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## 1. A Comparison of Standards Combatting Psychiatric and Organ Transplant Abuse

### 1.1. Organ Harvesting of Falun Gong Practitioners in China

David Matas, *University of Manitoba* (dmatas@mts.net)

David Kilgour, *Former Canadian Government Minister of State for Asia and the Pacific, Ottawa, Canada* (dwkilgour@gmail.com)

The report concludes that the government of China and its agencies in numerous parts of the country, in hospitals but also detention centres and 'people's courts', since 1999 have put to death a large but unknown number of Falun Gong prisoners of conscience. Their vital organs, including kidneys, livers, corneas and hearts, were seized involuntarily for sale at high prices, sometimes to foreigners, who normally face long waits for voluntary donations of such organs in their home countries. The presentation will focus on the laws and ethics of organ transplant tourism to China. The market for organs in China is determined by supply and demand. The supply is local, but the demand is, in large part, foreign. Foreign laws and ethics can staunch this demand.

### 1.2. Human Rights Violations and Religious Intolerance in China

David Kilgour, *Former Canadian Government Minister of State for Asia and the Pacific, Ottawa, Canada* (dwkilgour@gmail.com)

This paper will focus on human rights violations in China in general and religious intolerance in particular, with the Falun Gong as a case study. The author will connect this intolerance to the practice of harvesting organs from Falun Gong practitioners. The presentation will address the laws and ethics of organ transplants in China, how the failure of laws and ethics makes this practice possible. The talk will elaborate on military involvement in organ harvesting.

### 1.3. A Protest against Organ Harvesting

Wenyi Wang, *Editor in Chief, Medicine and Life Magazine, New York City, USA* (wenyi.wang@msnyuhealth.org)

The author protested the organ harvesting of Falun Gong practitioners in China at the White House during a press conference US President George W. Bush held with Chinese president Hu Jintao. For that protest, she was prosecuted. The events that led to that protest and its consequences will be explained. The author will draw on her medical background to explain her understanding of the procedures for organ transplantation in China and why she accepts the reports of organ harvesting of Falun Gong practitioners in China to be true.

### 1.4. An Ideological and Religious History of China

Erping Zhang, *Executive Director of the Association for Asian Research, New York, USA* (erping@post.harvard.edu)

The spiritual ancestry of Falun Gong will be elaborated. The Chinese Communist Party has made the Falun Gong ideological public enemy number one. Why the Chinese Communist Party feels so threatened by the Falun Gong will be explained. The Government of China set up a dedicated bureaucracy assigned with the task of repressing the Falun Gong. Because it was established on the tenth day of the six month of 1999, it is called, in shorthand, the 610 office. The 610 office has representatives in every province, city, county, university, government department and government-owned business in China. This paper will explain how the 610 office operates. It will address the charge that Falun Gong is a cult.

### 1.5. Professional Ethics in Cases of Psychiatric Abuse

Sonny Lu, *University of Cincinnati* (lusy@email.uc.edu)

The paper will address, as a point of comparison, the professional ethics of contact with those guilty of psychiatric abuse. The USSR used to abuse psychiatry as a form of political repression. The global psychiatric community reacted to this abuse in an attempt

to counter it. Because of this experience, the ethics, instruments and laws designed to prevent psychiatric abuse have been better developed than those relating to organ transplant abuse. Because organ transplant abuse has demonstrated the need, the ethical standards, instruments and laws developed to prevent abuse of psychiatry serve as a point of reference suggesting possible improvements in ethical standards, instruments and laws to prevent organ transplant abuse. The author will draw on the experience in dealing with psychiatric abuse to propose changes in the ethical standards dealing with organ abuse.

## 2. Addiction and Crime

### 2.1. ADHD, Substance Use Disorders and Crime

Ben van de Wetering, *Bouman Mental Health Care, Rotterdam, The Netherlands*  
(b.wetering@boumanggz.nl)

ADHD belongs to the most common psychiatric comorbid conditions of the substance use disorders (SUDs) with prevalences ranging from 20-40%. The diagnosis is often missed as the symptoms are either taken for symptoms of the SUD or are masked by SUD symptoms. In addition, it appears that it is not generally accepted that in quite a number of cases of ADHD symptomatology may be observed in adulthood. Good clinical judgement, systematic assessment of symptoms and a careful evaluation of the patient's history are of key value for the diagnosis. The successful treatment of ADHD contributes considerably to the prognosis of the SUD treatment and early treatment has proven to be highly relevant in the prevention of SUD in adolescents. Several studies have shown a high association between ADHD, SUD and criminal behavior. High ADHD prevalences have been reported in prison inmates and ADHD in childhood has been found to be one of the predictors for criminality in later life especially in combination with SUD. The practical implications of these findings for forensic addiction psychiatry programs will be discussed.

### 2.2. The Link between Addiction and Crime

Eric Blaauw, *Erasmus University* (ericblaauw@hotmail.com)

In the city of Rotterdam a study was conducted on 655 addicted persons with many public nuisance offences. These persons were placed in one of five treatment conditions and subsequently followed for several months. The treatment conditions differed in treatment duration (6 months to two years), degree of voluntary participation (voluntary, obligatory), and provider (justice, mental health organization). For the study, registration systems were studied at the Crown Council, police department, and (mental) health organizations. It was found that all five approaches led to a reduction of nuisance offences and more serious crimes, and also to improvements in the social conditions of the participants (work, income, housing, addiction, debts, health, etc). Different effects and effect sizes were found, however, for the different approaches and groups of addicted offenders. This indicates that not all addicted offenders benefit from certain individual approaches. The presentation will address the details of the study, the results of the study, and the question of whether there exists a link between addiction and crime.

### 2.3. The Medical Treatment of Personality Disordered and Addicted Criminals

Etienne Olivier, *BAVO/EUROPOORT Group, Rotterdam, The Netherlands*  
(e.olivier@tiscali.nl)

Substance abuse and criminal behaviour often coincide. Addiction and axis I or II psychiatric comorbidity is very common. Comorbid addiction and psychiatric symptoms are generally treated simultaneously. Clinical consensus in treatment of addiction is to coordinate medical with nonmedical strategies. The treatment is focused on preventing craving. Craving of the drug, which is caused by both stress and understress, mental illness related stress, drug related cues and taking the drug itself. Medical interventions with strong evidence of effectiveness in the case of alcohol addiction, which is numerically the most important addiction, are craving reducing therapies. For cannabis and cocaine abuse there are no proven effective treatment strategies yet. Well known craving reducers in the case of opiate addictions are methadone, buprenorphine and heroin, which have been found to diminish criminal behaviour. Medical treatment of personality disorders reduces the disorder-induced stress and thus diminishes craving. Three groups of symptoms can be defined: cognitive/perceptual (paranoid spectrum), affective dysregulation and impulsive-behavioural dyscontrol. Medicinal strategies for every symptom group will be discussed. The presentation will conclude with recommendations for the combined treatment of personality disorder and addiction.

## 2.4. The Effects of a Special Addiction Treatment Program for Forensic Patients

Erwin Bijlsma, *Clinic Kijvelanden, Poortugaal, The Netherlands*  
(erwinbijlsma@hetnet.nl)

Many patients in forensic settings are addicted to substances, the majority suffering from dependence on alcohol or drugs. Many of the crimes committed by them are influenced by alcohol or drug dependence. It is therefore important for forensic institutions to focus on the treatment of substance abuse. The forensic psychiatric institution “de kijvelanden” has developed an extensive treatment program with the aim of controlling substance abuse. In the period 2000 to 2006 a total of 118 patients were studied. Fifty-eight patients participated in the extensive treatment program and 58 patients were matched to these patients according to their admittance date. The study showed that the patients who followed the extensive treatment program had a lower substance abuse relapse rate than did the matched control group. Other differences and relationships were also found, including relationships between PCL-R scores and relapse rates.

## 2.5. Criminal Justice and Recovery Outcomes Using an Evidenced Based Treatment for Individuals with Methamphetamine Dependence and Co-Occurring Mental Health Disorders

Heidi Herinckx, *Portland State University* (herinch@pdx.edu)

Methamphetamine abuse and dependence has reached epidemic proportions in the United States. Individuals with methamphetamine dependence are often involved with the criminal justice system for two main reasons: firstly, because of crimes related to the use, manufacturing or distribution of the drug; and secondly, due to the devastating child welfare issues and the need to place children in protective custody. To address this growing epidemic, in January 2005, Clark County received a 3 year grant from the US Substance Abuse and Mental Health Services Administration to implement the Co-Occurring Methamphetamine Expanded Treatment Program (COMET) for individuals with both methamphetamine abuse and co-occurring mental health disorders. COMET is unique because it integrates the evidence-based Matrix Model of chemical dependency treatment with the Program for Assertive Community Treatment case management model. Six-month outcomes will illustrate the program’s success at reducing methamphetamine use, increasing employment and housing stability and reducing criminal justice activity, and stress the importance of integrated treatment in which mental health and chemical dependency treatment are provided by a single treatment

team that works closely with the criminal justice system including the local drug court program. The program's impact on public safety and child welfare will also be addressed.

### 3. Addiction in the Forensic System

#### 3.1. The Prognosis of Relapse Rates in Alcohol Dependent Patients - A Long-term Prospective Study

Otto M. Lesch, *Medical University of Vienna* (Otto.M.Lesch@meduniwien.ac.at)

In forensic medicine diagnostic criteria are used to define realistic long-term courses of diseases and to decide what kind of treatment should be used in these special cases. ICD-10 and DSM – IV define alcohol dependence for epidemiological studies, for healthcare systems and for research but these criteria are not able to fulfil forensic aspects. In a prospective 18-year catchment area study, with alcohol dependent patients, we could define subgroups of alcohol dependence, which allow much better prognostic predictions. These subgroups also lead to tailor-made therapeutic strategies. We replicated these findings in prospective long-term studies and the results correlate very well with the subgroups defined by Zucker 1997, Del Boca & Hesselbrock 1996, Windle & Scheidt 2004 and Cardoso et al. 2006. Following the decision tree defining these subgroups, therapeutic studies showed significant differences between the subgroups (Lesch et al. 1990, Kiefer et al. 2005). Acamprosate is effective only in types I and II according to Lesch, while Naltrexone is effective only in types III and IV. As we know, diagnosis itself is only one part of the prognosis of a disease. We developed a pathway model showing which dimensions influence relapses in alcohol dependence. We hope, following these different dimensions, that in the future, forensic trials in alcohol dependence lead to better results and better treatment of forensic alcohol dependent patients.

#### 3.2. Forensic Hospitalization for Withdrawal Therapy in Case of Alcohol Addiction According to Lesch-Typology

Werner E. Platz, *Medical University of Berlin* (werner.platz@vivantes.de)

In the first guideline of the Second Senate of the Federal Constitutional Court it is specified that the instruction for forensic hospitalization and its realisation have to be tied up to a “precise outlook of healing chances for the addict or preventing a relapse into acute addiction even if only for a certain period of time”. Development after hospitalization has to be considered in the way that it cannot take place “if against a first positive prognosis there is not enough evidence for a successful treatment”. Through this for the forensic therapist as well as for the court of Justice there will be the opportunity to finish the process already before a one year time, since § 67 article 5, first sentence of the German Penal Code is contradicting article 2, part 1 and part 2, second sentence of the German Constitution and therefore void. Since then in criminal proceedings in the Vivantes Humboldt Clinic, Clinic for Psychiatry and Psychotherapy – addiction diseases –according to the Lesch Typology beside operational diagnostics (ICD-10, DSM-IV-TR) prognosis recommendations are given.

### 3.3. Prevalence and Factors Associated with Alcohol and Drug-related Disorders: A French National Study

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*Aim* Most studies measuring substance use disorders in prisons focus on incoming or on remand prisoners and are generally restricted to drugs. However, there is evidence that substance initiation or continuation occurs while in prisons and that alcohol use is not uncommon. The aim of this study is 1) to assess substance use prevalence of both drug and alcohol abuse and dependence in a national randomised cohort of all French prisoners, for short or long term sentences and 2) to assess the risk factors associated with drug and alcohol abuse/dependence in prison.

*Method* a stratified random strategy was used to first select 23 prisons among the different types of prison existing in France, then 998 prisoners. Diagnosis was assessed according to an original procedure, each prisoner being evaluated by two psychiatrists, a junior using a structured interview (MINI 5 plus) and a senior completing the procedure with an open clinical interview. At the end of the interview, each clinician summarized independently his list of diagnoses then they both met and concluded with a consensual list of diagnoses. Cloninger’s Temperament and character inventory was also assessed.

*Results* More than a third of prisoners have either an alcohol or Drug abuse/dependence in the last 12 months. Cannabis abuse/dependence was the most frequent, and slightly under a fifth of prisoners had alcoholism. Alcoholics and drugs addicts were clearly different both on socio-demographic variables, childhood history, prison status, psychiatric comorbidity and Cloninger’s TCI. The profile of alcoholics in prison appears to be very close to type II alcoholism.

*Conclusion* Repeated screening of substance use disorder, including alcohol, and specific treatment programs taking into account the differences between drug addicts and alcoholics should be a public health priority in prison.

### 3.4. Alcoholism and homicide: A correlation analysis according to the classification systems of Lesch and Cloninger

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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. In an investigation on 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. In Lesch's classification, there was a higher incidence of homicide committed by type II and type III subjects with the comorbidity anxiety and cyclothymia ( $p < .005$ ). While type II offenders were repeat offenders, there was a remarkably high rate of first offenders among type III subjects. An excessive noradrenergic reaction of anxiety offenders with initial withdrawal is discussed as a possible explanatory model.

### 3.5. Polymorphism of the 5-HT-Transporter Gene and Aggressive Behaviour in Chronic Alcohol Dependent Patients

Henriette Walter, *Medical University of Vienna* (henriette.walter@meduniwien.ac.at)

Polymorphisms of the 5-HTTP are proposed to be related to different psychiatric states (Bondy et al 200; De Luca et al, 2005). Two long alleles have been related to alcoholism dependence (Enoch et al, 2003) and the presence of at least one short allele has been related to anxiety disorders (Pezawas et al, 2005). In 200 patients, diagnosed as alcohol dependent according to ICD-10 and DSM-IV, the 5HTPP was tested for homozygosity or heterozygosity in a cooperative project between the Universities of Vienna and Munich. Using the Lesch typology (Lesch and Walter, 1996) we are able to assess 4 different types of illness course, whereby type II is related to aggressive behaviour. Out of the 200 patients, 68 (34 %) were type II patients (49 male and 19 female patients). 23 of them

had Long/long allele variants and 44 had at least one short allele. These data will be presented in detail and will be related to different aggressive behaviours.

## 4. Adolescent Drug Use and Delinquency

### 4.1. Adolescent Drug Use and the Onset of Criminal Careers: Some German Studies

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Frank Haessler, *University of Rostock* (frank.haessler@med.uni-rostock.de)

*Aim:* The paper describes several German studies investigating the impact of drug use during adolescence on development during early adulthood.

*Method:* A short qualitative overview on the German literature is given. Since German research lacks representative longitudinal studies to differentiate between different developmental trajectories, results are presented from cross-sectional retrospective studies on samples obtained by institutions. Data from correction facilities (Enzmann & Raddatz, 2005, n = 2075) or open programs (Reis et al., 2004, n = 507) are presented.

*Results:* Data from several studies seem to converge into a two-path-model. In both models, drug use starts in adolescence, but has different outcomes according to problems that occur before adolescence. In the first path, adolescents use drugs to cope with developmental tasks of adolescence. In the second path, adolescents use drugs to cope with problems that prevailed from early years into adolescence, such as familial conflicts, early losses, and rejection.

*Discussion:* Developmental careers – including the development of delinquent behaviour – seem to evolve differently according to the problems before the onset of drug use. Topics and problems of drug prevention in Germany are discussed.

### 4.2. Patterns of Drug Use, and Gender Differences among Drug Abusers in Sweden: Marginalization, Social Exclusion and Subcultural Affiliation in a Career Perspective

Siv Byqvist, *Swedish Council for Information on Alcohol and Other Drugs, Stockholm, Sweden* (siv.byqvist@telia.com)

Degree of connection to the criminal underworld was the basis for typological research on drug abusers in Sweden. Four types were found. Addicted criminals: Early crime debut and criminal offenses in youthful years. Drug- and criminal activities coexisted with high intake of alcohol – the most difficult childhood and adolescence conditions. Criminal addicts: Fewer recorded acts of juvenile delinquency. Drug abuse and criminality occurred later, but tended to accelerate very rapidly. Their subcultural affiliation was strong. Low-crime addicts: Weak subgroup affiliation. Probably the drug abuse played a role in the development of the criminal pattern. Emotionally unstable addicts with little or no criminality: The best education, job situation and social relations. Polydrug abuse and legal drugs were common. Mental ill-health was characteristic. A national survey showed an increase in heroin- and polydrug abuse. Age differences showed that heroin, cannabis and “party drugs” were more common below the age of 25. Significant gender differences were found. Females were fewer, younger and had heavier drug abuse with amphetamines, injection of heroin and psychoactives. Males had a longer history of drug abuse, heroin smoking and cannabis abuse. One-fifth of the population was at the margins of the society, out of work, homeless, criminal and socializing mainly with other addicts.

### 4.3. Adolescent Alcohol Use in Australia

Maree Teeson, *University of New South Wales* (m.teeson@notes.med.unsw.edu.au)

Laura Vogl, *University of New South Wales* (l.vogl@student.unsw.edu.au)

*Aim:* This paper describes alcohol use patterns and associated harmful behaviour among a large cohort of Australian adolescents. It reports effects of a treatment trial aimed at reducing these behaviours and preventing or delaying the onset of long term problems.

*Method:* 1435 students (13 years old) from sixteen schools were assessed regarding their alcohol use and associated harms and then randomly assigned to complete a computerised brief intervention. Measures were taken at baseline, post intervention, six month, one and two year follow-up. The intervention was designed to alter norms about the acceptability and prevalence of drug use and to teach skills to resist hazardous consumption. Measures of efficacy were the reduction of hazardous drinking levels and alcohol related harms.

*Results:* The intervention group showed a significant improvement in knowledge and alcohol expectancies both at post intervention and follow-up ( $p < 0.000$ ). Average alcohol consumption was significantly less in the intervention group at post intervention ( $p <$

0.004) as were alcohol related harms. For females, those in the intervention group were significantly less likely to binge drink ( $p < 0.012$ ).

*Conclusion:* There was considerable alcohol related harmful and risky behaviour among adolescent Australians. The program was found to be modestly effective as a harm reduction module.

#### 4.4. Pathways from Conduct Disorder in Adolescence to Criminality in Adulthood – Effects of Drug Abuse, Gender and Mental Disorders

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*Aim:* To describe the trajectory from serious conduct disorder in adolescence to criminal behaviour in adulthood and how it is influenced by demographic factors and psychiatric co-morbidity, particularly drug abuse.

*Method:* 1095 former adolescent psychiatric inpatients were followed up 15 to 33 years after admission to the National Centre for Child and Adolescent Psychiatry in Oslo, Norway. All patients were re-diagnosed (DSM-IV), using records from index hospitalisation. 45% fulfilled the criteria for a disruptive behaviour disorder; 37% of these had concurrent substance use disorder. The follow-up was conducted by linkage to national registers of crime and death.

*Results:* Predictors of criminal development and factors distinguishing between adolescent limited and life-course-persistent criminal behaviour will be explored. Pathways to violent and non-violent criminal behaviour will be highlighted, as well as gender differences in criminal career profiles. Finally, a secular trend analysis, investigating changes in criminal activity in conduct disordered adolescents over the last several decades will be presented.

*Conclusion:* Conduct disordered youths are at high risk for later criminality. Concurrent drug abuse is a potent risk factor, particularly in females. There are marked gender differences in criminal profiles. However, secular trend analyses indicate that these differences have diminished over the last several decades.

