons), videogame in cui si fa largo uso di immagini spiccatamente eroticizzanti e imperniate di sesso esplicito i cui protagonisti non sono altro che adolescenti se non addirittura bambini di ambo i sessi. Per operare una simile analisi è necessario raffrontare la storia, cultura e società del Giappone con quella euroamericana cui noi apparteniamo. Dopo simili premesse sarà più agevole comprendere quelle dinamiche attraverso le quali la percezione del fenomeno dell'Hentai giapponese potrebbe portare, e le statistiche e i dati forniti dalle forze dell'ordine confermano questa tendenza, all'accostarsi a prodotti pedopornografici.



## Suicide Pacts: un fenomeno in espansione

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Si ritiene necessaria, ai fini di un ampliamento della conoscenza scientifica in materia, un'analisi sulle nuove funeree tendenze sul fenomeno dei "Patti Suicidi" (Suicide Pacts) dove il web può diventare un luogo di incontro per gruppi di aspiranti suicida per programmare insieme la loro morte. Questo macabro fenomeno ha iniziato a prendere piede in Giappone pochi anni fa, dove, solo nell'anno 2005, vi sono stati 91 casi di persone che si sono tolte la vita in gruppo dopo essersi conosciuti sul web. "Molte persone hanno troppa paura di morire da sole", ha spiegato Yumiko Misaki, direttore di un telefono-amico per aspiranti suicida in Giappone, "così si incontrano sul web e si danno un appuntamento. E la cosa peggiore è che la gente spesso è molto influenzata da notizie di questo tipo, così è probabile che questo modo di morire subirà un incremento in futuro". Una profezia che si è avverata. Infatti, solo nell'ultimo anno, sono stati riscontrati diversi casi fuori dai confini asiatici: dalle gemelle australiane che hanno approfittato di un viaggio a Denver per compiere un "patto suicida" sparandosi a vicenda ad un poligono di tiro, fino ai numerosi casi avvenuti nel Regno Unito. Il fenomeno dei "patti suicidi", programmati anche attraverso incontri in chat room, sembra dunque non conoscere confini geografici, e la paura che questa macabra moda possa continuare ad espandersi e ad attirare un fragile pubblico è tangibile.

## Criminogenesi della devianza al femminile: tra mito, realtà e mutamento sociale

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Il lavoro vuole essere una lettura del reale che, scevra da sovrastrutture ed orpelli, analizzi le inquietudini dell'individuo contemporaneo, nonché le interazioni tra criminogenesi e società, inquadrando sull'aspetto noir del moderno e declinate al femminile. L'incertezza dell'era moderna porta gli individui, sempre più spesso, a prediligere al potere del dialogo la forza dell'azione intesa come esercizio dell'attitudine aggressivo-criminale. Con tale premessa, si può comprendere come la scelta di orientare le proprie energie verso l'emisfero dell'illegalità non sia sempre il frutto di fortuite accidentalità, bensì al contrario la consequenzialità di scelte ben ponderate. Partendo dal dato statistico relativo alla dimensione quantitativa dell'incidenza che il secondo sesso ha avuto in anni recenti

sull'odierno tasso di criminalità, la presentazione discuterà di tale incidenza anche in termini qualitativi, punteggiando i modi con i quali le donne si sono guadagnate le luci della ribalta anche sulla scena del crimine moderno. In conclusione, al chiaro intento di verificare quanto e come si possa reinterpretare e contestualizzare l'archetipo di "donna delinquente" offertoci da Cesare Lombroso nel 1893, verranno analizzati alcuni dei più recenti casi di violenza in rosa della nostra epoca: Erica 2001 (Delitto di Novi Ligure), Annamaria 2002 (Delitto di Cogne), Rosa 2006 (Strage di Erba), Amanda 2007 (Delitto di Perugia), Sabrina 2010 (Caso Avetrana).