#### 4.5. Psychosocial and Psychopathological Characteristics of Juvenile and Adolescent Drug Offenders: Development of an Offender Profile

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Frank Haessler, *University of Rostock* (frank.haessler@med.uni-rostock.de)

*Introduction:* The paper describes profiles of individual and offence-specific risks in a group of juvenile offenders (14 to 21 years) and their relevance for treatment and criminal prognosis.

*Method:* A group of 70 juvenile offenders was described for their psychosocial, psychopathological and criminological background. Data stem from retrospective longitudinal examinations.

*Results:* A persistent criminal behaviour was triggered by family adversities, such as substance abuse, unemployment, delinquency and mental disorders of the parents. Juvenile offenders suffered from inconsistent education and intrafamilial violence more often. Individual comorbid psychiatric disorders, such as ADHD, substance abuse or disorders related to brain injuries impair chances for becoming non-criminal. Mental retardation (IQ < 70) imposed a severe threat to a non-criminal development. Persistent criminal offenders showed an early onset for joint offences signaling a decreased degree of peer resistance.

*Summary:* Social, family related and professional developmental factors are especially meaningful for a successful therapeutic rehabilitation process among juvenile offenders. Originating from an adverse family background increases the risk of later offences. Based on group dynamics, delinquent behaviours turned out to be rather reactions to conflicts. Those ill-equipped with resources for adequate conflict resolution and developmentally delayed juvenile offenders tended to abuse substances.

## 5. Advance Directives

### 5.1. Advance Statements in the New Mental Health (Care and Treatment) (Scotland) Act 2003

Jacqueline M. Atkinson, *University of Glasgow* (j.m.atkinson@clinmed.gla.ac.uk)

Advance statements were introduced in Scotland in the Mental Health (Care and Treatment) (Scotland) Act 2003, which came into effect in Oct 2005. These advance

statements are intended to come into effect when someone is to be compulsorily treated under the Act. They are designed primarily to cover treatment and allow for both refusal and acceptance of treatment. The aim is to describe the uptake and use of advance statements for the first 15 months of the Act. A questionnaire was sent to a sample (approx 400) of people on a compulsory treatment order (CTO) to investigate their views on making an advance statement. Those patients who had an advance statement and their psychiatrists were also offered separate interviews to discuss the use of the advance statement and to enable comparison of their different perspectives.

## 5.2. Implementing Psychiatric Advance Directives in the United States: Research, Clinical and Policy Issues

Jeffrey Swanson, *Duke University Medical Center* (jeffrey.swanson@duke.edu)

Psychiatric advance directives (PADs) are legal documents for competent individuals to plan ahead for their treatment during a future mental health crisis. Previous studies have shown high potential demand for PADs but low rates of completion in the United States, despite new laws authorizing PADs in many states. Results are reported of the first randomized study of a structured, manualized intervention to facilitate PADs completion. N=469 patients with severe mental illness were randomly assigned to a facilitated advance directive (F-PAD) session or a usual-care control group. PAD completion, structure, content, and short-term effects on working alliance with clinician and overall treatment satisfaction were observed. Sixty-one percent of F-PAD participants completed advance instructions or authorized a healthcare agent; 3% of control group participants did so. PAD instructional documents were rated by psychiatrist-raters to be highly consistent with community practice standards. No participant used a PAD to refuse all treatment, though most refused some medications and expressed preferences for admission to specific hospitals and not others. At 1 month follow-up, F-PAD participants had significantly greater improvement in working alliance with clinicians and were significantly more likely to report receiving the mental health services they believed they needed, compared to the control group.

## 5.3. Ulysses Contracts in Ontario, Canada: Practical Issues Regarding Implementation and Utilization

Alison Freeland, *University of Ottawa* (Afreelan@rohcg.on.ca)

Ulysses contracts are a form of Advance Directive (AD) in which patients authorize their preferences for intervention should they become incapable and refuse treatment and care. In theory this allows individuals with a major mental illness more influence and control over its management. In practice however they are rarely used. Research that attempts to understand reasons for this is limited and tends to focus primarily on ethical considerations regarding their utility. However, there are many systems and resource issues which prevent their implementation should a patient determine that they wish to proceed with a Ulysses contract. These include lack of knowledge about the impact of ADs on patient care, lack of training in implementation, difficulty securing assistance and financial support to complete the necessary documentation, adequate help to ensure the terms of the AD are acceptable, ability to ensure consumer directives meet current standards of care, and limited mental health resources available to execute the specific terms of a Ulysses contract. Comparison will be made with the successful implementation of Community Treatment Orders in Ontario which are governed by clear provincial rules and standards and which are funded by the provincial health care plan.

#### 5.4. Capacity to Make an Advance Directive

Seena Fazel, *University of Oxford* (seena.fazel@psych.ox.ac.uk)

This paper will describe the development of a patient centred approach for the assessment of competence to complete advance directives (“living wills”) of elderly people with cognitive impairment. 50 elderly volunteers living in the community, and 50 patients with dementia on first referral from primary care were assessed using this tool. The psychometric properties of this instrument will be presented. Validity was examined by relating this approach to a global assessment of competence to complete an advance directive made by two old age psychiatry specialists. The data were also used to determine the best threshold score for discriminating between those competent and those incompetent to complete an advance directive. The proportion of those who were capable of completing advance directives was investigated, and its relationship with cognitive impairment and premorbid IQ examined.

#### 5.5. Mental Health Act Overrides of Admission and Treatment Advance Directives In Canada

John E. Gray, *University of Western Ontario* (jegrays@shaw.ca)

Most Canadian provinces provide for advance directives for admission to and treatment in hospital. However, an advance directive not to be involuntarily admitted to a psychiatric unit is not respected in any province and some provinces limit the effect of advance directives on psychiatric treatment with “overrides”. Several provinces have an override in the advance directive legislation saying it does not apply to involuntary admission or treatment. Others, with no specific involuntary admission override, rely on the harm criteria of the Mental Health Act. In one province, for involuntary patients, an advance directive is not binding but provides the decision maker with “guidance”. Other provinces require the advance directive to be followed by the substitute decision maker but have an override specifying that if following the advance directive will cause serious harm to self or others, best interests becomes the criterion. In some provinces/territories an advance directive refusing all treatment must be followed irrespective of what harm occurs including years of detention. The Charter of Rights and Freedoms and other implications of these positions are discussed.

## 5.6. Procedural Justice: Dispute Resolution and the Courts

Donna Shestowsky, *University of California* (dshest@ucdavis.edu)

This panel explores the intersection of procedure, psychology and justice. One presentation concerns disputants' preferences for alternative dispute resolution (“ADR”) procedures for civil lawsuits. In the United States, many courts require disputants to use a procedure that is less formal than trial to resolve their conflict. The ideal design of these less formal procedures has been subject to debate. It will be argued that empirical data on disputants' preferences should be used to guide procedural design. Longitudinal data, from disputants' initial expectations about court procedures to post-experience evaluations of the procedures that were ultimately used, will be reported. Implications for procedural justice will be discussed. The other presentation reports research on why middle- and upper-income African-Americans perceive more racial injustice within the American legal system than their White American or less advantaged African-American counterparts. Data suggest that wealth places African-Americans in settings that increase the salience of individual class advantage relative to group disadvantage, and that these experiences heighten advantaged African-Americans' sensitivity to group-based rejection. Applied to law, this form of rejection is one of the psychological mechanisms underlying African-Americans' perceptions of racial injustice, and is also associated with stress-related anxiety. Implications for race and mental health will be discussed.

## 5.7. Race, Class and the Law: Why Advantaged Members of Disadvantaged Groups Perceive Legal Injustice

Valerie Purdie-Vaughns, *Yale University* (valerie.purdie@yale.edu)

The aim of this investigation is to examine why advantaged members of disadvantaged groups perceive racial injustice and the implications of these perceptions for mental health. In particular, why upper-income African-Americans perceive more racial injustice with respect to the American legal system than their White American or less advantaged African-American counterparts. We argue that wealth situates African-Americans in settings that increase the salience of individual class advantage relative to their group disadvantage. These experiences heighten advantaged African-Americans' sensitivity to rejection based on status characteristics – *racial rejection sensitivity* (RS-race). We hypothesize that this particular form of rejection is one psychological mechanism underlying African-Americans' perceptions of racial injustice. Moreover, it may be one factor underlying stress-related anxiety. Data were collected from 992 (Blacks = 644, Whites = 347) respondents. Perceptions of racial injustice, RS-race, and stress related anxiety were assessed. Ordered probit models were employed to predict the likelihood individuals perceive racial injustice as a function of RS-Race. Results confirm that controlling for individual factors, RS-race was more strongly associated with perceptions of racial injustice than individual income and other class measures. Moreover, RS-race was also strongly associated with stress-related anxiety. Implications for race, status characteristics and mental health will be discussed.

## 6. Advocating Care – The Models and Roles in the Experience of Advocacy

### 6.1. Advocacy at the Sharp End

Lynne Edwards, *Mental Welfare Commission for Scotland, Edinburgh, UK*  
(lopedwards.yahoo.co.uk)

*Background:* An introduction to the Mental Welfare Commission for Scotland and brief description of the Commission's role under the new Mental Health (Care and Treatment)

(Scotland) Act 2003, as well as a look at the impact of the New Act on Independent Advocacy Services.

*Aims:* To describe independent advocacy. To give a snapshot of how Scottish local independent advocacy services are responding to the New Act.

*Method:* A short pro-forma was sent to a sample of independent advocacy services in Scotland. Follow up was done via phone call interviews with a sample of pro-forma respondents

*Results:* Results will be discussed.

*Conclusion:* Conclusions will be made as far as possible at this early stage of implementation of the New Act.

## 6.2. Advocacy and Mental Health in Scotland: Comparing the Role of Advocacy in an Independent Advocacy Agency and in Social Work

Dorothy Degenhardt, *University of Dundee* (d\_degenhardt@lineone.net)

Maggie Gee, *University of Dundee* (m.gee@dundee.ac.uk)

The new mental health legislation which came into operation in October 2005 (The Mental Health Act (Scotland) 2003, sections 259 and 260), states that people have a right of access to advocacy services and that health boards and local authorities have a duty to secure the availability of these services for all people who have a mental disorder. This has brought to the forefront an approach of helping people in difficult circumstances that stands outside the support, advice and guidance offered by social workers. This model is used by workers in agencies that are independent of local authorities and health boards and therefore are not constrained by the legal and policy-driven imperatives of profession and employers. The process of advocacy has been examined from the perspectives of independent advocates and of social workers to track the extent to which they overlap or remain distinctive. This has been done through structured interviews with workers and volunteers in one metropolitan area of Scotland. Some confusion was found as to the definition and nature of advocacy, particularly amongst social workers but also common threads in the approaches of these two groups in supporting people with a mental disorder.

## 6.3. Model and Roles in the Experience of Advocacy

Frank Keating, *Royal Holloway University of London* (frank.keating@rhul.ac.uk)

*Background:* People from Black and minority ethnic background in the United Kingdom have difficulties in accessing advocacy services.

*Aims:* To review the relationship between African and Caribbean communities and mental health services and the role that advocacy can play in improving services.

*Method:* A discussion on the different types of advocacy in the context of mental health legislation in the UK.

*Results:* Fear stops engagement with mental health services.

*Conclusion:* Advocacy can be a meaningful tool to engagement.

#### 6.4. Role of Counsel in Independent Protection and Advocacy

Karen Talley, *Disability Law Center - Boston, USA* (kowtal@msn.com)

This presentation will explore the role of the “Protection and Advocacy” attorney in the United States. It will include an overview of the federally funded, independent protection and advocacy system and discuss the role of counsel in cases involving abuse, neglect, civil rights violations and community integration. The presentation will also discuss collaboration between the protection and advocacy attorney and court appointed counsel, in cases involving civil commitment, treatment orders and criminal charges. Finally, the presentation will explore how representation can also foster empowerment and the relationship between empowerment and recovery from mental illness.

#### 6.5. The Zealous Advocacy of Persons with Mental Disabilities

Andrea Risoli, *New York Law School* (AR10Helen@aol.com)

Law presents a myriad of legal and ethical issues in the representation and the adjudication of persons with mental disabilities relating to involuntary commitment, criminal dispositions, and treatment over objection, and guardianship proceedings. This paper will explore the various roles of the players involved including the role of counsel, treatment providers, and the court. Of particular note will be a discussion of the least restrictive alternative remedy and the often harsher state imposed sanctions as a result of societal and governmental interplay with this area of law. Therefore, to effectively resolve the legal and ethical issues individuals with mental disabilities pose, the zealous advocate must first understand his or her respective role.

## 7. Aggression and Violence in Adolescents: Etiological Factors, Sex Differences and Innovative Approaches to Intervention

### 7.1. Affect Regulation and Aggression: A Developmental Perspective and Implications for Intervention

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Over the course of development, children gradually develop increased competence in modulating their affective states. This is facilitated by parental attunement and responsiveness. In the absence of sensitive parenting and secure parent-child relationships, children are less successful in developing strategies that support adaptive affect regulation. Research with young children shows that deficits in adaptive affect regulation are associated with a range of emotional and behavioral problems. This study examined the relations between three affect regulation components – dysregulation, suppression and reflection – and aggressive behavior in a clinical sample of adolescent boys and girls with marked behavior problems. Affect dysregulation was consistently associated with relational, overt, instrumental and reactive aggression. Gender differences and patterns of aggression in different relationship contexts are discussed. Our findings highlight the continued importance of helping parents to more effectively support the development of healthy affect regulation in their children and adolescents. We briefly review new short-term, structured programs that target affect regulation and attachment issues among aggressive youth and their families.

### 7.2. Female and Male Antisocial Trajectories: From Childhood Origins to Adult Outcomes

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Terrie E. Moffitt, *Kings College London* (t.moffitt@iop.kcl.ac.uk)

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Despite the growing body of research related to antisocial behavior among girls, we still do not know whether the distinction between life-course persistent versus adolescent-limited antisocial behavior extends to females. Using data from a 30-year prospective study, this paper tests whether the developmental course and consequences of antisocial behavior are the same for females.

*Participants and Method:* Our sample includes members of the Dunedin Multidisciplinary Health and Development Study, a 1-year birth cohort (1972-1973) of 1037 children. Developmental trajectories were defined based on prospective ratings of antisocial behavior at 7, 9, 11, 13, 15, 18, 21 and 26 years of age. Age-32 violence, mental-health, physical-health and economic outcomes were collected via diagnostic interviews, medical examinations, self-report inventories, public records and informant ratings.

*Results:* Results from this investigation inform the study of the developmental course of girls' antisocial behavior in 3 ways. First, similar trajectory groups were identified for both males and females, including: life-course-persistent, adolescent-onset, childhood-limited and low. Second, results supported a similar etiology for males and females on the LCP pathway. Third, the age-32 prognosis for women and men on the LCP pathway was poor across multiple domains. Implications for theory, research and practice will be discussed.

### 7.3. The Voices of Urban Aboriginal Girls on Violence and Aggression in their Lives

Margaret Jackson, *Simon Fraser University* (margarej@sfu.ca)

Marlene Moretti, *Simon Fraser University* (moretti@sfu.ca)

A girls' group, employing a model of participatory action research, was developed for 20 young Aboriginal women living in the Eastside of Vancouver. Those selected for the project ranged in age from 14 to 19 years old. In keeping with the model, the girls served as consultants on their own life experiences. Using an intersectional analysis, focus groups discussed issues such as the violence and aggression they experienced in their lives, as both targets of aggression and as aggressors themselves. The girls identified barriers which need to be removed in order to break the violence cycle: everyday ones, such as the lack of needed services, but also, more importantly, ones relating to the difficulties of developing trusting relationships because of past abusive relationships with family and friends. Over time, further discussion came to focus upon existing strengths such as a commitment to their native culture, community and family in the "hood". Two

of the primary recommendations the girls came up with were: 1) that the voices of youth must be included in all stages of programming development, and, 2) that front-line service delivery networks should hire staff who have real life experience that reflect the lives of the girls.

#### 7.4. Are Different Forms of Aggression Related to Different Outcomes?

Anna-Karin Andershed, *Orebro University* (anna-karin.andershed@bsr.oru.se)

Scholars have long recognized that people express aggression in different ways, and that the underlying motives for pursuing aggressive acts toward others are not the same for everyone. Aggressive acts are commonly categorized along two dimensions: One dealing with how aggression is expressed (e.g., physical, verbal, relational/social; overt, indirect), and the other with why aggression occurs (e.g., reactive, proactive). The present study integrates the two dimensions, looking at the associations between adolescent adjustment and reactive overt, proactive overt, and relational aggression. The sample consists of 240 13- to 15-year old adolescents. Zero-order correlations show that all three forms of aggression are related to normbreaking behavior, relationship quality, and substance use, for boys as well as girls. Depression, however, is only related to aggression among girls. When controlling for the other forms of aggression, reactive overt and relational aggression seem most important for girls' adjustment, while proactive overt aggression seems most important for boys' adjustment. Further, when controlling for the other forms of aggression, the three forms of aggression are differentially related to measures of adjustment. In conclusion, we need to take all forms of aggression seriously, to be able to make a better assessment of the antecedents of aggression.

#### 7.5. Intervening with Aggressive Girls: A Longer Look at Program Effectiveness

Debra Pepler, *York University* (pepler@yorku.ca)

The Girls Connection (GC) is a gender-sensitive program for 6- to 11-year old aggressive girls. The multi-systemic program is built on a developmental-contextual model of risk and protective factors within the individual girl and her relationship contexts (family, peers, school, community). The GC SNAP group program for girls focuses on social problem-solving skills and anger management. The SNAPP parents' program focuses on parent management skills and anger management. There is also a Girls' Growing Up Healthy program that focuses on developing healthy mother-daughter relationships. The

authors conducted an evaluation with random assignment to treatment and waiting list groups. There were 40 girls in the treatment groups and 29 girls in the waiting list control groups, who received the program in the subsequent session. There were significant differences between the treatment and waiting list groups on a number of child (e.g., aggressive problems) and parenting (e.g., ineffective parenting) variables. A report will be made on growth curve analyses used to examine change through post-treatment, six months, one and two years following treatment and on the factors related to change through treatment. These data are among the first to demonstrate the effectiveness of a gender-sensitive treatment for girls' aggression and relationship problems.

## 8. Aging, Developmental Disability, and the Issue of Legal Competence

### 8.1. The Blending of End-of-Life Care Systems: Aging and Intellectual Disabilities

Lawrence T. Force, *Mount St. Mary College* (force@msmc.edu)

The demographic profile of the American population is changing. People are living longer lives; the average age of the general population is expected to significantly increase over the next few years. In the year 2000 there were 35 million persons age 65 or older in the United States; over the next thirty years the population age 85 and older will grow faster than any other age cohort. As people with developmental disabilities live longer and grow older in greater numbers, programs and supports will be needed to address community care issues related to age associated problems, such as progressive dementia and end of life care issues. This change in longevity has implications for individuals with life-long disabilities, their family members and staff that are providing services; creative interventions will be required on both the micro and macro practice level. Policy planners and program designers will need to develop a further understanding of the parallel connections between aging and Intellectual Disabilities. This paper addresses the intersection of the Aging network and the Intellectual Disabilities network (mental retardation, developmental disabilities and autism) with a specific focus on the concerns associated with national policy and planning at the end-of-life for individuals with Intellectual Disabilities.

## 8.2. The Intersection of Cognitive Impairment, Illness and Decision Making

Geraldine A. Abbatiello, *Pace University* (gabbatiello@pace.edu)

For the first time in the history of North America, people with Intellectual Disabilities are living longer; often into their 80's and 90's. The issue of chronic illness and End-of-Life-Care in the ID population has become a growing concern. The community is in need of unique and creative approaches to the issues of quality of life, comfort care and symptom management. How our medical, nursing, legal, and caring communities approach these concerns will be examined. The concern and need for planning includes approaches to self-advocacy, person centered care as well as knowledge of trajectory of both the cause of the intellectual disability and the chronic or terminal illness itself. A team approach which is both anticipatory and personalized is called for. This paper will address the elements of the decision making process based on these trajectories amidst the wishes and desires (spoken or represented) of the person with the cognitive impairment.