## 193. "Homicidology and Imputability" - Omicidiologia ed

### Imputabilità

#### Cannibalismo criminale: capacità di intendere e volere

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Il cannibalismo, in quanto espressione dell'orrendo, dell'inumano e del mostruoso, diviene il sigillo del male, ma, nel contempo, paradossalmente esprime un problema identitario.

Il cannibalismo reale, simbolico o immaginario, dunque, è sempre stato una fortezza concettuale per separare noi dagli altri, il bene dal male, la sanità mentale dal labirinto della follia. Il cannibalismo, può essere analizzato sotto vari angoli visuali e in relazione a contesti spazio-temporali incommensurabilmente diversi. Sigmund Freud, mise in luce che lo stadio cannibalico si origina nella fase orale in cui la sessualità ed il cibo non si sono ancora differenziati. Con ciò, esprime l'esistenza di un legame indissolubile tra l'appetito alimentare e quello erotico. Da quanto indicato, si può congetturare che l'oggetto divorato non può essere che l'oggetto amato e desiderato. Peraltro, il percorso emozionale del cannibale sembra essere caratterizzato dall'avidità e dal bisogno d'amore. Per cui, nel cannibalismo criminale, ci si trova dinanzi a persone che violano il tabù ancestrale del cibarsi di carne umana, perché attraverso l'orribile pasto realizzano una forma deviata di rapporto affettivo. In tal senso, l'atto cruento di incorporazione fisica, è un tragico simbolo di interiorizzazione e possessione con una chiara valenza sessuale.

#### Tipologie di reazioni in tema di vittima-aggressore. Ricerche avanzate ed esperienze giudiziarie

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La letteratura scientifica sul crimine e sui reati violenti ha focalizzato in modo sempre più specifico la sua attenzione sull'analisi della relazione interpersonale che si instaura tra aggressore e vittima. L'osservazione di un sistema in cui interagiscono due soggetti – criminale e vittima – si limita alla descrizione di una situazione in cui le diverse posizioni sono il risultato di un processo di interazione all'interno di un sistema e non prevede alcun processo di giudizio valutativo. L'attenzione sarà dunque rivolta alle dinamiche che sottendono il processo di vittimizzazione con particolare interesse al "come" la vittima entra nella genesi del reato, le diverse strategie di reazione, la natura e la rilevanza del trauma subito, guardando al comportamento vittimogenico dal punto di vista diagnostico, preventivo e riparativo. Si valuterà l'interazione tra offender-vittima come una relazione circolare, in cui il significato delle parti è determinato dalla loro rispettiva posizione e valore: la relazione tra vittima e offender verrà osservata nella sua complessità, tentando di esplorare i processi che sottendono la percezione di realtà e i comportamenti di risposta dal punto di vista di osservazione della vittima, delle sue modalità di coping e di comunicazione in quella realtà.

### Imputabilità e malattia mentale nel Codice Penale Italiano

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La malattia di mente ha sempre rivestito, nella struttura dei diversi codici italiani, un ruolo particolarmente significativo. Malattia di mente o meglio, per dirla come il codice, vizio di mente è immediatamente rievocativo di concetti quali imputabilità e funzione della pena. Il codice penale italiano si occupa dell'imputabilità libro primo, titolo IV, agli art. 85 e seguenti. Proprio nelle due scarse righe dell'art. 85 c.p. sta racchiusa buona parte del concetto di imputabilità. L'art. 85 c.p. testualmente recita: Nessuno può essere punito per un fatto previsto dalla legge come reato, se, al momento in cui lo ha commesso, non era imputabile. E' imputabile chi ha la capacità d'intendere e di volere. Quindi è lo stesso dettato normativo che per primo invoca il concetto di fatto costituente reato e di capacità di intendere e di volere. Sarà appena il caso di soffermarci un attimo su termini quali intendere e volere tanto cari al legislatore italiano. Con capacità di intendere ci si riferisce, generalmente, all'idoneità di un soggetto di rendersi conto del (di)valore sociale delle proprie azioni, e quindi di riconoscerne il significato. Per capacità di volere si intende, invece, l'attitudine del soggetto ad autodeterminarsi, quindi ad orientare le proprie azioni in termini di finalità delle stesse. Come prescritto dall'art. 97 c.p. l'imputabilità si acquista con il