## 8.3. The Older Americans Act: Law, Aging and Mental Health in historical perspective

Jeffrey Kahana, *Mount Saint Mary College* (kahana@msmc.edu)

This paper examines the legal structure underlying the American “aging network” as set forth in the Older Americans Act (1965) and with specific reference to supporting the mental health of the aged. The paper reviews state efforts to promote the mental health of the aged prior to passage of the Older Americans Act. It considers arguments made by sponsors of the Act to promote the holistic well-being of the aged (including their mental health) as individuals rather than as beneficiaries of welfare. The paper then discusses the legal mechanisms through which this Act supports mental health programs for the aged. It concludes by offering suggestions for how the broad purpose of the Older Americans Act can be implemented within the current legal structure and given practical limitations of resources.

## 8.4. Speculation on Future Trends in the Acceptance and Use of Mental Health Services to Promote Successful Aging

Richard H. Fortinsky, *University of Connecticut Health Center* (fortinsky@uchc.edu)

This paper will examine reasons for relatively low rates of mental health service use among today's older population, born largely between World Wars I and II, and explore implications of the contention that mental health service acceptability and use will increase substantially in the post-World War II cohort of older adults. Using the United States and United Kingdom as case examples, the author compares and contrasts the organization of community-based mental health services currently available to older adults. Anticipating a rise in the acceptance and use of such services, a discussion will be made of how models of mental health service delivery in these two countries might be reconfigured to promote self-referral as well as referral by primary care and legal practitioners in the future. Because family members of older adults with long-term mental health problems such as dementia and psychosis often provide a tremendous amount of care to their relatives for many years, we also will explore future models of care that address the mental health needs of family caregivers to sustain their own successful aging.

## 9. Aspects of Differentiation between Types of Infanticide

### 9.1. Sexually Motivated Killing of Children by Married Offenders

Norbert Konrad, *Institute of Forensic Psychiatry, Berlin, Germany*  
(norbert.konrad@charite.de)

*Background* In Germany, sexually motivated homicides with children as victims cause intense reactions of the general public.

*Aims* The presentation concentrates on children homicides by married perpetrators.

*Method* Based upon three cases in Germany, the psychiatric and psychological aspects of these homicides will be discussed.

*Results* Marriage was not intended to mask and disguise pedophile and/or sadistic impulses.

*Conclusion* The offenders had on an amateur psychological basis hoped to overcome their deviation.

## 9.2. The Problem of Differentiating between Sudden Infant Death Syndrome, Munchhausen Syndrome by Proxy, and Homicide

Frank Haessler, *University of Rostock* (frank.haessler@med.uni-rostock.de)

*Introduction:* Sudden infant death syndrome (SIDS) is the most common type of post-neonatal death in infants aged under 2 years. The incidence of SIDS in Germany has fallen from 1.7 per 1000 live birth in 1990 to 0.62 in 2000. According to the literature 5 to 11 percent of deaths recorded as SIDS may be disguised homicides. These homicides can be caused by a Munchhausen syndrome by proxy (MSBP), defined as an extreme form of abuse wherein the caregiver repeatedly produces symptoms of illness in a child. The mortality rate of MSBP ranges from 9% to 31%. This paper examines difficulties in differentiating between SIDS, MSBP, and homicide.

*Method:* Four case reports from the federal country of Mecklenburg – Western Pommerania are introduced.

*Conclusions:* For assessing cases of SIDS, MSBP or homicide, practitioners should consider the following cues: recurrent symptoms of illness, repeated hospitalization and/or consultation of physicians, multiple diagnostic procedures without establishment of a clear-cut diagnosis, a certain resistance to therapy, illness or unnatural death of siblings, and repeated poisoning or suffocation attempts. Differentiation between SIDS, MSBP, and homicide should be done extensively and carefully because legal consequences differ vastly according to facts of the matter.

## 9.3. Infanticide – Forensic Expert’s Experiences

Detlef Schlaefke, *University of Rostock* (detlef.schlaefke@med.uni-rostock.de)

Renate Schepker, *University of Rostock* (renate.schepker@zfp-weissenau.de)

Violence to children manifests in versatile ways like physical, emotional and sexual abuse as well as neglect. Infanticide is the disastrous culmination of violence or psychological illness and therefore results in an immense interest by the public and in the media. In this connection the term infanticide is used as a collective name for the killing of children. The frequency of infanticide compared with homicide ranges from 1 to 2% in Germany and 5 to 6% in the United States of America. In this presentation special features of the appraisal of offenders will be highlighted by means of first-hand experiences. Child murderers as well as other criminals are classified through characterization of personality and diagnosis of mental disorder. The speciality of infanticide can be seen in the heterogeneity of intention, which must be examined in

relation to personality and mental disorder before being compared with legal principles. Hitherto diverse subtypes of perpetrators have already been published in literature. The assessment of both criminal responsibility and prognosis will be discussed.

#### 9.4. Causes and Conditions for Infanticide: Data from an American Forensic Hospital

Maya Krischer, *University of Cologne* (maykrischer@aol.com)

*Aim:* To describe causes and conditions of infanticides committed by mothers admitted to a forensic hospital.

*Method:* Groups of neonaticides, infanticides, and filicides were differentiated and described by psychosocial, psychiatric, and motivational factors.

*Results:* Different types of infanticide can be differentiated by a combination of individual psychiatric disorders and concomitant stressors. Neonaticide was associated with a combination of psychosis and contextual stress. Filicide was associated with depression and suicidal tendencies of the mothers.

## 10. Aspects of Healing in Victims of Torture

### 10.1. Therapeutic Justice: The Healing Impact of Redressing Human Rights Violations: A case study

Ana Deutsch, *Program for Torture Victims, Los Angeles, USA* (adeutsch@ptvla.org)

Seeking and obtaining justice for violations of human rights including torture, may help victims to address and alleviate the consequences of such violations at the personal, family and social levels. Victims or their relatives that give testimony before the Inter-American Human Rights Court have in some instances the opportunity to undergo a process in which health professionals assess the damages inflicted by such violations. Their testimonies are central to evidence brought before the Court, as the victims are heard and their suffering is acknowledged. Victims are entitled to restitution, compensation and rehabilitation as well as measures of satisfaction and guarantees of

non-repetition. Medical and psychological assessments of the damages are crucial to determine reparations. Furthermore, the evaluation process provides a context in which victims have the opportunity to address the devastating consequences of the torture and/or other violations of human rights. This presentation illustrates through a case study how the process explained above is implemented and how the Inter-American Court of Human Rights operates. The case presented is known as the “Miguel Castro Prison” in Lima, Peru and it refers to the massacre of political prisoners which occurred in 1992 in that prison.

## 10.2. Global Development of the Field of Torture - State of Torture in the World Today

Inge Genefke, *Rehabilitation and Research Centre for Torture Victims (RCT)*,  
Copenhagen, Denmark (ig@irct.org)

For an understanding of the state of torture in our world today, and the global development of the field, it is necessary to describe the history of health professionals' work and fight against torture. This began more than 32 years ago and has included extensive research. It is equally important to know the extremely important results of this work, which has led to an exceptional understanding of torture: what torture is, who is performing torture, the aims of torturing people, and of the results of torture. How can we punish the worst of all torturers, those who give the orders. Furthermore, answers are given for how to prevent torture. Torture has always been known as an infamous instrument of obtaining information. Medical research on torture performed over the past 30 years has indicated, inter alia, that torture is not a tool suitable for the obtention of reliable information. It was also found that torture deeply affects the torture victim's identity and integrity, as well as the torture victim's family, specifically the children and surrounding society. In the past, generals and other persons in power justified the use of torture, claiming that they obtained information vital for their army and for society. However, research results indicate that this may not be a valid method of obtaining information, justifying the ethical refusal of the use of any form of torture at all.

## 10.3. Denial and Treatment of Victims of Torture

Mimosa Dimitrova, *Assistance Centre for Torture Survivors – ACET*, Sofia, Bulgaria  
(office@acet-bg.org)

The Assistance Centre for Torture Survivors - ACET is a Bulgarian non-governmental, non-profit foundation established in 1995. ACET has developed two main programmes: the medical rehabilitation programme for torture victims (refugees and victims of the communist regime in Bulgaria and their family members) and a torture prevention programme. The large number of Bulgarian citizens affected and the broad impact on their families, including second generation effects, has created the need for this type of specialised center and outreach projects. The medical rehabilitation programme of ACET provides services in Sofia and in the regions of Varna, Plovdiv, Stara Zagora and Kazanluk. A team of specialists provides medical, social, psychological and legal services. The rehabilitation work for torture victims is based on the individual approach. The situation of each client is discussed, structured and followed at weekly meetings, during which the team also develops the programme and management of the cases. Psychodynamically oriented treatment adapted to the needs of torture survivors is offered as part of ACET'S services. The presentation addresses special questions arising in the treatment of primary and secondary victims of torture, such as defensive patterns including denial. Psychotherapy may be required on a long-term basis for many clients, and the effects of extreme trauma observed require special adaptations of treatment techniques.

#### 10.4. Redress in Action

Sinisa Soro, *International Aid Network Centre, Belgrade, Serbia and Montenegro*  
(office@ian.org.yu)

During 1995 Serbian police illegitimately arrested over 10000 male refugees and transported them back to Croatia and Bosnia. They were placed in military training centers led by paramilitary commander Zeljko Raznatovic Arkan. The plan was to train the refugees in military skills and then take them to the front. During their stay the refugees were subjected to ill treatment, degradation and serious acts of torture. After the training ended they were taken in to theatres in Bosnia and Croatia where they remained until the end of the 1995. From their arrest until their return the refugees suffered extreme pain, degradation, and fear due to their deprivation of human rights, brutal acts of violence, torture and ill treatment. Consequently their mental health seriously deteriorated, and a significant number of these forcibly mobilized refugees suffered from PTSD. The Ian Center arranged for psychotherapy, counseling, and legal representation for these victims. The presentation describes the Ian Center activities, findings, experience in psychotherapy of the forcibly mobilized victims, documentation of torture, and claims of compensation from the state.

## 10.5. Torture Narratives – the Burden of Giving Evidence

Janus Oomen, *AI Medical Group, Amsterdam, The Netherlands* (oomen@xs4all.nl)

Torture victims have a paralyzing difficulty speaking out on ‘why they had been chosen to be subjected to torture’. A contradictory sentence that appeared in most narratives was: ‘it was an unfortunate accident of the kind that happened to a lot of people at that time and setting, but which struck me unaware’. Narratives emphasized the lack of perceived meaning as the main evil: the mental abuse of being tortured while having nothing worthwhile to reveal or to hide. The perceived irrationality, ‘matter out of place’ as act against culture, is often paramount in the inept expression of traumatization during asylum interrogation. The asylum seekers relate a large part of their anguish to the inability to understand why it happened and thus to the inchoate fear it will happen again. Another amplification of the trauma with much impact is to have been part of the torture scene and to have witnessed the torture of others, likewise powerless, who did not survive. In effect, the more the torture is devoid of significance, the more it seems to continue being experienced as unfinished, demeaning and unbearable. ‘In the weak’, one could say, ‘having no cause is the ultimate weakness’. In a majority of victims a permanent part of the torture humiliation is of a sexual abusive nature and this part is usually most difficult for the examiner to make the examinee recall. The victims, both men and women, whether or not they have been raped in a literal sense, make it clear that torture is a gesture of ultimate contempt in sexual humiliation by their torturers. Victims often refer to physical acts as a scar which cannot inflict new pain, but to mental and sexual abuse as a lived experience which is irreparable, possessively recurrent and inexpressible in mundane words. ‘I have no words’, also means: ‘Against torture one cannot fight but one can still resist having to reveal the pain in memory - in the asylum interrogation also’. This thought acts as a resistance to detailing the torture during examination. Of course it also promotes collusion with the interrogator, who does not really want to hear the details of the torture. Denial is the keyword in the asylum decisions studied during this research.

## 11. Bias in Forensic Psychology

### 11.1. [Has Daubert v. Merrell Dow Pharmaceuticals Served to Reduce Bias in Forensic Psychology?](#)

[Brett Trowbridge](#), *The Trowbridge Foundation, Olympia, USA* (trowfund1@msn.com)

Since the Daubert decision in 1993, U.S. federal courts and many state courts have been required to assume a gate keeping role for the admission of scientific expert evidence in trials. Judges must now look for a better fit between scientific evidence and the issue being litigated. Many commentators believe Daubert has served to eliminate bias and has reduced the amount of biased “junk science” admitted at trials. Other commentators are of the opinion that judges are poor gate keepers since they are scientifically naïve, and that their choices as to what expert opinions to deem admissible may be influenced by their own biases. If a forensic psychologist cannot produce a scientific study to back up his expert opinion, does that necessarily mean that his opinion is biased “junk science” that should not be allowed?

## 11.2. Forensic Practice: Pride and Prejudice

Jay Adams, *California Department of Corrections, Sacramento, USA*  
([jayklaus@msn.com](mailto:jayklaus@msn.com))

The field of forensic psychology and psychiatry has evolved rapidly, and our research instruments and experts command increasingly growing respect among both the scientific community and lay audiences. We have, however, focused almost exclusively on assessment, to the almost total exclusion of treatment. This has unfortunately fostered the perception that most forensic clients are not amenable to treatment. Bias is apparent in the greater financial incentives offered for assessment. Bias is also present in the labeling process, where the extensive research on the detrimental effects of labeling is largely ignored. The overall bias toward viewing forensic clients as having a “moral defect” has hindered our effectiveness. In our widespread acceptance of Samenow and Yochelson’s concept of “criminal thinking,” we have put our faith in a tautology and failed to investigate what actually causes criminals to think and behave the way they do. The author discusses the role of child abuse in the backgrounds of many forensic clients and suggests how the literature on adult survivors of abuse could be applied to the treatment of forensic populations. The author’s presentation will support the following assertions: (1) The PCL-R over-identifies adult survivors of childhood abuse as psychopaths, and as a result, deprives many of them of effective treatment, (2) Most forensic psychologists do not understand the causes of impulsive behavior and consequently have no way to effectively treat it, (3) Self-injurious behavior is vastly under-diagnosed in forensic settings, and when it is recognized, it is almost always misunderstood as either suicidal or manipulative, and not treated properly, and (4) Malingering is over-diagnosed in forensic settings because staff are not trained to recognize and treat the long-term effects of early trauma.

### 11.3. The Corruption of Forensic Psychology in the USA

[Philip Frank](#), *Clinical Psychologist*, Washington, USA ([drpjfrank108@yahoo.com](mailto:drpjfrank108@yahoo.com))

Many Forensic Psychologists have written about the abuses of ‘expert’ testimony in the American adversarial system. While the current system meets the needs of attorneys, the reputation of Forensic Psychology as a science has been severely damaged. The adversarial system tends to result in testimony that is not representative of the scientific consensus in the field, and it is often obvious to the other participants in the legal system that psychological testimony can be ‘bought and sold’. The major factor in misrepresentation of psychological data is the financial incentives available for ‘experts’ willing to perform as ‘hired guns’. Forensic practice pays at much higher rates than clinical practice. This system also results in a lack of referrals for psychologists who do not provide what the employer (usually an attorney) requires to make a strong adversarial case. Thus, extreme opinions and flexible ethical standards are rewarded. It is well known and widely discussed that both sides in any dispute are able to hire expert testimony in order to bolster any argument that they choose to make. This paper attempts to illustrate these problems with examples drawn from the author’s personal experience in 30 years of practice in the State of Washington. Possible steps toward a solution are discussed including the use of non-adversarial procedures for the introduction of scientific testimony. Also, better jury instructions may help juries evaluate scientific testimony. Finally, better enforcement of the Daubert Rule for scientific testimony would eliminate some of the more blatant abuses.

### 11.4. Bias in Fact Adjudication from the Perspective of the Advocate

[Charles Williams](#), *Washington Association of Criminal Defense Lawyers*, Seattle, USA ([attywilliams@comcast.net](mailto:attywilliams@comcast.net))

[This presentation is an attempt to address the Hydra-headed problem of bias in fact adjudication from the perspective of the advocate. In American trials the problem of bias arises in determining both the credibility of witnesses and the impartiality of jurors and judges. But where challenges to witness bias can affect the weight of evidence received from the witness, challenges to adjudicator bias may result in the removal of the adjudicator from the proceeding. Obviously the tolerance for bias is much lower for adjudicators than for witnesses. Adjudicators are expected to be ignorant of the historical event that forms the basis for the adjudication, whereas witnesses must have some knowledge to impart. Adjudicators may have related prior experiences such as victimacy or affiliations to witness groups such as law enforcement but no specific relationships to](#)

the litigants or parallel or similar financial interests. Witnesses may have any such experience, affiliation, relationship or interest. Nearly any effort by the advocate to raise witness bias issues will empower adjudicators to make credibility determinations. Such determinations can decide the outcome of adjudication without becoming the subject of later appellate review. But the effort of the advocate to remove an adjudicator for bias is often subject to limited review. Are there any coherent principles underlying these differences?

## 12. Bio-Psychosocial Aspects of Violence in Humans

### 12.1. Felonious Homicide Psychosocial Repercussion on the Defendant's Family

Marina Elly Hasson, *University of Sao Paolo* (marinahasson@gmail.com)

*Background:* The author discusses her experience as a Psychologist at Curitiba Jury Trial Court, in Paraná - Brazil, where she has observed defendants charged with felonious homicide in her daily routine. Although all these people have committed different kinds of homicides, they have similarities and differences that have drawn the author's attention interest concerning their lifestyles.

*Aims:* The research aims at investigating whether there was an interruption and/or change in the psychosocial development of the felonious homicide defendant family and if the defendant noticed such repercussion on the family nucleus after having committed the crime.

*Method:* The sample used for this research was 30 male defendants enjoying freedom while awaiting trial. Interview schedules were developed for data collection, and applied to the defendants and their female partners.

*Results:* The defendants turned out to be more introspective; continued to make use of psychoactive substances; experienced economic changes; and noticed their children had undergone psychological changes. The wife/steady-partner noticed that the defendant's behavior has had changed; she contributes to family income.

*Conclusion:* The consequences of the defendants' actions affected the family by changing its psychosocial development and the. The defendant perceived his actionthe repercussions concerning of his actions on his family.

## 12.2. Factitious Disorders: A Challenging Mystery

Alexandrina Maria Augusto Da Silva Meleiro, *University of Sao Paolo*  
(alexandrina@uol.com.br)

*Background:* Factitious disorders (FD) consist of a repetitive intentional production or invention of symptoms without an obvious reason, aimed at playing the role of a patient. Its most remarkable feature is the apparent lack of meaning in the patient's behavior, which often seems to derive no benefit besides undergoing uncomfortable and useless investigations and procedures.

*Aims:* To study the knowledge about the factitious disorders in a sample of medical practice.

*Methods:* The procedures with physicians (230) and psychiatrists (100) used were two case reports and a questionnaire concerning: diagnosis (CID-10), differential diagnosis, treatment and prognosis.

*Results:* Only 2% of the psychiatrists observed the differential diagnosis of FD.

*Conclusion:* FD may lead to severe iatrogenic behaviour and inflict suffering on those affected. To minimize its impact and enhance our knowledge, a high degree of suspicion is necessary in the diagnostic investigation of patients.

## 12.3. Alcohol and Drug Consumption and Sexual Impulsiveness among Sexual Offenders

Danilo Antonio Baltieri, *University of Sao Paolo* (dbaltieri@uol.com.br)

*Background:* Sexual violence is an important public health problem. In São Paulo State - Brazil, about 5% of male prison inmates are serving a sentence for a serious sexual offense.

*Aims:* This study evaluated the role of alcohol and drug consumption and the sexual impulsivity level among sexual offenders.

*Method:* It was a retrospective and cross-sectional study carried out inside the Penitentiary of Sorocaba – São Paulo, involving 218 convicts sentenced only for sexual crimes.

*Results:* 1) Sexual offenders against adults were found to be significantly younger than children molesters and sexual offenders against adolescents; 2) Sexual offenders against adults had more difficulties with drug use than the comparison groups; 3) Children

molesters showed significantly higher severity of alcohol dependence than the comparison groups; 4) Children molesters presented more frequent history of being sexually abused in childhood than the comparison groups.

*Conclusion:* Substance use may be one of the distinguishing factors between offenders who target children and those who target adults.

## 12.4. Bio-Psychosocial Evaluation of Juveniles in Mandated Rehabilitation Programs in the City of Goiania, Brazil

Joanna Heim, *University of Sao Paulo* (joannaheim@uol.com.br)

*Background:* A UNESCO released study indicated that between 1980 and 2002 the practice of homicide by 15 to 24 year olds that commit illicit acts increased from 30% to 54.4%.

*Aims:* Understanding of the factors that influence and/or cause juveniles to commit infractions, evaluation of their potential for social re-integration, and develop re-integration plans.

*Method:* Psychological instruments were used to assess the context, personality traits, and cognitive profiles for a group of juveniles interned in an institution for their rehabilitation utilizing a battery of neuropsychological tools. The control group is from the public school system.

*Results:* Data indicate that the evaluated transgressors have in common impulsiveness, and exhibit deficits in intelligence, verbal eloquence, and capacity to concentrate.

*Conclusion:* Social factors together with neuropsychological deficiencies are the principal influences in adolescent transgression. Re-socialization will be possible with individualized treatment.

## 12.5. Emotional Correlatives in Victims of Kidnapping with Diagnosis of PTSD

Maria Emilia Marinho Camargo, *University of Sao Paulo* (mila\_marinho@terra.com.br)

The study aims at investigating the occurrence of the main symptoms of Posttraumatic Stress Disorder and correlates them with the kinesthetic factor in Rorschach psycho-diagnosis. The working methodology includes a semi-structured interview, scale

application (CAPS – Clinician Administered PTSD Scale, IES – Impact of Event Scale and SOS – Significant Others Scale), neuropsychological and personality assessment of a victim of flash kidnapping. Rorschach’s psycho-diagnosis results show the non-existence of Movement Response, probably due to the reduced psychological integration (personality dissociation), limited consciousness area and consequent lack of the subject’s mental lucidity at the test application. The factors responsible for this disintegration are among others: acute anxiety, sudden shock (in the case in question, the kidnapping) and extreme fatigue. The author concludes that the symptoms of Posttraumatic Stress Disorder – avoidance attitude, hyper vigilance and intrusive thoughts – corroborate the hypothesis that the non-existence of the kinesthetic factor in Rorschach reports assessed is a relevant condition for the differential diagnosis of PTSD.

## 13. Bringing Indigenous Understandings and Experience to Legal Responses to Community Well Being

### 13.1. Can International Law Contribute to Indigenous Children’s Well-Being?

Terri Libesman, *University of Technology, Australia* (Theresa@law.uts.edu.au)

This presentation will consider whether international law, which by its nature is universal and general, can contribute effectively to the establishment of standards and monitoring mechanisms which respond to local and concrete problems experienced by indigenous children? Two related questions are considered. Can culturally diverse standards of conduct be judged against universal standards developed (with their ontology) in a western institutional context, and can collective and group values be accommodated in an individual human rights framework? This presentation attempts to look at some of the issues which these questions raise with reference to the United Nations Convention on the Rights of the Child and in the context of evolving understandings of principles of self determination in international law as they relate to indigenous children. The application of these treaties and developing standards to Aboriginal and Torres Strait Islander children in Australia is used to explore and illustrate general principles discussed.

### 13.2. Critical Images: Aboriginal Art as Critique of Colonial Law

Chris Cunneen, *University of New South Wales* (c.cunneen@unsw.edu.au)

Aboriginal art is a powerful medium for expressing Aboriginal law and culture. Aboriginal art plays a special role in understanding law in a society that did not rely on the written text. Art provides an important material expression of ongoing Indigenous concerns with events such as colonial massacres, segregation and the denial of civil and political rights. Aboriginal artists are constantly engaging colonialism, law, and the criminal justice system as subject matter for their art. The purpose of this paper is to consider Aboriginal art specifically in relation to outcomes of colonialism and the search for a just response.

### 13.3. Finding Balance: Native Youth and Acculturation in Counseling

Michelle Johnson-Jennings, *University of Wisconsin, Madison* (mdjohnson2@wisc.edu)

Development occurs among all youth; however, the meaning associated with it has been argued to vary based on the individual's cultural and historical context. Native American, Indigenous, or American Indian people comprise an ever complex and transforming population, and their youth development reflects this complexity. Over 562 federally recognized and an additional 311 state recognized tribes exist with over 200 living, distinct languages and customs. A Native individual not only identifies racially, but this ethnic group also exists as a political status in which the member holds dual citizenship in both the United States and her/his tribal nation. To begin conceptualizing the intersection of Native cultural identity and psychosocial well-being, one must understand briefly Native demographics, historical trauma and current position in society today. This presentation will address clinical implications of acculturation among Native adolescent youth in development and the acculturation stress experienced. First Native identity and the contextual factors which influence this will be addressed. Then through utilizing a vignette to illustrate, the presenter will discuss westernized clinical perspectives versus traditional Native perspectives. Finally, treatment techniques and barriers to treatment will be discussed.

### 13.4. Improved Mental Health and Family Functioning, Reduced Participation in Crime and Substance Use after Residential Treatment for Substance Dependent Youth

John Howard, *Ted Noffs Foundation* (howardj@noffs.org.au)

*Background* The Program for Adolescent Life Management offers up to three months' residential treatment, with twelve months' continuing care, for substance dependent adolescents aged 14-18 years. With harm reduction philosophy and relapse prevention planning, it provides 42 beds in two metropolitan and two rural locations in eastern Australia.

*Methods* Data on 332 young people who completed at least one month of residential treatment were compared with data at three-month post-PALM follow-up.

*Results* In the three months prior to admission more arrests for crime was associated with lower scores for mental distress. There were significant reductions in occasions of alcohol, cannabis, amphetamine-type stimulant, cocaine, and opioid use and amount used at post-program follow-up, and in severity of dependence and injecting drug use. Significant improvements were observed in indices of physical and mental health (depression, anxiety, hostility, psychotocism, including a highly significant reduction in suicidal ideation. Significant reductions in criminal behaviour for person and property crime and arrests were evident. In addition, there were significant improvements in family functioning. Indigenous clients demonstrated outcomes comparable to but not as strong as those for non-Indigenous clients. PALM residents expressed high levels of satisfaction with the program regardless of Indigenous status.

## 14. Can Justice be Restored in the United States?

### 14.1. Investigating Culture in Death Penalty Cases in the United States

Scharlette Holdman, *Center for Capital Assistance, San Francisco, USA*  
(Scharlette@mitigate.com)

Linda Ball, *Center for Capital Assistance, San Francisco, USA* (lindahball@aol.com)

Sentencers in capital cases must consider in mitigation “anything in the life of the defendant which might mitigate against the appropriateness of the death penalty.” Defense counsel are required to conduct extensive and unparalleled investigation into the defendant’s background in order to present thoroughly and adequately the wide range and in-depth accumulation of factors that constitute mitigation, including culture, religion, family dynamics, education, and mental health. Culture is often a challenging concept for attorneys to investigate and present in capital proceedings, and attorneys are learning new methods of advocacy by working with other disciplines, such as ethnographers and anthropologists. The American Bar Association has developed important guidelines and

standards for capital defense representation that acknowledge the importance of culture. The ABA guidelines call upon counsel to investigate capital clients' "experiences of racism or other social ethnic bias, cultural and religious influences." In recent cases addressing the protocol for defense counsel's investigation of mitigating factors, the United States Supreme Court adopted the ABA Guidelines as the standard of care for capital defense attorneys and mandated that a social history should be prepared as a basic component of investigation. The Court, agreeing with the ABA Guidelines, pronounced that the social history should include "medical history, educational history, employment and training history, family and social history, prior adult and juvenile correctional experience, and religious and cultural influences." Under this landscape, it is imperative for counsel to acknowledge, understand, evaluate, investigate, and weave a client's culture into the account of the highly individualized life circumstances of capital defendants

## 14.2. Overcoming Barriers to Disclosure from Trauma of War and Refugee Experiences through Performance Arts in the Vietnamese Community in Southern California

Uyen Huynh, *Center for Capital Assistance, San Francisco, USA*  
(u\_huynh@hotmail.com)

In this presentation, the author discusses how techniques of performance art can overcome barriers to disclosure for bringing awareness to the audiences in the Vietnamese-American community. In a fifteen to twenty week workshop, psychological and practical techniques were used in creating a safe environment to share stories of trauma and loss by members of the refugee community. The participants were able to tell stories of their lives in Vietnam, survival of war, and their dangerous journey to find a new home, a new community, and a new self. By voicing their traumatic experiences, they were able to find connection to others who shared a common experience. They told of experiences of loss of status, family, material possessions, identity, and home. Through the use of symbolism and movements, the participants were able to communicate past memories that had been suppressed. Through incorporating movement, songs, monologues, and dialogues, the relationship between body and mind could be observed. Participants learned that traumatic experiences were reflected in the way they carried their bodies and expressed their voices. Props were also used as symbols to portray experience. For example, scarves were used in the final movement segment as a symbol of a lost culture. When tied together, the scarves represented the connection between the people in the community.

### 14.3. Trauma in Identity Formation in Street Gangs in Southern California

Steven Kim, *Center for Capital Assistance, San Francisco, USA*  
(Skim.usc@sbcglobal.net)

Southern California is home to hundreds of street gangs from various ethnicities. This presentation will provide a brief introduction to the various types of ethnic gangs and will focus on the role of trauma in identifying formation of gangs. The traumatic experiences survived by gang members contribute to shaping the identity and the social perception of individual gang members, gang dynamics, and gang relationships. Although groups may differ in ethnicity, the effects of chronic exposure to trauma are similar cross-culturally and are often overlooked and misinterpreted by mental health professionals, law enforcement, educational institutions and social service agencies. Individuals who experience the challenges and struggles of childhood and adolescent domestic and community trauma are further traumatized by membership in a gang, which brings with it increased conflict with law enforcement and other gangs. The presence, severity, and effects of early childhood trauma and their relationship to gang membership and dynamics should be part of mental health assessments for this population. Only with proper diagnosis can an adequate treatment be developed that can address the major disruptions to the biopsychosocial development of the individual. Identifying and understanding these traumas and stressors of gang members' lives provide insight into the effects they have on the individuals and their communities.

### 14.4. Continuity in Clinical Evaluations

Gary Sowards, *Attorney, San Francisco, USA* (gsowards@hcr.ca.gov)

*Introduction* Judicial evaluations of the adjudicative competency of mentally ill criminal defendants frequently misperceive and label signs of underlying disorders as volitional conduct, or confuse a defendant's factual knowledge of the proceedings with rational comprehension.

*Background* United States constitutional guarantees prohibit the trial or punishment of an individual while, as the result of a mental disease or defect, he or she is unable to appreciate the nature of the legal proceedings or rationally to assist his or her attorney in the presentation of a defense. The implementation of this safeguard generally has been approached as involving both a clinical determination (existence of disorder) and resolution of an essentially legal question (understanding of proceedings and degree of cooperation), with the result that a defendant's mere factual understanding of the proceedings is mistaken for rational comprehension, and purposeful actions that

nevertheless are governed by disordered thinking are attributed to volition and purposive goals. In turn, the defendant is erroneously viewed as capable of rationally cooperating with counsel, but choosing not to do so. As an example: It is estimated that for more than 50 percent of persons with schizophrenia a lack of insight regarding the fact that they have a psychotic illness is actually a symptom of the disorder. Related behaviors such as noncompliance with evaluation and treatment, or suspicion of those who attempt to convince the person he or she is ill, are discounted as merely coping strategies (e.g., denial), personality traits (e.g., oppositional) or motivated by secondary gain (i.e., malingering). Similarly, the disinhibition associated with frontal lobe syndromes may give rise to actions judged to be the product of intentional disregard for social norms.

*Scope* This presentation will examine the role of clinical evaluation, including neuropsychological testing and psychiatric assessment of mentally ill criminal defendants, in educating decision-makers in the criminal justice system that the functional impact of mental disorders is not binary – such that individuals are entirely healthy or so impaired as to be incapable of functioning – but, rather symptom impact is a continuum that may affect discrete domains.

*Conclusion* The participation of competent clinicians can inform the conclusions of judicial decision-makers by enabling them to understand the nature of severe and persistent behavioral dysfunctions that are among the intractable symptoms of brain disorders, and thereby to understand that a mentally-ill defendant's irrational, self-defeating behaviors are not the product of independent volition and control.

## 14.5. Mental Illness/brain Impairment as a Bar to the Death Penalty in the United States

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The death penalty in the United States is regulated primarily through the Eighth Amendment to the United States Constitution which prohibits punishments that are cruel and unusual. One of the tests for whether a punishment violates the Eighth Amendment is whether it violates the “evolved standards of decency in a civilized society.” Because this test is dynamic and not static, a punishment that has been accepted may become unacceptable as standards of decency evolve. For example, in 1989, the United States Supreme Court held that it did not violate the Eighth Amendment to execute persons who suffer from mental retardation. In 2002, the Court found that standards of decency had evolved and that such executions violated the current standards of decency. The Court determined that “because of their disabilities in areas of reasoning, judgment, and control of their impulses, persons suffering from mental retardation do not act with the level of moral culpability that characterizes the most serious adult criminal conduct. Moreover, their impairments can jeopardize the reliability and fairness of capital proceedings against

them.” Does it violate the Eighth Amendment to execute persons who suffer from mental illness or brain damage? Many of the considerations that led the Court to ban the execution of the mentally retarded also apply to the execution of persons who suffer from other mental diseases and defects. This presentation will invite the international mental health community to engage in a dialogue regarding how to: (1) develop categories of mental impairments that would justify exclusion from the death penalty based upon the considerations that led the United States Supreme Court to bar execution of the mentally retarded; (2) increase public understanding of the debilitating effects of mental illnesses and defects; and (3) convince policy and decision-makers to support protecting the mentally ill.

## 15. Challenges in the Spectrum of Interventions to Prevent and Treat Torture

### 15.1. Difficulties and Challenges in Implementing a Modern Mental health Law in a Developing Country: The Case of Albania

Ariel Como, *University of Tirana* (acomu\_2000@yahoo.com)

Anastas Suli, *Department of Psychiatry, Tirana University Hospital Center, Albania*

*Objective* To explore the reasons for difficulties in implementing Mental Health Law in a post-communist country.

*Method* Examining a series of official local and international documents in comparison with mental health system reform strategies.

*Results* The Albanian Parliament has approved the Law on Mental Health in 1996. Partial implementation, however, has started only the last trimester of 2006. The major factor causing the delay of implementing the Law is the lack of attention from local officials as only in documents from 2003 is the issue considered to be problematic and a priority. A further important factor is the lack of financial appropriation for implementing the law, leading to continuous ad-hoc discussions/solutions. The major factor positively influencing the steps toward implementation is considered to be the pressure from the reports of visits of the Council of Europe Committee for Prevention of Torture (CPT).

*Discussion and Conclusion* The process of reforming the system of care in Mental Health is sometimes seen as disconnected from the rigorous implementation of the law. As a

consequence, in practice the process of reform is often developed through ad-hoc solutions which reduce the long-term impact.

## 15.2. Compensation for Victims of Torture after the fall of Communism in Albania: A Labyrinth of Possible Solutions

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*Objective:* To present the obstacles of compensating victims of torture in a particular socio-political context and discuss the possible directions of finding solutions for human rights activists.

*Method* Examining the socio-political context of democratic changes after the fall of communism in Albania through an evaluation of the legislative process of the last 15 years from a psychological point of view.

*Results* Compensating the victims of torture for a country yet unable to include the proper concept of ‘torture’ in its Penal Code (as it happens in Albania) is becoming a very complicated issue from the legislative point of view. Former political persecutees in Albania are considered victims of a dictatorship regime through an Act of Parliament, but there is no real legal chance for them to gain the status of ‘victims of torture’ in terms of the Law.

*Discussion and Conclusion* More than 15 years after the fall of Communism the only solution for the former politically persecuted victims of torture from the communism regime in Albania is to approach the Strasbourg Court, as it seems more appropriate than trying to find solutions locally. There are challenges and difficulties even in this scenario.

## 15.3. Gender Specific Aspects of Mental Health Problems in Torture Survivors

Marianne Kastrup, *Centre Transcultural Psychiatry, Rigshospitalet, Copenhagen, Denmark* ([marianne.kastrup@rh.hosp.dk](mailto:marianne.kastrup@rh.hosp.dk))

Migrant women – in particular refugees – face different life situations and are exposed to different traumatic situations compared to men. Exposed to a given trauma, women are four times as likely to develop PTSD and the course of disorder tends to become more chronic. Findings of gender differences in PTSD among persons exposed to torture are inconsistent and surprisingly little attention has been paid to female torture survivors and the specific problems they encounter as refugees. In the literature on gender and PTSD little emphasis has been given hitherto to the particular stressors refugee women are exposed to. Treatment of women with a history of manmade violations, including torture, comprises consideration of the complexity of the social context in which they live. Women are providers of emotional support, and exposure to further trauma may overload the woman’s capacity to cope. Female torture survivors in a mental health setting often share common traits and may experience disempowerment, fear for their own safety and that of their children, and continuous harassment.

#### 15.4. The Phenomenon of Violence as Perceived by Palestinian School Students age 14-17

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Many studies were conducted in western countries relating to domestic violence, school violence, vandalism, organized crime, genocide and other forms of violence. For the Palestinian community, however, no local comprehensive studies on these issues were done to the best of our knowledge, despite the hypothetical existence of a steadily increasing rate of violence in the Palestinian community. Based on the above, this large scale research study was conducted. The researchers selected Palestinian school children (age 14-17) as a study sample on the premise that this group is characteristic, since they are shaped by the continuing political crises in the area and are the future “players” in Palestine. 2321 students participated in the study sample; data were collected over a period of two weeks. Final results of the study presented in this paper illustrated significant differences and correlations among a number of demographic variables such as place of residence, age, sex, and other relevant psychosocial variables and/or indicators in a multi faceted questionnaire that reflected the different aspects of the group.

#### 15.5. Victims in Psychotherapy – Psychotherapy for Victims: Conceptual Considerations and Practical Experiences

Thomas Maier, *Outpatient Clinic for Victims of Torture and War (AFK), Zurich, Switzerland* (thomas.maier@usz.ch)

Over the last decades, the victim concept has become highly important in legal, sociopolitical and psychological debate. Also in psychotherapy, the notion is increasingly used, mostly in connection with trauma. The rise of the two disciplines victimology and psychotraumatology can be seen as a sign of a sociopolitical development, characterized by a growing public awareness of victimized/traumatized individuals. Seen from a psychotherapeutic perspective though, the social and psychological role of the victim brings along serious difficulties. The victim role is strongly emphasizing the external origin of the adversity and exculpates the individual. This is indeed what makes the role so popular. Psychotherapy, however, is in its nature entirely based on personal responsibility and aims to strengthen internally attributing coping styles. In psychotherapies with traumatized individuals, a strong identification with the victim role predicts poor outcome. To cope successfully with a trauma is only possible when the victim role is left behind and when feelings of loss, guilt and hatred can be worked through. Case examples from psychotherapies with torture victims are illustrating the theoretical presentation.

## 16. Child and Adolescent Psychiatry: Various Issues

### 16.1. Correlates of Impulsivity in Juvenile Delinquents

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E. Smit, *Juvenile Justice Institute Het Keerpunt, Cadier en Keer, The Netherlands*

Impulsive violent behaviour is a common feature in our community. Impulsive behaviour is also regarded as significantly correlated with risk for violent behaviour and impulsive aggression. The question rises of which determinants can predict impulsive behaviour and, in addition, which determinants can predict violent actions. This study looked at these determinants in institutionalised youth with severe behavioural problems. The subjects were between 14 and 19 years old in a correctional youth institution in The Netherlands. The phenotype and endo-phenotype of impulsivity were measured by the Barratt Impulsivity Scale (BIS) and a neuropsychological performance test based on the Go-NoGo paradigm. Outcome was related to variables including psychiatric comorbidity, trauma and abusive history, family history and personality. Furthermore,

the subjects took part in another more specific performance test, based on a reward-directed paradigm, in which the subjects faced a choice between a small immediate reward or a larger delayed reward. Questions were answered concerning: How characteristic is impulsivity and inattention for the behaviour of boys that are registered in the institution? How do specific determinants relate to impulsiveness and inattention in institutionalised youth with behavioural problems? How can we better fit the treatment in the institution specifically to impulsiveness and inattention?