compimento del quattordicesimo anno di età. Prima di allora il minore, per la legge italiana, non è imputabile per eventuali fatti reato dallo stesso commessi. Il codice penale, come detto, riconosce non imputabili, oltre i minori degli anni quattordici, anche i soggetti privi della capacità di intendere e di volere perchè affetti da un vizio totale di mente, i sordomuti che a cagione della loro patologia erano privi della capacità di intendere e di volere, i soggetti affetti da ubriachezza derivante da caso fortuito o da forza maggiore, i soggetti sotto cronica dipendenza da sostanze stupefacenti o alcoliche etc.

### La revisione del processo penale per novità della prova scientifica- Profili comparatistica internazionali

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L'articolo 630, comma 1, lettera c), del codice di procedura penale italiano prevede la possibilità di richiedere la revisione del processo nell'ipotesi in cui, dopo la condanna, sopravvengano o si scoprano nuove prove che, solo o unite a quelle già valutate, dimostrano che il condannato debba essere prosciolto a norma del successivo articolo 631. Recentemente, la giurisprudenza italiana ha affermato che la novità probatoria può scaturire dall'impiego di metodologie scientifiche innovative e che, in tal caso, il giudice della revisione deve verificare se i nuovi approdi della scienza siano capaci di sovvertire i risultati precedentemente acquisiti, appurando la effettiva portata innovativa della novella metodologica ed il suo spessore scientifico, l'adozione della medesima ai risultati già sciverati nel processo penale ordinario, la reale novità degli esiti scaturiti dalla nuova metodologia ed il loro apprezzamento alla luce dell'intero sostrato probatorio. In Germania, sembra soprattutto porsi una questione rescissoria in pejus, poiché recenti iniziative legislative propendono per la legittimazione dell'impiego endoprocedimentale dei nuovi metodi genetici in prospettiva *contra reum*, a detrimento di ogni afflato processualgarantistico.

### Psicopatologia del terrorista islamico

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Con un'analisi psico-antropologica ed un paragone tra le grandi religioni monoteiste, la presentazione fornirà gli strumenti per comprendere se la causa del conflitto in corso tra l'Occidente e Islam sia da attribuire allo sparuto gruppo di dirigenti che manovrano l'emotività delle masse musulmane, o se piuttosto risieda nella natura della religione islamica, considerato che il Dio dell'Islam è lo stesso della rivelazione cristiana ed ebraica. La differenza tra le religioni monoteiste, nel contesto della guerra di religione, può essere così riassunta: il principio del combattimento è secondario rispetto al cristiano ma è essenziale all'Ebraismo e all'Islam, che non può concepire se stesso che come membro della religione dell'unico Dio che combatte per la sua unicità nel mondo. Tale pensiero si ripercuote nei movimenti religiosi ebraici e musulmani, che nel contesto sono simili. Comprendere l'Islam e le altre religioni monoteiste è capire perché i musulmani temono e odiano l'Occidente al punto da decidere di combatterlo anche attraverso il culto del martirio. Fenomeno non soltanto religioso, qui analizzato antropologicamente in tutte le sue manifestazioni.