## 16.2. Parental Social Capital, Parenting Skills and Children's Aggression and Property Offences

Reza Nakhaie, *University of Windsor* (nakhaie@uwindsor.ca)

Data from the Canadian National Survey of Children and Youth (1999) are employed in order to investigate hypotheses regarding the relationships between parental skills and social capital and their children's tendency to commit property offences. The analysis is preceded by a review of the research relating to parenting and crime. Findings point to the importance of the social capital inhered in the parents' relationship with school and voluntary associations as well as their feeling of depression and children's aggressive tendencies. Results show that parental social capital and parenting skills are important barriers to children's maladjustment. However, the best predictor of property offences is children's aggressive tendencies. The paper concludes with a discussion of some of the broader theoretical and policy implications which emerge from this analysis.

## 16.3. Metabolic Changes and Psychotropic Agents in Child Psychiatry

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Since the introduction of atypical antipsychotics, children and adolescents with behavioral disorders have become a prominent consumer of this class of medications. With the growing number of individuals using these medications, their adverse effects on metabolic changes, including weight, hyperlipidemia, and glucose metabolism have become evident but inadequately studied. To date, only two prospective studies have compared weight gain of two atypical antipsychotics in children. 57 patients are included in this sample with ages that ranged from 4 to 17 years old (mean 11.1). Patients received a variety of agents including: risperidone (N=18), olanzapine (N=5), quetiapine

(N= 8), aripiprazole (N=8), depakote (N=3), and others (N=6), while 14 patients received no medication during their stay. Weight gain at discharge was significantly correlated with only two agents (olanzapine:  $r = .78$ ,  $p > 0.0001$  and quetiapine:  $r = .473$ ,  $p = 0.01$ ). For the group treated with medications, glucose changes in the first three weeks increased (84.5 versus 86.1,  $p = 0.023$ ), but by the time of discharge the differences were no longer significant. A similar trend was observed for changes in HDL. There was a statistical trend for decrease in triglycerides at the 3 week mark, though the difference at discharge was non-significant.

#### 16.4. Social and Judicial Paths that Activate Criminal Proceedings in Case of Assumed Sexual Abuse of a Minor

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Alessandra Luzzago, *University of Pavia* (aluzzago@unipv.it)

The authors discuss the problems of social and judicial paths that activate criminal proceedings in case of assumed sexual abuse of a minor. This is relevant given statistics demonstrating the gap between the number of criminal proceedings begun and the significantly lower number of final convictions (at present, in Italy, there is a 10 to 1 ratio). The experience of the authors indicates that criminal proceedings might lead to secondary victimization by institutions both for the claimed victim (in which they may inadvertently create mnemonic traces and trauma), and for the assumed offender (in which judicial proceedings may cause health problems before any possible acquittal). It is the opinion of the authors that criminal proceedings should be undertaken only if there is sufficiently objective evidence to the charges made by the victim.

#### 16.5. Sexual Abuse and Medical Examination of the Minor

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The authors draw attention to the experience of several medical examinations of children under 6, three years after the assumed abuse. The literature on this topic, even though extensive, is not consistent as to the value ascribed to possible evidence documented by the pathologist. Although methodology might respect need to safeguard the minor, there

still is the risk of secondary victimization of the child. There is also the possibility that the stress may cause a modification of the victim's memory of the assumed abuse. The authors discuss the usefulness of such investigations after a long period of time has elapsed, and their probatory value in a court case.

## 16.6. Steps to the Best Interest of the Child – Hungary in 2007

Gyula Sófi, *Child- and Adolescent Psychiatry* (gysofi@panaphone.hu)

In this paper, the author discusses the connection between the Hungarian mental health service network, the institutional background of the child welfare services and the administration of juvenile justice. The main points of the presentation are: • Child protection and child psychiatry – some conflicts and overlaps • Institutions for mental health services, for the welfare network and for the justice • Special laws for juveniles in the Hungarian Penal Code and Civil Code.

## 17. Children in the Post-Nuclear Family

### 17.1. The Transformative Potential of Community Parenting

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This paper aims to understand why, at a time of increasing recognition of nontraditional families, the “more than two” parent family is so widely agreed to be undesirable, even while so many people practice alternatives to the nuclear family norm. Although the nuclear family remains a normative ideal within family law and American culture more broadly, an increasing number of children do not live in nuclear families. For example, although the divorce rate in our country is relatively high, so is the marriage rate, resulting in the widespread existence of stepfamilies. Children in these families often form attachments to adults outside the conjugal nuclear family. In addition, for both economic and cultural reasons, community parenting has historically been the norm in some minority communities, including African-American and gay and lesbian communities. This paper suggests that traditional notions of gender play a significant role in courts', legislatures', and scholars' resistance to community parenting. Seeking to displace white, middle-class, heterosexual, patriarchal families from the center of our

theorizing on functional parenthood, this paper will argue that community parenting holds significant potential not only to improve the economic and psychological well-being of many children, but also to break down traditional gender and sexuality norms.

## 17.2. Two Kinds of Parents

Susan Frelich Appleton, *Washington University* (appleton@wulaw.wustl.edu)

This paper will explore an increasingly apparent doctrinal divide in family law. In contrast to case law and scholarship invoking the similarities between so-called traditional and nontraditional families, some authorities refuse to assimilate all families and instead emphasize the differences. These authorities recognize two types of parents, understood through different conceptualizations and governed by different legal rules, with obvious consequences for their children too. Historically, such two-track systems have been designed to disadvantage families that deviate from the favored norm, as the illegitimacy laws of the past demonstrate. The recent anti-assimilationist cases, in rejecting calls for equal access to marriage, are no exception. Nonetheless, the approach might offer more positive opportunities. What would it mean to construct a family law that does not start with heterosexual couples as a baseline, but instead begins by taking nontraditional families on their own terms? This question provides a point of departure for examining a range of legal issues. Two consequences might follow from this inquiry: First, it might help us imagine a family law free from patriarchal and repronormative roots. Second, it might help to demonstrate how a state's failure to recognize and protect nontraditional families must rest on animus.

## 17.3. Protecting Terminated Parent-child Relationships through Adoption with Contact

Annette Appell, *University of Nevada, Las Vegas* (appell@law.unlv.edu)

Family law and families themselves increasingly challenge notions of the nuclear family and exclusive parenting. While children continue to be biologically produced through male and female reproductive tissue and legal and social norms still reflect one male and one female parent and monogamous coupling, a variety of social phenomena have created a tension between protecting parental rights and recognizing parental relationships that are outside that model. These phenomena include the rise in social and legal recognition of same-sex parents, increasingly sophisticated reproductive technologies that create children through reproductive materials or activities of more than

two people, growing divorce rates, and the widespread understanding that adoptive children are always members of at least two families. The legal correlates to these developments often arise in separate sub-doctrines of the law related to families, and sometimes in separate socio-economic communities, but they each struggle, more or less successfully, with the balance between the social and political utility of the parental rights doctrine and that doctrine's difficulty embracing broader family norms. This paper places within the more mainstream discourse regarding blended families the less visible adoption with contact doctrine that allows birth parents and adoptive parents to negotiate and enforce family relationships after adoption.

#### 17.4. The Same-Sex Marriage Debate: Developing a Theory of Marriage beyond the Partnership Theory

Laura A. Rosenbury, *Washington University* (larosenb@wulaw.wustl.edu)

One of the primary financial benefits of legal marriage in the United States can be found in the partnership theory of marriage. Pursuant to that theory, spouses who forego wage work during marriage (presumably to focus on care work not valued by the market) are insulated from financial ruin should their marriages end before “death do us part.” In no other situation outside marriage does the law compel that such breaks from wage work always be financially compensated. Therefore, same sex couples must be allowed access to legal marriage in order to take advantage of the partnership theory. It is questionable, however, whether same-sex couples will greatly benefit from the partnership theory. The theory rewards non-wage work only to the extent it creates, or reflects, an inequality of wage work within the marriage. Therefore, same-sex couples would have to replicate the traditional heterosexual (and patriarchal) model of marriage, with one breadwinner and one caregiver, in order to reap the greatest financial benefits. This article will attempt to develop a theory of the financial consequences of marital dissolution that is based not on the traditional heterosexual model of marriage, but instead takes same-sex relationships as its starting point. What would it look like to develop a theory of marriage that does not take patriarchal hierarchy as a given? Is it desirable to develop a theory of marriage that assumes a rough equality of both wage work and care work within the relationship? Or is it wrong to assume that same-sex couples will embrace this type of equality within marriage? These and other questions will be explored in an attempt to move beyond the partnership theory.

#### 17.5. The Comfort of Home: Children as Domestic Workers

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The United States and Somalia are the only two countries in the world that have not ratified the United Nations Convention on the Rights of the Child (CRC). It is widely believed that the U.S.'s refusal to ratify the Convention has been influenced by conservative religious groups within the United States that believe that ratification would undermine parental rights within the nuclear family. I argue that in the context of the regulation of children's labor any such conflict should be resolved in favor of the rights of the child. When child labor is done within the privacy of the family home, children's labor is shielded from public regulation and condemnation. The social and ideological meaning of the home - that which ought to be outside the regulatory reach of government - provides the context for examining the exploitability of children who labor within the private sphere. That domestic work accounts for the vast majority of work done by girls around the world, that domestic workers are often trafficked across international borders and subject to slave-like conditions within the home, that work done in private households is rarely monitored or investigated by governmental agencies or international organizations, and, that the people who "employ" child workers within the home are often members of the child's extended family, demonstrates the seriousness of the problem and the urgency of a global commitment to end child labor within the home. The absence of political stability, economic growth and the rule of law in many developing countries, prerequisites for upholding children's rights to be free from harmful, exploitative labor, make the eradication of child labor through the various international and domestic mechanisms very difficult. Moreover, in the context of children's domestic labor, the regulation of familial roles and responsibilities intersect with the regulation of labor within the home requiring a more nuanced examination of the ways in which gendered roles within the family are reflected in the kinds of work that boys and girls do.

## 18. Child Offenders

### 18.1. Development of Aggressive and Antisocial Behaviour in Very Young Dutch First-offenders

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*Background* Displaying delinquent behaviour at an early age is considered a risk factor for developing later serious, violent and persistent antisocial and delinquent behaviour. Knowledge of relevant factors contributing to this deviant development is important to be able to develop effective prevention and intervention programs for people at risk of becoming serious and chronic offenders. This study therefore aims to investigate the influence of psychopathological and environmental characteristics on the development of aggressive and antisocial behaviour in an at-risk sample.

*Methods* Participants were 350 children, who had a first police registration because of rule-breaking behaviour prior to age 12. Psychopathological and behavioural characteristics were assessed after their first police registration (T0) and after one year follow-up (T1), using a structured diagnostic interview (DISC) and various questionnaires measuring psychosocial functioning (SDQ), antisocial behaviour (WAS) and aggressive behaviour (RPQ).

*Results* Preliminary results showed externalising disorders to be present in over 30% of the participants. Behavioural and emotional difficulties were highly prevalent at both T0 and T1. Updated results on aggressive and antisocial behaviour after one-year follow-up will be presented and the influence of psychopathology and environmental characteristics on the development of this behaviour after one year will be addressed.

## 18.2. SPRINT: Preventing Anti-social Behaviour amongst Children in Dutch Primary Schools by Screening and Early Intervention

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*Background* Research has shown that the development of antisocial behaviour in children can be prevented by intervening early. SPRINT brings this knowledge into practice by combining a screening and an intervention in 34 primary schools in Amsterdam. Each year, children in the age range of eight to twelve, are screened by their teacher on three global categories of antisocial behaviour. These include overt behaviour, covert behaviour and problems with authorities (Loeber & Farrington, 2000). A selection of children emerges from this screening as ‘potentially at risk’. This group is followed longitudinally every six months, with an instrument that focuses on detailed antisocial behaviour (WAS-lijst). A second selection takes place after a year and a half when the group of children that is at risk of developing antisocial behaviour is identified. These children and their parents are invited to take part in a preventive intervention that takes place within the school. The intervention focuses on teaching children pro-social skills and involves both the parent and the teacher.

*Methods* The SPRINT program is being evaluated on five levels:

- (1) Assessment of the target group (n=200).
- (2) Validation of the global and specific screening instruments (n=300) and (n=250).
- (3) Adherence to the intervention model by trainers.
- (4) Intervention output (n=150).
- (5) Intervention outcome over a period of five years.

*Results* Results (for levels 1-4) will be obtained in the next nine months. Preliminary results will be presented at the congress.

### 18.3. Which Measures are Useful? Results of the 2-year Follow-up of a 25-year Prospective Longitudinal Study on Delinquent Adolescents

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*Objective* This presentation shows the results of the 2-year follow-up assessment of a 25-year prospective longitudinal study on delinquent adolescents.

*Method* 90 subjects (87% male and 13 % female) of the primary 108 juveniles aged 12-20 were included. The first assessment was made in a multi-informant setting: Standardized tests for intelligence and attention and a list of other questionnaires (self- and objective reports) were used. Furthermore, structured interviews were held to obtain information about socioeconomic data and psychopathology (DIPS). At the second time of measurement (2 years later) additional data about the progress of our subjects (recidivism, professional integration etc.) were recorded according to information from the juvenile court. The Swiss legal system is different from other European countries in dealing with young offenders. Pedagogic measures have priority over punishment.

*Results* Recidivism occurred in 64.4% of all cases, whereas the rate of recidivism turned out to be higher in connection with violent offenses (72%) than with drug (56%) or property offenses (59%). Psychiatric disorder was classified in 87% of the subjects. This result shows a significant association between externalized disorders and recidivism ( $\chi^2 p < 0.001$ ). The Recidivism rate was higher in stationary than with ambulant legal measures. With successful integration (school or work), recidivism decreased by half, from 75% to 50%.

*Conclusion* The recidivism rate is lower with ambulant than with stationary legal measures. Integration seems to act protectively whereas psychiatric disorder operates as a risk factor.

#### 18.4. Outgrowing Delinquency: When and Why?

Rolf Loeber, *University of Pittsburgh* (loeberr@upmc.edu)

Magda Stouthamer-Loeber, *VU University Medical Centre, Amsterdam, The Netherlands*

The paper presents a brief summary of the key findings from R. Loeber and D. P. Farrington's *Child Delinquents: Development, Intervention and Service Needs* (Thousand Oaks, 2001), and then presents results from the Pittsburgh Youth Study. Data from the youngest cohort of young males in that study show that outgrowing violence and serious property offences occurs from late childhood throughout adolescence. Both risk and protective factors play important roles in the prediction of desistance from serious delinquency. The study reveals which factors in the child, the family, academic performance, and neighbourhood predict desistance at different ages. The results are discussed from a prevention point of view with the aim of enhancing factors that result in successful desistance.

#### 18.5. Trajectories of Early Onset Official Offending

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Early first official encounters with law enforcement seem strong predictors of a later delinquent career (Farrington & Loeber, 2001). Little is known on recidivism trajectories of children with first official encounters with the police below the age of criminal liability. It is possible that different groups of young offenders can be distinguished whose offending careers differ in frequency, seriousness, and type. Loeber and colleagues (Farrington & Loeber, 2001) have distinguished three trajectories (overt, covert, and authority conflict) based on self-report. It is unknown whether different offending trajectories can also be found in official data of a sub-sample of children with

police encounters. Knowing trajectories and possible predictors enables better targeting of prevention and intervention at those who are at risk. This paper describes the prevalence and nature of recidivism in a Dutch sample of 350 children with a first police encounter below the age of twelve. Different recidivism trajectories are presented using a group-based approach for analyzing developmental trajectories (Nagin 1999, 2005). Trajectories are based on offending type, frequency and seriousness. Socio-demographic factors of the child are tested as possible predictors.

## 19. Child Pornography and the Internet

### 19.1. Zoopornography – An Investigation of Pornography Involving Animals

Andrea M. Beetz, *University of Erlangen at Nürnberg* (andreabeetz@web.de)

*Background:* Pictures showing animals in sexual situations with humans are widespread and can be easily obtained via the Internet today.

*Aims:* The purpose of this presentation is to give an overview of the various kinds of pornographic material involving animals and their possible value for different groups of consumers.

*Method:* Methods employed are content analysis of the picture material via a questionnaire and comparison of picture content between different sources of the material.

*Results:* Pictures of intercourse of humans with dogs and Equines are frequently found, while pictures involving children or obvious harmful practices with animals are rather rare.

*Conclusion:* Findings suggest that the kind of zoopornography found among different groups provides useful insights for mental health professionals and law enforcement.

### 19.2. Content-Related Differences of Child Pornography and Perpetrator Typology

Alexandra Stupperich, *University of Regensburg* (alexandra.stupperich@medbo.de)

The Internet is going to be a highly attractive platform to child molesters. This explorative study analyses paedophiles' Internet activities. Using qualitative methods four groups of Internet paedophiles were identified. The "visualising paedophile" just consumes and collects child pornography. The "Cyber sex offender" uses the Internet to seek out, contact and socially engineer young victims. "The masked paedophile" ritualizes his consumption behaviour and produces his own pictures. Child pornography serves his actual sexual needs. He starts selecting the pornographic stimuli, serves his sexual fantasies and tries to realize them; his connection to the genre is strong – he maintains social contacts with other paedophiles. The most excessive user is the group of "the compulsive freak". They are highly manipulative as well to their victims as to the paedophile community. They function as opinion leaders while organizing meetings, websites, newsgroups and chatrooms. The connection to the genre is fundamental.

### 19.3. Child Pornography and the Internet – Basic Legal Conditions and De Facto Problems of Law Enforcement

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The development of the internet poses new challenges for containing and prosecuting the circulation of material displaying child pornography. The German legislature met these challenges with a set of new regulations in substantive criminal law concerning the limits and scales of behavior liable to prosecution especially in regard to the transnational data networks. Criminal procedural regulations as another field of law will be addressed in regard to police practices of identifying individuals responsible for the circulation of child pornography by means of undercover investigations in data networks.

### 19.4. Pornography, Sexual Violence and the Internet

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Internet-pornography has been regarded as either stimulating sexual aggression and abuse or as serving as a safety valve. This controversy is an important issue in health, media and legal politics. According to empirical studies on pornography in general, soft-core-pornography and non-violent pornography can be regarded as harmless, whereas non-violent hard-core pornography and violent pornography may increase aggression. Individuals with a high risk for sexual aggression show more interest in violent

pornography and are stimulated more strongly through such material. Two case histories illustrate the characteristics of internet-pornography and “cybersex”: easy access, anonymity, affordability, wide range and deviancy of the material, unlimited market, blurring the borders between consumer and producer, interactive communication, space for experimenting between fantasy and in-real-life behaviour, virtual identities, easy contact between offender and victim or among offenders, and low risk of apprehension. The phenomenon of “sexual addiction” (or paraphilia-related disorder) is particularly relevant for the problematic use of internet-pornography. Preventive measures to protect possible victims are presented as well as treatment strategies for offenders. Besides limiting access to the internet, these include therapy of comorbid psychiatric disorders and psychological problems (social isolation, bereavement, stress- and anger-management, guilt and shame, childhood traumata, cognitive distortion, victim-empathy), psychopharmacotherapy and the enhancement of a more integrative and relationship-oriented sexuality.

## 19.5. Qualitative Analysis of Child Pornographic Images on the Internet

Petya Petrova, *University of Regensburg* (petya.petrova@medbo.de)

Child pornography presents an enormous component of cybercrime. The following study analyzed 641 child pornographic pictures with the “Questionnaire for Assessment of Child Pornography Criteria”. The photographs were made available by the Munich Police Headquarters, Germany. The validation of the questionnaire was carried out through the calculation of interrater reliability and through a card-sorting-method. The results indicate a realistic impression of the child pornography production world-wide: 78% of the images showed children in “lascivious exhibition”; 60% of the pictures had been made in domestic surroundings; 64% of the children were toddlers or primary school children; and 68% of the images showed sexual intercourse between children and adults or between two or more children.

## 20. Child Witnesses

### 20.1. Young Children’s Incipient Understanding of the Truth and Lies

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Children’s understanding of “truth” and “lie” is often essential to their ability to qualify as witnesses, yet little research has explored the earliest ages at which children have any understanding of the terms. Researchers have focused on distinctions among lies, mistakes, and jokes, which are not acquired until the grade school years and are not essential for testimonial competence. No research has found any understanding of the terms in children under four years of age. This paper will describe research with maltreated and non-maltreated children exploring possible early aspects of children’s understanding, including their tendency to reject false statements (which exhibits an implicit understanding of lies) and their labeling of true and false statements as “good” or “bad” (which exhibits an understanding of the concept of true and false statements without knowing the terms “truth” and “lie”). The participants include children from 2 to 7 years of age, including maltreated children under the supervision of juvenile court. The results will be discussed in terms of their implications for cognitive development and for legal application.

## 20.2. Children’s Coached Stressful Reports

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Central issues with child witnesses are their veracity (honesty) and credibility (how observers assess their honesty and reliability) when reporting about events that are stressful and personal. Most studies which have examined children’s abilities to tell fabricated reports have examined everyday events. Yet when testifying, most children are reporting about stressful events. The author and her colleagues conducted laboratory research on children’s coached truthful and fabricated reports of stressful and non-stressful events. Children’s verbal and non-verbal behaviours were examined. Results revealed verbal and non-verbal cues to children’s fabricated reports. Children had more speech errors, spontaneous and unusual details in their fabricated stressful reports. Children who received extensive coaching showed fewer nonverbal cues and more cohesive verbal narratives when giving false reports. Adult raters who watched videotape footage had difficulty detecting children’s false reports. Their perceptions of children’s credibility varied with age and type of story. Results suggest that while children may reveal their fabricated reports in subtle nonverbal and verbal cues, their

abilities to conceal their fabrications may be affected by the type of event and parental coaching. Implications for child witness interviewing are discussed.

### 20.3. The Effect of Oath-taking on Children's Tendency to Lie and Ability to conceal their Lies

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In most Western jurisdictions, child witnesses must undergo a competence examination before they are permitted to testify in a criminal court. One of the important components of this examination is to ascertain whether child witnesses understand the moral meaning of honesty, their obligations to tell the truth, and the sequences of lying. We present a series of studies where children needed to make a decision to tell the truth or lie for themselves or their parents about an event. Before children were questioned about the event, they were interviewed in a like manner to a court competence examination. Results showed that asking children to promise to tell the truth but not moral discussion has a significant impact on children's tendency to tell the truth. When lying children's videos were shown to adults, they had difficulty detecting children's lies. However, when children were given moral discussion or asked to promise to tell the truth, if they continued to choose to lie, their lies were more easily detected than the lies by children who did not receive the moral discussion or promise-making procedure. Implications of our findings for legal reform concerning child witnesses will be discussed.

### 20.4. Child Witness Law in Canada: Psychological Research Results in Legal Reform

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Until the start of 2006, when children were called to testify as witnesses in criminal cases in Canada, they were required to demonstrate an understanding of such abstract concepts as "promise," "truth" and "lie." This was an intrusive process that sometimes resulted in children who could communicate meaningful testimony being denied the opportunity to

testify, and contributed to miscarriages of justice. The author and his colleagues conducted laboratory research which established that a child's ability to answer cognitive and moral questions about such abstract concepts as "promise" and "truth" is not related to whether they actually tell the truth. However, if a child makes a "promise" to tell the truth, the child is more likely to not lie. This research was presented to the Canadian Parliament and resulted in the enactment of new legislation that permits children to testify if they have the ability to "understand and respond to questions." While children are still required to "promise" to tell the truth, they are not to be asked questions about such concepts as "promise" or "truth."

## 21. Children and Medical Treatment

### 21.1. Treating Child Anorexics

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This paper will focus on the problem of children and young persons with anorexia nervosa who are unwilling to submit to clinically – dictated treatment. It will examine the legal structure and the ethical principles involved. It will adopt a children's rights framework and examine the conflict between 'best interests', set out for example in the UN Convention on the Rights of The Child Article 3(1), and autonomy which is at the root of Article 12. It will ask whether intervention to save these children and young persons from themselves can be justified, and, if so, how. Does paternalism have a role? The paper will also ask whether a justifiable distinction can be drawn between non-consenting adults and children.

### 21.2. Reproductive Choice for Minors: Facilitating not Hindering Real Choice

Kerry Petersen, *La Trobe University* (k.petersen@latrobe.edu.au)

Abortion is practised widely in Australia as in other developed countries, but laws vary from jurisdiction to jurisdiction. The capacity of young women who have not reached legal maturity (minors) to consent to an abortion raises important legal and social issues for parents, health professionals and legislators. Most jurisdictions have adopted the

‘mature minor’ test which places the responsibility on doctors to decide if the minor understands the potential risks of an abortion compared to the risks of continuing with the pregnancy, and whether she has enough understanding and intelligence to give a valid consent. However, special consent requirements for minors apply in the Northern Territory and Western Australia. In the NT, a minor cannot consent to an abortion until she is 16 years old. In WA, the parents of a dependent minor under 16 years old must be informed that an abortion is being considered and given an opportunity to participate in the medical consultation. Furthermore, special procedures have been organised for applications to the WA Children’s Court for permission to dispense with this requirement in special circumstances. In this paper, I examine these developments in the context of reproductive choice and argue for a re-examination of social policies and sex- education programs which facilitate rather than hinder real choice for young women.

### 21.3. A Right to Say Yes? Children’s Refusal of Consent to Medical Treatment

Sarah Elliston, *University of Glasgow* (s.elliston@law.gla.ac.uk)

Giving consent to medical treatment is regarded as an ethical and legal requirement and also appears to be supported as a fundamental human right. It would seem logical that if the purpose behind this is to respect the autonomy of the individual and protect them from unwarranted intrusions upon their bodily integrity, then the outcome of competently made decisions should be irrelevant. In other words, people’s decisions to accept or reject medical treatment ought to be upheld, whatever the consequences to them. Generally, as far as adults are concerned, this approach is followed. However, where children refuse medical treatment, this may be regarded as contrary to their best interests and the temptation may be to seek to avoid being bound by their decisions in order to protect them, even from themselves. It appears that the legal approach to this issue may differ in England and Wales and in Scotland. These jurisdictions will be examined to consider the extent to which their approaches are justified and compatible with human rights principles. The interaction between common law and mental health legislation will also be reviewed since determinations about competence to refuse consent may compromise children with respect to the additional protections provided by these schemes.

### 21.4. Hometreatment as Indicated Prevention for Early Offenders

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*Introduction* In 2005, there were over 500 children and adolescents with known delinquent behaviour in Mannheim. Approximately 150 new criminal offenders were at the age of 8 to 13 years. There is a special subgroup called “Intensivtäter”, which means a defined high number of offences. About 60% of “Intensivtäter” fulfil criteria of ADHD. Prevention programs for this special group still are rare. Therefore a family treatment at home was developed in cooperation with the police presidium of Mannheim for children that became liable to prosecution the first time.

*Method* This open claim study proposes to show the effectiveness of the developed home treatment. The children who were confined are those picked up by the police for first-time criminal offences or who exhibited delinquent behaviour which was not reported. A diagnostic phase was followed by a four-month therapy phase. In 18 sessions of home treatment, pedagogic principles, dealing with feelings, problem release strategies as well as handling stress are imparted to parents and children by using a modified manual of the anger coping program. The last phase of treatment after a further nine months, consisted of three booster sessions.

*Results* First evaluation results of the current study are represented and discussed.

## 22. Committal Criteria: From Dangerousness to Deterioration

### 22.1. To What Are We Actually Committed? Commitment Trends in the USA

Jeffrey Geller, *University of Massachusetts* (jeffrey.geller@umassmed.edu)

The history of civil commitment in the USA is one best characterized by ambivalence. From colonial times (early eighteenth century) to the present, states (there is no federal jurisdiction) have wavered between loose and stringent criteria from involuntary admission. At this time, criteria for civil commitment are harm-based. As a consequence (in part) the largest “psychiatric facility” in the USA at present is the Los Angeles County Jail. Even so, some would argue that civil commitment criteria are still too broad; others indicate they should be loosened; some claim we should have no involuntary admission process; and others claim we can correct the problem by focusing on involuntary

outpatient treatment (assisted outpatient treatment). Compounding the issues surrounding civil commitment criteria are the USA funding mechanisms for inpatient treatment, both how much it costs and who pays the bill. This presentation will examine how the USA finds itself in the middle of such a quagmire and what might be done to rectify it.

## 22.2. Canadian Committal Criteria: Dangerousness or Deterioration

John E. Gray, *University of Western Ontario* (jgray@shaw.ca)

There have been significant changes in the committal criteria of the 13 Canadian mental health acts over the past 40 years. In the 1960s most jurisdictions had broad criteria that accepted people with a severe mental illness who were in need of hospital treatment. Following the radical changes in the US some Canadian jurisdictions adopted narrow physical dangerousness criteria so that only those people with a mental illness who were physically dangerous could be involuntarily admitted. This left those who were ill, often psychotic, and refusing treatment no access to treatment so many were diverted to jail and became homeless. Other provinces more carefully defined committal criteria in accord with the Charter of Rights and Freedoms but maintained broad "harm" criteria. More recently, 5 jurisdictions have brought in "likely to suffer significant deterioration" criteria which allows for earlier intervention and supports treatment in the community. The implications of these changes are discussed.

## 22.3. Epidemiology of Involuntary Admissions in Europe

Niels C.L. Mulder, *Erasmus University* (niels.cmulder@wxs.nl)

The number of involuntary admissions varies widely across European countries. This is partly due to differences in mental health laws. Another reason may be cross-cultural differences in attitudes towards involuntary admissions among patients, judges, patient advocates, psychiatrists and policy makers. We will present a short overview of the literature concerning the epidemiology of involuntary admissions in Europe. In addition we will present data on changes in diagnostic subgroups of patients committed during the period 2000 - 2004 in the Netherlands, and changes in dangerousness criteria. After controlling for population changes in age and sex, we found an increase in commitments of the elderly and increases in the use of dangerousness criteria including suicide risk, arousing aggression, danger to general safety of persons and materials and severe self neglect. Possible causes underlying these changes will be discussed.

## 22.4. Criteria for Compulsory Treatment Under the Mental Health (Care and Treatment) (Scotland) Act 2003

Jacqueline M. Atkinson, *University of Glasgow* (j.m.atkinson@clinmed.gla.ac.uk)

The Mental Health (Care and Treatment) (Scotland) Act 2003 reformed the criteria for detention/compulsory treatment from that under the Mental Health (Scotland) Act 1984. The criteria will be discussed with particular emphasis on the new aspects of capacity and benefit and a discussion of the concept of risk as it applies under the Act. The background to these changes will be considered along with their potential impact.

## 22.5. Geographical Distribution of Acute Involuntary Psychiatric Admissions in The Netherlands

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Niels C.L. Mulder, *Erasmus University* (niels.cmulder@wxs.nl)

Many factors may contribute to involuntary psychiatric admissions. These include the presence of a psychiatric disorder, the availability of psychiatric services, the process of decision making, the availability of psychiatric hospital beds and local circumstances of tolerance or repression. In the Dutch national registry of involuntary admissions we had the opportunity to compare the rate of acute involuntary admissions in geographical areas. Data were available for all 458 municipalities of the Netherlands over the 5-year period from 2001 to 2005. The total number of acute involuntary admissions was 36,094. The average population size was 16.2 million. The average acute involuntary admission rate was 4.4 per 10,000 per year. We found a 3-fold variation between the lowest rate of 2.6 per 10,000 to the highest rate of 7.5 per 10,000. The rate of involuntary admission increased with the population density and with the size of the cities. Other factors that seemed to contribute to the rate of admissions were availability of psychiatric hospitals and, perhaps, low socio-economic status. Although psychiatric disorders are more prevalent in the more densely populated and larger cities this cannot explain the 3-fold difference we observed. The same applies to the availability of psychiatric services and psychiatric hospital beds. The Netherlands is among the countries with the highest number of psychiatrists and the highest number of hospital beds in Europe. This leaves the process of decision making and local circumstances of tolerance and repression as the

most likely explanation for the wide geographical variation of acute involuntary admissions.

## 23. Community Re-Entry of Drug-Involved Offenders

### 23.1. HIV Prevention for Incarcerated, Drug-Involved Offenders Returning to the Community

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U.S. offender populations are disproportionately affected by HIV and hepatitis, and recent estimates suggest that both HIV and hepatitis seropositivity rates in correctional populations are roughly 8 to 10 times higher than those in the general population. These high rates are related to risky drug-using and sexual behaviors prior to incarceration. Importantly, many offenders resume or even increase these risk behaviors after release from the institution, attempting to “make up for lost time.” Thus, re-entry is a pivotal period for prevention. Using focus groups and interviews, an HIV/ hepatitis protocol was developed which addresses risk reduction issues and barriers of concern to community corrections populations. The targeted intervention consists of an interactive, 2-session DVD-based risk reduction module facilitated by a peer interventionist, and adapted for race/ethnic and gender appropriateness. The targeted intervention was designed to speak to correctional clients in their own language through the use of both virtual (DVD-based) and real “peers” (interventionists), and to coincide with re-entry. By integrating relevant intervention messages into an engaging, interactive format appropriate for different learning styles, the program seeks to provide maximum impact in a brief intervention. The effectiveness of this intervention is being tested in a multi-site field trial with community corrections clients.

## 23.2. HIV Risk, Myths and Relationships among Criminal Justice Involved Women

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Exchanging sex has been identified as an HIV risk factor for female offenders. Although gender-specific HIV interventions target sex and drug risks, these interventions do not target intimate partner relationships. Focus groups were used to identify thinking patterns associated with HIV risks in intimate partner relationships with incarcerated women receiving drug abuse treatment and women transitioning from prison-based treatment to work-release. This presentation describes findings from these focus groups which are summarized as the following Relationship Sex Myths: 1) I can use drugs and still make healthy choices; 2) I need to be with my partner because my partner makes me feel good, pretty, and sexy; 3) I use sex as a way to get what I want; 4) I know my partner is safe by the way my partner looks, talks, and acts; 5) I've been with my partner for a long time so there's no need to practice safe sex; 6) I will not get HIV because I'm really not at risk; and 7) I'm afraid my partner will leave me if I ask my partner to use a condom. These Sex Myths have been used to develop an HIV intervention for women prisoners returning to the community.

## 23.3. Criminal Justice Systems as Service Delivery Systems: Results from the National Survey of Criminal and Juvenile Justice Systems Processes

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Douglas Young, *University of Maryland* (dyoung@bgr.umd.edu)

With nearly 7 million adults under correctional control in the United States, and nearly two-thirds having substance abuse issues, a need exists to examine the nature and type of therapeutic services provided to offenders during periods of incarceration or supervised

control (e.g. probation, parole, work release). To address our lack of knowledge about the service capacity of the criminal justice system in various settings, the National Institute on Drug Abuse sponsored a survey to examine the nature and extent of programs and services offered to offenders during their period of correctional control. Surveys were obtained from over 100 executives of criminal and juvenile justice agencies, 167 prisons or juvenile facilities, 300 probation and parole offices, and 222 treatment programs. This presentation provides estimates of the prevalence of different correctional and health treatment services offered to offenders. Survey findings also assess the issues affecting the service capacity and availability of selected treatment modalities in different parts of the justice system, effective treatment practices specific to correctional settings and barriers to implementing effective treatment for substance-abusing offenders. Finally the paper discusses the methodology of conducting health services surveys in the criminal and juvenile justice fields.

#### 23.4. Step'n Out: Early Results of Collaborative Behavioral Management of Drug-Involved Offenders in Community Supervision

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In the United States, the community correctional and outpatient addiction treatment systems have limited collaboration and communication, which may lead to a multitude of behavioral expectations with variable reinforcement. Research supports that behavioral outcomes are optimized when behavioral expectations are few in number, clear, and consistently reinforced. The Step'n Out project examines whether Collaborative Behavioral Management can improve treatment adherence, drug use, and public safety outcomes among drug-involved parolees. Collaborative Behavioral Management brings together parole officers and outpatient addiction treatment counselors with parolees to align expectations and reinforce prosocial behaviors and rehabilitative goals. This presentation will describe the implementation and early findings from the Step'n Out Study.

#### 23.5. Female Drug-Court Program Participants Engage in Appreciative Inquiry

Brenda Geiger, *Bar Ilan University at Safed* (geigerb@netvision.net.il)

Michael Fischer, *Norfolk State University*

This study engaged in an appreciative collaborative inquiry with 11 of the 30 repeat-drug related female felons enrolled of a drug-court program in Northern California. Using semi- structured in depth interviews these women were given a voice to talk about the strengths of the drug court program and of the key persons who had helped them change. Empowered as change agents these women looked backward at past experiences and forward- in the future to envision innovations in drug court. Based on these women experiences, the strongest components of this court was being surrounded by caring people who listened to and were genuinely concerned about these women progress and recovery. Intensive supervision, repeat testing for drug and alcohol, graduated and immediate sanctions were accepted as long as the testing procedure was accurate and the sanctions imposed aimed at educating rather than humiliating. Wrap-around services, resources and referral, treatment facilities that accepted children and individualized treatment plan were mentioned as essential components of successful program. Group and individual therapy that fit the client with counselors who were ex-addicts and preferably women helped these women get to the root of the drug problem. Remaining clean and sober as they moved through the three phases and aftercare, acquiring skills, finding a job, seeing or regaining custody of their children, increased these women sense of self- efficacy perception and confidence in their ability to lead a drug- free meaningful life. These women nevertheless stressed that no drug court program could help if they were not ready to mature out of drugs, and “say no to those chemicals”.

## 24. Community Reinforcement Approach Towards Crime

### 24.1. Community Reinforcement and Family Training in the Management of Substance Use Disorders and Criminal Violence

Hendrik Roozen, *Erasmus University* (hg.roozen@zonnet.nl)

Substance use disorders (SUD) are often associated with elevated levels of life-threatening types of behavior. Recent advances have ascertained that substance use is a strong trigger of criminal behavior, including violence. Especially intimate partners are often subject to aggression, criminal violence and injury. Nevertheless, a majority of the substance-using offenders refuse to enter formal treatment. A relatively new treatment has been developed to help the intimate partners to 1) recognize and safely respond to

any potential for violence, 2) to improve communication with the substance user, 3) to decrease stress, 4) to improve self efficacy, and finally, 5) to assist in engaging the unwilling substance user into therapy. This treatment is hosted by the acronym CRAFT (Community Reinforcement and Family Training) and is based on the Community Reinforcement Approach (CRA). The underlying operant based belief is that environmental contingencies are key in encouraging or discouraging substance use. In this perspective, intimate partners, family members and close friends can make important contributions in assisting the substance-using offender. The aim of the presentation is to provide an overview of these studies and discuss the effectiveness of both CRA and CRAFT in the treatment of SUD and its potential to address criminal violence.

## 24.2. Implementing the Community Reinforcement Approach in a Mental Health Institution-I

Petra van der Kroft, *Erasmus University* (p.vanderkroft@erasmus.nl)

This presentation will give an outline of a randomized controlled trial comparing two treatment modalities within a medium security ward. A comparison is made between the Treatment as Usual and a cognitive-behavioral model, the Community Reinforcement Approach (CRA). The emphasis of both treatments lies with reducing the risk of violence and enhancing self efficacy skills in connection with resocialization. An important ingredient of CRA is involving a family member of the patient in the treatment. The literature suggests that family members of psychiatric patients and substance abusers suffer because of the patient's condition. Domains on which these family members suffer are: social, financial, and emotional. There is almost no data on the suffering of family members of forensic psychiatric patients. A survey was conducted among family members of forensic psychiatric patients, psychiatric patients, and substance abusers. Preliminary data indicate that family members of forensic patients suffer on the same domains as the other two groups, as well as on some additional domains relating to violence and criminal behavior.