### Pedofilia: psicopatologia ed imputabilità

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La Pedofilia è tra le psicopatologie che pur avendo alla base un bisogno di tipo disfunzionale non intacca l'imputabilità dell'individuo. Il Pedofilo, nella trasformazione della pulsione in atto, adopera un processo mentale di "significazione" ovvero anticipa mentalmente le conseguenze della propria azione criminale prendendo in considerazione alcuni fattori rilevanti tra cui i pro e i contro dell'azione che va a intraprendere, inclusa la valenza della punibilità di tipo penale, non ci troviamo, quindi, dinanzi ad un soggetto che agisce in preda ad un raptus irrefrenabile, ma di fronte ad un individuo che riflette lucidamente nella soddisfazione della pulsione perversa. Durante il processo di significazione la presenza di elementi sfavorevoli al compimento dell'azione delittuosa possono intervenire come fattori di dissuasione dall'azione stessa, al contrario, in un quadro psicopatologico in cui è compromessa la capacità di autodeterminazione tali elementi appaiono irrilevanti per l'autore del reato. Il trattamento Psicoterapeutico di individui con un quadro psicopatologico egosintonico, come accade nella Pedofilia, risulta inficiato dalla duplice azione demolente che la ego-sintonia psicopatologica esercita sulla relazione terapeutica: da un lato la mancata percezione di disagio da parte del soggetto pedofilo e dall'altro il movimento controtransferale che tale diniego può elicitare nel terapeuta compromettendo il setting.

## 194. "Clinical Criminology and Prevention" - Criminologia Clinica e Prevenzione

### L'induzione al crimine violento: i buoni fanno ciò che i cattivi sognano

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Il presente lavoro è volto ad approfondire l'origine e le dinamiche relative al fenomeno di induzione al crimine violento, presente nei casi in cui dietro all'esecutore materiale di una determinata azione delinquenziale c'è in realtà un altro soggetto che ha ideato il misfatto e istigato l'altro (o gli altri) a compierlo in sua vece. L'indagine riprende gli assunti promulgati da Scipio Sighele nel libro 'La coppia criminale' (1892), in cui vengono analizzate le tematiche della suggestione collettiva e della folie à deux ed il ruolo dei due componenti, il 'soggetto incube' (predominante) ed il soggetto 'succube' (passivo). Lo scopo è quello di verificare l'idea secondo la quale vi è una correlazione di caratteristiche della personalità e comportamentali tra il criminale induttore e l'esecutore materiale del crimine, nonché tra di essi e la vittima, che ha dato luogo al misfatto. Il presente lavoro è stato condotto esaminando diversi casi di cronaca nera riguardanti diverse tipologie di crimine (dallo stupro al delitto, dai gruppi satanici autori di reato ai serial killer), in cui l'elemento caratteristico e predominante risulta essere l'induzione a delinquere, allo scopo di verificare una possibile correlazione tra i diversi soggetti autori e vittime di reato.

### Modelli propositivi delle applicazioni I.C.T. in tema di pericolosità sociale e di contrasto alla criminalità

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Nel corso della comunicazione verranno passate in rassegna alcuni esempi di cosiddette "BEST PRACTICES" già adottate sia pure in maniera disomogenea sul territorio nazionale e internazionale nonché alcuni modelli organizzativi sia tecnologici che architettonici riguardanti Mobilità, Accessibilità, Sicurezza, per il diritto alle "Pari Opportunità" e alla "Non Discriminazione" con particolare riferimento al mondo della criminologia clinica. Un particolare accento verrà pure posto al tema della formazione e della educazione alle nuove

tecnologie. Un aspetto particolare ed innovativo che sarà materia della relazione è il possibile apporto che l'Innovazione Tecnologica potrà dare al tema del controllo della pericolosità sociale e della sicurezza sociale nell'ottica di una ottimizzazione della presa in carico di soggetti autori di reato e portatori di infermità mentali nei costituendi Centri Psichiatrici Giudiziari che dovranno, si spera in tempi brevi, sostituire i cosiddetti Ospedali Psichiatrici Giudiziari in via di smantellamento, così come previsto dalla norme legislative vigenti in materia e che vede l'Italia in forte ritardo rispetto agli altri paesi della Comunità Europea.