## 24.3. Implementing the Community Reinforcement Approach in a Mental Health Institution-II

Paul C. Dingemans, *FPA De Mare, The Netherlands* (paul.dingemans@ggzwnb.nl)

The presentation will address the special position of the Forensic Psychiatric Division (FPA) in the Dutch forensic psychiatric “pyramid” as well as the usual treatment that is provided in this division. In short: the division constitutes the lowest level of physical security and the highest level of treatment possible in the Dutch judicial system. The ward has 24 beds and is divided into two closed units with 7 and 8 beds and one open unit with 9 beds. Patients have committed various sorts of crimes but of a lesser severity than in the highest security wards in The Netherlands (TBS). All kinds of psychiatric disorders are seen in the division, with the majority of patients suffering from a psychotic, affective, substance abuse or personality disorder. By means of a case presentation, the presenter will illustrate how the division works. Starting in 2006, the community reinforcement approach is being implemented in the division. The presenter will address the problems that were encountered while implementing this treatment approach and will end the presentation with his expectations of the research enterprise.

#### 24.4. Resocialization Starts with Hospitalization

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

Hospital treatment for the mentally disordered was very common for the therapeutic community in the ‘70’s of the last century. Additional experience and research did not result in a diminishing recidivism rate. Nowadays the treatment setting is not solely the secure hospital environment but is focused on the community. As soon as permitted by level of risk of the MDO, he is placed in his own apartment owned by the hospital itself. The development of risk assessment along with the clinical judgement of risk of recidivism has made this rapid return possible. More and more specific dynamic risk factors are known from behaviour in the hospital and they become criteria for this transmuralsation. The staff comes to control and to treat the patient in his own environment. He works also in a known, controlled place and undergoes evidence-based cognitive behaviour therapy in the hospital. This forensic care teaches the MDO to cope with the difficulties of everyday life, and reduces sole dependence on the hospital. A further step is to introduce a method by which one’s significant relationships are introduced in the hospital immediately after incarceration of the MDO. Specific risk factors like drug use, negative attitudes or deficient coping are treated with the patient and his significant other during the entire internal and external resocialisation process.

### 25. Co-morbid Disorders in Psychotic Offenders

## 25.1. Forensic Mental Health Patients and Substance Abuse Treatment

Clara H. Gumpert, *Karolinska Institute, Stockholm, Sweden*  
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Patients with mental disorder and substance abuse may constitute a challenge to the health care system. If, in addition, clients display antisocial or violent behaviour, it may be even more difficult to deliver treatment in a satisfactory way. This presentation describes the MSAC study (Mental disorder, Substance Abuse & Crime) at the Karolinska Institute in Stockholm. The study aims at answering whether or not treatment for substance abuse problems may reduce the risk of relapse into crime, mental disorder or abuse. The study is a longitudinal observational study of individuals undergoing forensic psychiatric evaluation (FPE). Patients are followed from the time of the FPE and through the criminal system and/or forensic mental health care. Follow-up procedures focus on both the subjective (client) perspective and registered crime and/or relapse into abuse/mental illness. Preliminary results will be presented at the time of the conference.

## 25.2. Co-morbidity of Psychosis and Psychopathy

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Marieke Lancel, *Forensic Hospital, Assen, The Netherlands*  
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In most forensic psychiatric hospitals patients are divided into mentally disordered (Axis I) and personality disordered (Axis II) offenders, because mental health professionals believe they require different approaches in treatment management. The standard treatment of forensic inpatients with a psychotic disorder focuses on the reduction of psychotic symptoms. The question arises whether reducing psychotic symptoms will result in a reduced risk of future aggressive behaviour. This question is particularly relevant when an added diagnosis of severe personality disorder, such as psychopathy, is set. If so, this co-morbidity between psychosis and psychopathy has important implications for both treatment and treatment-outcome. The aim of the present study is to determine the percentage of psychotic and non-psychotic forensic inpatients that meet the criteria of psychopathy (PCL-r). This will allow a determination of whether these figures vary substantially between both groups of patients and whether co-morbidity of psychosis and psychopathy is associated with both high risk assessments (START) and aggressive incidents in the clinic. The results of this study are likely to be applicable to a

wide range of mental health disciplines, for example psychologists, psychiatrists and forensic mental health nurses. The described study is still in progress and results will be presented at the congress.

### 25.3. Comorbidity and Social Environment in Psychotic Delinquents

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With the aid of the Internet website 'www.pubmed.com', 'www. psychinfo.com' and 'www.medline.com', a search was made on a number of different terms. The period searched was from 1990 to 2005. The search terms 'crime OR violence' AND 'psychosis OR schizophrenia' AND 'substance abuse', 'crime OR violence' AND 'psychosis OR schizophrenia' AND 'personality disorder OR psychopathy' and 'crime OR violence' AND 'psychosis OR schizophrenia' AND 'youth' retrieved about 900 articles. The aim of the review is to focus on relevant literature for the topic of a PhD-dissertation on comorbidity and social environment in psychotic delinquents. 102 articles were retained and serve as the basis of this presentation. Several topics are included; relationship between psychosis (symptoms) and violence (delinquent behavior), behavioral problems in childhood and adolescence, psychosocial and environmental problems, service use before the index offence, personality disorder, psychopathy, substance abuse and timing of the offence in relationship to the psychotic disorder. Two core hypotheses will be considered: 1. patients with major mental disorders and a comorbid antisocial personality disorder have a long history of antisocial behavior, starting in childhood, before the onset of the major mental disorder; 2. patients with major mental disorders without a comorbid personality disorder start their criminal behavior in adulthood.

## 26. Competence, Consent and Best Interests in Treatment Decision-making

### 26.1. Pro-Anorexia, Identity, and the Paradox of Best Interests

Louis C. Charland, *University of Western Ontario* (charland@uwo.ca)

Pro-anorexia involves the active promotion of anorexia nervosa as a personal ideal and lifestyle. Advocates typically attempt to downplay or deny the seriousness of anorexia as a disease. Many delay or reject treatment on the grounds that they are not sick and that treatment is not in their best interests. What is in their best interest, they claim, is to get thinner. Recent clinical research suggests that anorexics who avoid treatment on these grounds may not always be mentally competent to make such treatment decisions. Underlying this finding is a paradox in which surrogate decision-makers and health professionals disagree with the patient over what constitutes 'best interests'. The problem is compounded by the fact that, for many patients, the diagnosis of anorexia provides a welcome sense of identity. That iatrogenic identity often gets reinforced and validated in interactions with other anorexics, usually through participation in special chat rooms and websites on the internet. Taken together, these developments pose serious problems for the treatment of anorexia nervosa.

## 26.2. The 'Best Interests' Principle and Social Care for People with Intellectual Disabilities: Towards a Relational Theory of Substitute Decision-making

Michael Dunn, *University of Cambridge* (mcd30@cam.ac.uk)

The new Mental Capacity Act (England & Wales) 2005 (MCA) authorises substitute decision-making for a person lacking the capacity to make a specific autonomous decision, providing that decision is both necessary, and in his or her 'best interests'. The MCA adopts a procedural approach – the 'best interests checklist' – to aid the determination of the person's 'best interests'. However, this process is a detached and consultative exercise. It assumes that care staff making substitute decisions conceive their work solely in terms of their legal obligations and professional duties, and pays scant regard to the interpersonal and embodied nature of decision-making. In this presentation, the author draws on data from an empirical qualitative study that problematises the conceptualisation of substitute decision-making under the MCA. It is shown that direct care staff, working in residential social care for adults with severe and profound intellectual disabilities, operationalise the process of making everyday substitute decisions in terms of their personalised, interdependent and context-specific relationship with the resident for whom they are making the decision. By conceiving applied substitute decision-making as a social process, this empirical data is used to begin the tentative development of a relational theory of substitute decision-making. It is posited that this relational theory reflects an ethics of care, rather than the 'traditional' ethical theories that underpin the development of the 'best interests' principle, and its conceptualisation in the MCA. Considering the implications of these findings, it is suggested that the statutory procedures to determine 'best interests' may, in practice, operate to exclude the very elements of the care relationship that could foster the 'best'

decision. These findings are situated in the context of the implementation of the MCA, considering the implications for training programmes and future drafts of the Code of Practice.

### 26.3. Competence, Consent and Best Interests: The Extent to which Adolescents are Considered Competent to Make Healthcare Decisions which Conflict with an Objective View of their Best Interests

Carolyn Johnston, *Kingston University* (carolyn.johnston@kcl.ac.uk)

The issue of consent to treatment, and enforcing treatment on teenage patients who refuse treatment, is of considerable practical, ethical and legal importance. There is increasing recognition that many teenagers have the capacity to consent to treatment. Developments in law and ethics, and in clinical practice, have, over recent years, given increasing recognition to the importance of respecting the autonomy of teenagers as patients. This move towards increasing autonomy and diminishing paternalism has brought into focus the issue of whether teenagers should be allowed to put themselves at significant risk of harm as a result of refusing beneficial healthcare. This presentation focuses on qualitative interviews carried out with different professionals experienced in this field (healthcare professionals, lawyers etc) and compares and contrasts their attitudes and the weighting they attach to beneficence and respect for patient autonomy. In particular it looks at the factors that professionals consider relevant in deciding whether a teenager has the capacity to make the healthcare decision: the nature of the treatment, experience of illness and effect of a refusal.

### 26.4. In Whose Best Interests?

Elizabeth Perkins, *University of Liverpool* (E.Perkins@liverpool.ac.uk)

Medical ethics emphasises patient autonomy as one of the main criteria for clinical decision-making. This principle has been extended to decision making for the incapacitated adult. This paper draws on the findings of three un-related studies to explore how the term 'best interests' has entered the common language of clinicians. The first study was of decision making by Mental Health Review Tribunals, while the second study examined the ways in which patients diagnosed with non-small cell lung cancer made treatment decisions and the third study focused on feeding decisions for stroke patients. All these studies examined the way in which treatment decisions were

influenced by clinicians. Surprisingly, the preferred course of treatment was frequently justified by reference to the patient's best interests. This paper will explore what this amounts to in practice and will highlight the range of variables that clinicians take into account when they consider a patient's best interests.

## 26.5. A Psychological Framework for Understanding End-of-Life Decisions

Tom Sensky, *Imperial College London* (t.sensky@imperial.ac.uk)

Even if a person appears to have the capacity to reach a decision that will result in ending his or her life, clinicians sometimes have great difficulty in accepting the person's right to autonomy. Many clinicians are particularly concerned about missing subtle signs of depression or other factors in the person's current presentation that might possibly bias decision-making. A key reason for this concern is that clinicians and others commonly find it very difficult to conceptualise why a person might make a 'rational' decision to wish to end his or her life. A basic conceptualisation will be proposed, based on Eric Cassell's seminal definition of suffering as a threat to the Self. While some people, in some circumstances, are able to envisage ways of reducing threats to the Self, it is proposed that the decision to end life is more likely when the person can see no way to reduce his or her personal suffering. This conceptualisation is based on personal experience of assessing clinically a small number of cases. Further testing with other people wishing to end their lives will determine to what extent this conceptualisation is clinically helpful and generalisable.

## 27. Compulsion and Outpatient Committal

### 27.1. A Qualitative Analysis of the Use of Community Treatment Orders in Saskatchewan, Canada

Deborah J. Corring, *University of Western Ontario* (Deb.Corrington@sjhc.london.on)

*Background:* Community treatment orders were initiated in the province of Saskatchewan, Canada seven years prior to this study. Only minimal research had been conducted to evaluate their effectiveness.

*Aims:* A qualitative study that examined the opinions of patients who have been placed on a community treatment order (CTO), their relatives, mental health clinicians and representatives of community agencies about the use of CTOs was conducted.

*Method:* In-depth interviews and focus groups were used to collect data.

*Results:* Most patients experienced some degree of coercion while on the orders but also noted that necessary structure was provided in their lives. Clinicians recognized the difficult choices in balancing the subject's right to self-determination with the benefits of a treatment order. Families viewed CTOs as a necessary control of a chaotic situation.

*Conclusion:* Recommendations for changes to the way in which community treatment orders are initiated and monitored/reviewed on an ongoing basis were provided to the funders.

## 27.2. Community Treatment Orders - Implications for Mental Health Providers and Police Services

Kristine Diaz, *Regional Mental Health Care, London, Canada*  
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At Regional Mental Health Care London, a retrospective analysis of Community Treatment Orders has identified key success factors. These include the need for early communication and collaboration with stakeholders such as local Police services, community mental health agencies and local crisis services. The initial concerns regarding an economic burden to police services have in fact been avoided. A comparison will be made of the utilization data with provincial use, communication strategies, memoranda of agreement, and cross-sectoral relationships.

## 27.3. Conflict in Review Board Hearings for Adolescents

Rose Geist, *University of Toronto* (rgeist@nygh.on.ca)

An unintended consequence of the law occurs when physicians and lawyers become adversarial in Consent and Capacity Review Board Hearings for adolescents. Differences in legal and medical conceptualization of capacity contribute to this atmosphere. The legal perspective focuses on the reasoning criteria of capacity. The medical perspective focuses on developmental issues which influence freedom of choice beyond the reasoning criteria. These clinical and legal differences in conceptualization sometimes take on moral dimensions. Each perspective is clearly trying to best represent the needs

of the adolescent. The integration of these two perspectives into a unified viewpoint is imperative. Physicians and lawyers must each integrate the “other” perspective into their own equally valid evaluation. This process may diminish the adversarial atmosphere of the Consent and Capacity Review Board Hearings and create a clearer context for the evaluation of adolescent capacity in health care decisions.

#### 27.4. Compulsory Community and Involuntary Outpatient Treatment for People with Severe Mental Disorders – A Review of the Evidence

Ian Dawe, *St Michael’s Hospital, Toronto, Canada* (dawei@smh.toronto.on.ca)

There is controversy as to whether compulsory community treatment for people with severe mental illnesses reduces health service use, or improves clinical outcome and social functioning. Given the widespread use of such powers it is important to assess the effects of this type of legislation.

Those who favour community committal and those who are opposed are confronted with the same frustrations: a system that does not adequately meet the needs of people with serious mental illness. Consumers, families, service providers, and other stakeholders all share a commitment to the need for continuing mental health reform and enhanced resources for community services and supports. The question of community committal has compelling arguments on both sides. Rather than continuing to debate it, it will be more productive to shift the focus to the positive alternatives which can be agreed upon.

#### 27.5. The Province of Ontario’s Mental Health and Justice Strategy: The City of Toronto Experience

Mohamed Badsha, *Canadian Mental Health Association, Toronto, Canada*  
(mbadsha@cmha-toronto.net)

Mary Jane Cripps, *Reconnect Mental Health Services, Etobicoke, Canada*  
(mjcripps@reconnect.on.ca)

This paper will describe a unique partnership that links police services with mental health and justice programs in order to divert individuals with serious mental illness from the justice system. The partnership is one program within a larger network of services. The network will be described briefly for purposes of context. The presentation will address the integration of two mental health services with the Toronto Police Service, a large urban police force. Through the implementation of this one point of access, emergency

housing and an information and referral service (to an array of community-based mental health and justice services) can be quickly and expeditiously accessed by police for this target group. The goal of the overall strategy is “Keeping Persons With Mental Illness Out Of The Criminal Justice and Correctional Systems”. The Provincial strategy is an inter-ministerial initiative involving the Ministry of Health and Long-Term Care (lead), the Ministry of Community Safety and Correctional Services, the Ministry of the Attorney General, the Ministry of Children and Youth Services, the Ministry of Housing, and the Ministry of Public Infrastructure and Renewal. The target population is any individual aged sixteen [16] years and older with a serious mental illness who has, or is a significant risk of, involvement with the criminal justice system, who can benefit from community mental health services and who is likely to be safely and successfully supported in the community. Key components of the Integrated Partnership are: (1) Police have access to the services listed below, (2) Short-Term Residential Crisis Beds and, (3) Information and Referral to other community mental health services. The mental health services should be available to the police twenty-four [24] hours, seven [7] days a week. Access to the resources is through one city-wide telephone number. This collaboration represents a unique and innovative solution to joining two large and separate entities, Health Care and Police Services, into an integrated system that will better meet the needs of individuals with serious mental illness who come into conflict with the justice system. An evaluation protocol for the integrated partnership is in development. Early data will be available for discussion at the Congress.

## 27.6. The Otago Community Treatment Order Study: What Have We Learned?

John Dawson, *University of Otago, Dunedin, New Zealand*  
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The Otago CTO research group has conducted a series of studies, over the last 7 years, of the use of involuntary outpatient treatment under New Zealand's mental health legislation. This research has included: a qualitative investigation of the position of 42 involuntary outpatients and their carers, including interviews with these patients, their families and their clinicians; a survey of New Zealand psychiatrists concerning their views of the NZ CTO regime; comparative analysis of the CTO legislation in several parts of the common law world, including Australia, Canada, England and Scotland.

The results of this work have been published in a series of articles in international journals, including the *International Journal of Law and Psychiatry*, the *Australian and New Zealand Journal of Psychiatry*, the *Journal of Mental Health*, and the *British Journal of Social Work*.

The current paper will summarise the core findings of this Otago CTO study as a whole, and trace the potential implications of its findings for the proper design and use of involuntary outpatient treatment regimes.

## 28. Compulsory Treatment in Anorexia Nervosa I

### 28.1. Treatment Refusal in Anorexia Nervosa: The Ethical and Conceptual Implications of the Empirical Data

Tony Hope, *Universtiy of Oxford* (Tony.hope@ethox.ox.ac.uk)

People with anorexia nervosa may refuse treatment and medical support even when they are at great risk of harm. Many people, at the time of treatment refusal, are intellectually intact and able to understand the consequences of their decisions. Patient accounts, and those of their parents, suggest that there are many different reasons for such treatment refusal. Some people appear indifferent to the risk of death; some do not want to be harmed but value thinness even more than life itself; a few enjoy the risk of harm although they do not want actually to suffer harm. Some people with anorexia see the condition as a central part of their identity and view losing the anorexia as tantamount to losing themselves. Beliefs and desires, for many, are unstable, contradictory and ambiguous. The variety and the complexity of the reasons why people with anorexia nervosa refuse treatment have implications for how we should think about when it is right to override such refusal.

### 28.2. Should We Ever Respect the Patient's Refusal of Life-saving Treatment? On what Ethical and Psychological Basis?

Simona Giordano, *University of Manchester* (simona.giordano@manchester.ac.uk)

Some argue that we should always strive to keep anorexic patients alive, for three reasons: 1) because the anorexic has a mental illness which causes her to refuse food-based therapies; 2) the refusal of life-saving treatment is necessarily non-autonomous; 3) it is possible even for people with longstanding severe anorexia, to fully recover and clinicians have the duty to give people a chance. I contend A) that anorexia does not cause people to refuse food; B) that the decision to refuse life-saving treatment is not driven by the mental illness; C) that it is possible that the refusal of life-saving treatment is a fully competent decision. From A, B, and C, it seems to follow that D) in cases of competent refusal of life-saving treatment, that decision should be respected. This paper

argues that D) is invalid. There is not a moral obligation to respect the anorexic's competent refusal of life saving treatment. Likewise, where an anorexic's choice is not competent, this does not entail that s/he should be kept alive. The decision to respect the sufferer's wishes to refuse naso-gastric treatment has to rest on our compassion.