## Criminologia e Prevenzione situazionale

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Seguendo le teorie criminologiche secondo le quali il criminale è tale per ragioni biologiche o sociali, vi è il rischio di imbrigliare in modo sterile l'analisi delle concause che portano all'evento deviante. Viceversa, un approccio decisamente innovativo è quello fornito da Ronald Clarke, che per primo getta le basi della Criminologia Situazionale, nella quale il contesto ambientale è parimenti fondamentale nel determinare l'evento criminoso rispetto alle cause psicologiche individuali ed a quelle sociali. Prendendo spunto dalla saggezza popolare per la quale "l'occasione fa l'uomo ladro", l'Autore è riuscito ad adattare in modo scientifico le conoscenze che anche la gente comune può avere in relazione al contesto ambientale nel quale un crimine viene consumato, promuovendo una tra le più brillanti e pratiche teorie criminologiche dei nostri tempi. Fornite le dovute premesse in merito a questo innovativo filone di studi, la relazione presenterà i risultati sperimentali di una indagine preliminare sulle strategie suggerite come più adatte ai fini preventivi, nonché gli spunti di riflessione in merito all'applicazione dei principi teorici alle differenti espressioni criminose, nella consapevolezza della specificità che esse hanno in quanto la risposta ad un determinato crimine può anche avere un effetto opposto su di un altro.

## Alcol e mondo giovanile. I risultati di una ricerca sperimentale

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Ci è sembrato opportuno, promuovere la presente indagine sull'uso di alcolici negli

adolescenti, perché è in questo periodo che vengono acquisiti caratteristiche e competenze proprie degli adulti in molti comportamenti che a seconda di come vengono gestiti possono rivelarsi a rischio. Pensiamo che la prevenzione primaria risulta essere un momento conoscitivo vincente per la ricerca di quei fattori di rischio che aumentano la possibilità della messa in atto dei comportamenti “negativi” e per evidenziare anche quei fattori di protezione che possono contrastare gli effetti dei primi e promuovere un maggiore benessere. Vedremo che la precocità di iniziazione al consumo di alcol non ha però alcun effetto sulla gravità del consumo in adolescenza, come invece avviene per altre sostanze psicoattive, prime fra tutte il fumo da sigarette (per il quale il consumo regolare è fortemente correlato, per molti adolescenti, con l'età di iniziazione). Recenti studi hanno dimostrato che non vi è una relazione significativa tra la precocità di assunzione di alcolici e l'intensità di consumo in adolescenza: bevitori moderati e forti non si differenziano tra loro sulla base della età del primo accostamento all'alcol.

### Motivazioni psicologiche dello staging

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Con il termine staging si intende la deliberata alterazione della scena del crimine prima dell'arrivo delle forze dell'ordine. Sono due le ragioni principali che inducono questo comportamento che non sempre è messo in atto dall'autore del reato: - Depistare le indagini, allontanando gli investigatori dal maggiore sospettato - Proteggere la vittima, o la famiglia della vittima. Generalmente il responsabile dello staging è legato alla vittima da qualche tipo di vincolo o relazione. Egli nel primo caso, il depistaggio, tenterà di indirizzare altrove gli sforzi investigativi, deviandoli dal principale sospettato. Nel secondo caso, che è più tipico delle vittime di omicidi a sfondo sessuale o di autoerotica fatalità, spesso il conoscente, l'amico o il parente della vittima può intervenire modificando la scena del crimine per evitare che il cadavere venga rinvenuto in pose e situazioni degradanti umilianti o comunque sconvenienti per la società. L'attività di staging può riguardare anche l'autore dell'omicidio che voglia far attribuire il reato ad una personalità disorganizzata e impulsiva, oppure ricondurre l'omicidio all'interno di un differente reato (ad esempio simulando una rapina, o un furto). Sempre nell'ambito di questo fenomeno può verificarsi una ulteriore evenienza denominata undoing, si tratta della deliberata modificazione della scena del crimine da parte dell'omicida che sente il rimorso per quello che ha fatto e simbolicamente



cerca di porvi rimedio. Può quindi spostare il corpo, ricoprirlo, ripulirlo o disporlo in una posizione meno degradante.

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