### 28.3. Clinical Aspects of Treatment Refusal in Adolescents and Young Adults with Anorexia Nervosa

Anne Stewart, *University of Oxford* (Anne.stewart@psych.ox.ac.uk)

Adolescents and young adults with anorexia nervosa frequently refuse treatment even though they may be seriously ill. This can pose a dilemma for professionals and parents who have a responsibility to protect their best interest, yet at the same time are aware of the need to respect the right of the young person to make their own treatment decisions. In this presentation, relevant findings of an empirical medical ethics study will be presented and the clinical implications discussed. The areas covered will include competence to make treatment decisions, the context of compulsory treatment, patient experiences of treatment, decision-making style and patient attitudes to compulsory treatment. There will be a discussion of the ways in which competence may be promoted in patients. Finally, a treatment decision-making framework which draws on the results from the study will be presented.

### 28.4. Coercion is Coercion: Why (and When) Clinicians Compel Treatment of Anorexia Nervosa Patients

Terry Carney, *University of Sydney* (terryc@law.usyd.edu.au)

David Tait, *University of Canberra* (david.tait@canberra.edu.au)

Stephen Touyz, *University of Sydney* (stephent@psych.usyd.edu.au)

*Objective* This paper addresses the question of the circumstances which lead clinicians to use legal coercion in the management of patients with severe anorexia nervosa, and explores similarities and differences between such formal coercion and other forms of 'strong persuasion' in patient management.

*Method:* Logit regression analysis was undertaken on anorexia nervosa data from a sample of 117 successive admissions to an eating disorder facility in New South Wales, Australia, where an eating disorder was the primary diagnosis. Admissions with other

primary diagnoses, such as bulimia nervosa (25 episodes), and entries with a co morbid diagnosis (e.g. depression or opiate overdose), were discarded, leaving 96 admissions by 75 individuals.

*Results* Resort to measures of legal coercion into treatment was found to be associated with three main indicators: the patient's past history (number of previous admissions); the complexity of their condition (the number of other psychiatric co morbidities); and their current health risk (measured either by Body Mass Index or re-feeding syndrome).

*Conclusions* The study suggests that clinicians use legal coercion very sparingly, carefully distinguishing legal coercion from other forms of close clinical management of patients.

## 29. Compulsory Treatment in Anorexia Nervosa II

### 29.1. Involuntary Treatment of Eating Disorders: Legal, Scientific and Ethical Dimensions

Laura Dalla Ragione, *Palazzo Francisci - Eating Disorders Centre, Todi, Italy*  
(dallaragione@tiscali.it)

The aim of this work is to evaluate whether it is better to submit patients affected by severe eating disorders (ED) to coercive treatment or not. International studies were examined, reviewed and integrated with our experience, APA guidelines and International Legislation. Among the DSM-IV, ED have the highest mortality rate after drug addiction. It is even higher in anorexics since frequent refusals of treatment delay diagnosis, treatment and influence prognosis. American guidelines for ED treatment (2000) tackle the problem in few passages "Legal interventions, including involuntary hospitalisation and legal guardianship, may be necessary to ensure the safety of treatment of reluctant patients whose general medical conditions are life-threatening"; "On these rare occasions staff have to take over the responsibilities for providing life-preserving care. Nasogastric feedings are preferable to intravenous feedings...total parenteral feeding is required only very rarely and in life-threatening situations"; "In situations where involuntary forced feeding is considered, careful thought should be given to clinical circumstances, family opinion, and relevant legal and ethical dimensions of the patient's treatment". In Italian legislation, compulsory medical treatment is specified for mental illnesses but without specific indications. Phenomena such as anorexia nervosa do not have their own position in the legislation. The bibliographic review leads us to observe that there are no agreed-upon guidelines on the use of compulsory medical

treatment. In our experience as well, CBT-type interventions in patients without severe psychiatric comorbidities appear to drastically reduce or even eliminate any recourse to extreme measures seen as aggressive, intrusive and linked to a lack of value of the patients.

## 29.2. Freedom and Right to Treatment in Eating Disorders

Paola Bianchini, *University of Perugia* (bianchinipaola@libero.it)

An individual's legal right to refuse treatment has by now been well established, and yet, much room for ambiguity remains. Which and what is the end-point of the right to self-determination and what are the underlying principles in the defence of this right? Even more so, which kind of court has the ability and right to define the confines of this law? If it is each individual's right to refuse treatment (without distinction between ordinary or extraordinary measures -i.e. one may refuse a blood transfusion just as well as a simple I.V. fluid of physiological solution), and if one may interrupt his/her treatment in any point in time, we propose to ask the following question: "What constitutes the substantive, human and tangible difference of our duty to choose?! The decisive point remains thus with the human prerogative of "the duty to be human", an essential attribute of what it means to be a human being, to be obliged to choose bearing the full burden of one's individual freedom. It is at this point that we are left with reasonable ground for further questioning.: Is there any freedom of choice possible within the universe of an obsessive human being? In our opinion, an internal world which has been invaded and consumed by obsessive ruminations does not leave sufficient mental space for a free and responsible decision. To enable one's return to treatment means to prepare the ground so as to place the person in a condition in which she/he is able to embrace the suffering and listen to it without giving in to the disturbance which resides precisely in the abdication of his/her free will and free choice (individual liberty).

## 29.3. Coercion in the Treatment of Anorexia Nervosa: Short and Long-Term Effectiveness

Simone Pampanelli, *Silvestrini Hospital, Perugia, Italy* (pampanelli@libero.it)

Anorexia nervosa (AN) is a complex disorder of unclear aetiology, nowadays one of the most serious chronic diseases of adolescent girls and young women. Severe weight loss and associated behaviours may endanger anorexic patients' lives. A characteristic of the disorder, the reluctance to accept treatment, can lead in such situations to the necessity of

involuntary treatment. The author presents indications for hospitalization and discusses consequences, and short- and long-term effectiveness of coercion measures in therapy of anorexia. The necessity of further investigation into this problem is stressed, particularly connected with a good prognosis for involuntary treatment. The lack of a one-valued legal basis for involuntary treatment of anorexia in Polish legislation has been mentioned as well as the lack of proper medical facilities to provide complex treatment. Because of its high mortality and treatment resistance, clinicians sometimes invoke the law in aid of retaining their most acutely ill-patients in treatment or re-feeding programs. Depending on the jurisdiction, various laws, including mental health and adult guardianship laws, have been invoked to achieve this objective. Until recently, little was known about the therapeutic impact of coercion on patients or the relative advantages of different avenues of coercion. Most obscure of all, however, has been our understanding of the factors influencing clinical decisions within specialised anorexia treatment units regarding which in-patients will be selected for coerced treatment. This paper reports legal and ethical implications of findings from analysis of data gathered from a major Italian specialist in anorexia treatment.

#### 29.4. Involuntary Psychiatric Hospitalization and the Open-Door Inpatient Unit

Katarina Horska, *Department Mental Health Perugia Italy* (katarina.horska@libero.it)

Emergency psychiatric treatment not infrequently requires hospitalization against a patient's will. As much as legal requirements in terms of duration, confirmation and authority needed to approve of such an extreme might vary in their more formal aspects, the basis of this decision doesn't. The aim of this paper is to study the consequences of the above decision as they may influence the clinical work and final outcome of patient care. It is proposed (based on the experience of several "open-door" units in Italy) to examine the contradiction in legally constraining somebody to involuntary treatment while physically making it possible for that person to leave. Is there room within this dialectical tension to influence and treat exactly that in which the patient is lacking at that moment? The author will further examine the difficulties of this approach, the legal liabilities that might ensue and, most importantly, the intended change in the clinical outcome with such an approach. Staff attitudes, changes in staff- to- patient interaction and medication practices will be examined. In conclusion, the author proposes to focus on the inherent tension and difficulty we must address when questions of treatment vs protection are involved. More effort (legislative, educational and clinical) should be spent on working with the involved patient's environment and the public in general.

## 29.5. Coercive Treatment and Minors Suffering From Anorexia Nervosa: Ethical and Legislative Difficulties

Marta Scoppetta, *Catholic University of Rome* (martascop@tin.it)

The prevalence of Eating Disorders and in particular of Anorexia Nervosa among infants is having an increasingly significant impact on public health. Unless reasons exist for the avoidance of coercive measures, these need to be considered in some life-threatening extreme situations. When the patient is a minor, it implies greater difficulty in organizing and realizing compulsory treatment according to the law. The author reviewed International studies and searched Medline using key terms related to coercive treatment, minors and eating disorders. A literature review is integrated with clinical experience and an analysis of Italian and European legislation on Compulsory treatment. There is an important debate on the autonomy of the minor and his right to self-determination which corresponds to an ethical dilemma more and more frequent in our clinical practice, complicated by the consciousness of the huge contrast between the importance of patient autonomy and his cognitive difficulties due to severe starvation. In the law, parents (or whoever exerts the paternal power) are the ones whose consent is required, not children. Parents with an inappropriate attitude towards the disorder can therefore prevent the decision to intervene. Nonetheless, despite the minor age, the patient does not lose his right to decide regarding his health, and if he/she has made a decision contrasting with that of his parents, his will must be respected and a tutelary judge must be consulted before finalising any decision. Many difficulties can complicate this procedure and lengthen bureaucratic delay using up precious time regarding the patients' life. Various cases and legislative difficulties are presented and discussed.

## 30. The Consent & Capacity Board of Ontario – An Overview

### 30.1. The Consent & Capacity Board of Ontario – An Overview

Joaquin Zuckerberg, *Consent and Capacity Board, Toronto, Canada*  
(joaquin.zuckerberg@moh.gov.on.ca)

Janice Laking, *Consent and Capacity Board, Toronto, Canada* (jlaking@sympatico.ca)

The Consent & Capacity Board (CCB) is an independent tribunal created by the province of Ontario, Canada. The CCB's mission is the fair and accessible adjudication of consent and capacity issues including involuntary civil committal, capacity, and substitute decision making. The CCB contributes to society's essential role in balancing the various rights of vulnerable individuals with public safety. The Board is very well utilized within the province and conducts approximately 2,200 hearings annually. Due to the nature of its mandate, the CCB is obligated to organize and conduct hearings within a very tight timeframe (7 days) and renders decisions within 24 hours thereafter. The CCB conducts its affairs in a multidisciplinary manner with Board members consisting of lawyers, psychiatrists, and members of the general public. The paper will review the functioning of the CCB from a legal, mental health, and community perspective. The administrative and logistical challenges of scheduling and conducting hearings within a limited time frame will also be reviewed. Fundamental ethical issues will also be addressed with a view to further discussion with session participants. In keeping with the spirit of the CCB, the session will be presented by a multi-disciplinary team.

## 30.2. The Role of the Psychiatrist of the Consent and Capacity Board

Rajiv Bhatla, *University of Ottawa* (rbhatla@rohcg.on.ca)

The Consent and Capacity Board (CCB) of Ontario is an independent tribunal created to adjudicate matters including involuntary civil committal and capacity to make treatment decisions. The tribunal is composed of the lawyer member, a community/public member and a psychiatry member. Presentations to the CCB are generally made by psychiatrists who, in a sense, make a case against their patients. The presenting psychiatrist is usually unrepresented by legal counsel. The psychiatry member of the CCB is often a practicing psychiatrist who at other times may, in this role, present in front of the CCB. This session will review the role of the psychiatrist in the context of the CCB. The role of the psychiatrist on the CCB will be explored and contrasted with the usual role of the practicing psychiatrist. The training and ethical challenges facing a psychiatrist on the CCB will be explored. The advantages and disadvantages of an unrepresented party presenting in a tribunal will also be discussed. In addition, the challenges and benefits of a psychiatrist acting as both treating physician and "prosecution" in front of the CCB will be reviewed. There will be an opportunity for discussion regarding the role of the psychiatrist within the broader context of the CCB's role in Ontario.

## 30.3. The Role of Lawyer Members of the Consent and Capacity Board

Bernard Starkman, *Ontario Consent and Capacity Board, Ottawa, Canada*  
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The Ontario Consent and Capacity Board is an independent tribunal established under provincial legislation which hears a wide range of applications, of which the most common are involuntary civil committal and capacity to make treatment decisions. The applications deal with patients who are usually in hospital but who may be in the community under prescribed conditions. Panels of the Board may sit in any location in the Province. The panels comprise a community member, a psychiatric member, and a lawyer member who is also the presiding member. The patient is usually represented by legal counsel. This session will examine the role of the lawyer and presiding member in preparing for and conducting the hearing, in the deliberations which follow the hearing, and in providing written reasons for the panel's decision. Among the challenges discussed will be: (1) information available before the hearing; (2) nature of the evidence; (3) hospital records; (4) hearing interruptions; (5) appreciating the evidence; and (6) time for providing reasons.

### 30.4. Decision Making and the Consent and Capacity Board

Janice Laking, *Consent and Capacity Board, Toronto, Canada* (jlaking@sympatico.ca)

The Consent and Capacity Board of Ontario is a tribunal, usually three members – although a single senior lawyer member may hear and make decisions on certain capacity issues – and a training panel may have five members. The usual three member panel is a lawyer who acts as chairman, a psychiatrist and a community member. While the lawyer member has the primary responsibility for protecting the legal rights of the patient, and the psychiatrist for the mental health of the patient, the community member, not burdened by either legal fact or psychiatric knowledge, brings caring, common sense. By questions, and observation of body language, many facts may be gleaned to assist with a decision. Patients who are being held involuntarily, have a mandatory annual review, and a “patient requested review” opportunity every three months. The hearing must start within seven days after the notice is received, and the decision must be rendered within one day of the completion of the hearing. Where a patient is challenging a determination of a health practitioner, it is the health practitioner who has the legal burden to show that the statutory criteria for the finding, such as involuntary admission, or incapacity to consent to treatment, is satisfied at the time of the hearing. The law says consent must be informed, capable and voluntary. Is the patient “capable” of making a decision, and able to appreciate the reasonably foreseeable consequences of a decision or lack of decision? The role of a substitute decision maker, the public guardian, legal aid, rights advice, and community treatment orders will be examined.

## 31. Contextualizing Psychology at the Margins for Legal Discourse

### 31.1. The Psychological Dynamics of the Hostile Environment: Racism, Sexism, and Belonging in the Workplace

Katharine J. Hahn, *University of Kentucky* (kjhahn@uky.edu)

Reginald Oh, *Texas Wesleyan School of Law* (roh@law.txwes.edu)

This presentation will address the relevance of sense of belonging in the workplace for racial and sexual harassment law. Studies of belonging in school have found that belonging correlates with achievement, few risk-taking behaviors, and enjoyment of school (Anderman & Freeman, 2004). Studies of similar constructs in the work environment have shown that sense of support at work correlates with job satisfaction (Griva & Joekes, 2003). Baumeister and Leary (1995) argued that belonging is a basic human need. Perceived racism and/or sexism at work would logically result in a decreased sense of belonging. Thus, workers who experience racism and sexism at work may not have their basic need for belonging met, and their ability to achieve may be stymied. Unfortunately, experiences of racism and sexism in the workplace are often viewed as misperceptions. Under employment discrimination law, unless intent to discriminate can be established, perceptions of racism and sexism have little evidentiary value. Understanding the link between perceived racism and sexism and belonging may begin to help judges, juries, and employers understand the reality of perceived racism and sexism. This understanding can be used to help develop a theory of racially and sexually hostile work environments under Title VII.

### 31.2. Belonging and the Legal Construction of Inclusive Spaces

Reginald Oh, *Texas Wesleyan School of Law* (roh@law.txwes.edu)

Katharine J. Hahn, *University of Kentucky* (kjhahn@uky.edu)

This paper will examine the role that the law can play in creating spaces of belonging. Psychological research has shown that people thrive in social situations when they feel a

sense of belonging in their particular community. Studies have shown that success in the workplace and in school is highly correlated with a sense of belonging. The paper will examine how the law can either facilitate or impede the construction of inclusive spaces where members of marginalized social groups feel a sense of belonging. Specifically, the authors will contend that the law of employment discrimination and the law of racial desegregation should be viewed, not just as anti-discriminatory measures, but as legal attempts to foster racial belonging in the workplace and in public schools. The paper will conclude by offering some suggestions for reshaping legal doctrine to better facilitate the creation of racially inclusive spaces.

### 31.3. Law Defining Existence: Exploring the Psychological Corollary to the Legal Illegitimation of Multiracial Identity

Carla Pratt, *Pennsylvania State University* (cdp10@psu.edu)

This presentation will explore some of the challenges to claiming multiracial identity in America by examining Black Indians' recent efforts to advance such claims. Historically, Black Indians generally were not recognized by tribal and federal law governing tribal membership and Indian identity. Such non-recognition by tribes served to shape Black Indians' perception of self so that they ultimately adopted a monoracial (Black) identity which required them to suppress the non-black component(s) of their multi-racial identity, and which operated to exclude them from the Indian community. Having assumed a monoracial external identity, many multiracial Black Indians held tight to internal recognition of their Indian identity and orally shared the presence of this identity with their descendants. Today, many of the descendants of these illegitimated multiracial people presently wish to claim a multiracial identity encompassing both Black and Indian components. Black Indians are struggling to reconcile internal notions of self and identity with external notions of self that are imposed by law and society.

### 31.4. Exploring the Legal Significance of Loving Beyond Race: Intimate Dysfunction, Disease and Distaste as Confined by the Black-White Paradigm

Camille Nelson, *Saint Louis University* (nelsonca@slu.edu)

This presentation will explore the internal and external challenges of critical consciousness within the context of (Black-White) interracial relationships in America.

While such relationships can exist harmoniously and are, generally, not to be distinguished from other intimate and loving relationships, there remains a distinction between same-race and interracial relationships predicated upon a requisite socio-political color-consciousness, an ironic rejection of legalized notions of colorblindness. Specifically, it is imperative that both partners in an interracial relationship be critical and conscious of race, racism and identity constructs. Societal impositions and expectations necessitate mutually supporting criticality and conscious fortitude. While such relationships are not to be regarded as definitionally alien or “other,” the presentation explores the deep seated psychological dysfunction surrounding these “couplings” as revealed by our shared legal history. Specifically, the black-white interracial relationship is contemporaneously vulnerable to the typical non-racialized relationship concerns and to external pressures, which are a function of America’s longstanding unease, or (dis)ease, with racial intermingling, repulsion of miscegenation and fear of “mongrelization” – a critical reading of case law reveals some of the psychology behind these racialized sentiments. This socio-legal history plays out in an unfolding drama revealing, through our intimacies, that America has much work to do yet when it comes to the race-based heavy lifting. In this way, *Loving Beyond Race* necessitates delineation and enforcement of the boundaries of the relationship to avoid both internal and external puncture and to maintain well-being in the face of deep-seated psycho-social pressure.

### 31.5. ADHD and the Construction of the Juvenile Offender

Rashmi Goel, *University of Denver* (rgoel@law.du.edu)

Much attention has been paid to class and racial bias in the criminal justice system. It is important to ask also if this kind of bias begins or exists in the juvenile justice system. This paper examines the recognition/diagnosis of Attention Deficit (Hyperactivity) Disorder and the role this might play in determination of delinquency. ADHD affects both mental state and behavior. A close examination of ADHD and the way it affects children reveals similarities and overlap between ADHD induced behavior and behavior we classify as abnormal and delinquent. In addition, the co-incidence of ADHD and other behavioral disorders, such as oppositional defiance disorder, can increase the likelihood of ADHD youth to act out in delinquent ways, increasing the likelihood they will appear in front of juvenile court. When the court is presented with an undiagnosed ADHD youth, several factors may affect the apprehension of the disorder. Behavioral patterns consistent with ADHD may instead register with judges as consistent with minority status, racial culture or poverty. Minority underclass youth may thus be misapprehended as acting out consistent with a perceived culture or social status instead of suffering from a behavioral disorder. Because over time, criminality has come to be associated with blackness or minority status and poverty, the court has little inclination or reason to ensure such juveniles are not suffering from a mental or behavioral disorder.

Common notions about the causes of behavioral problems and culture of minority communities cause judges to first consider medical causes for the bad behavior of affluent white children, since social causes are not evident. These same notions cause judges to seek out social causes for behavior among poorer minority children, overlooking, or at least delaying consideration of medical causes. In fact, because of the numerous factors that influence ADHD, it is likely that economically disadvantaged children are at higher risk of developing ADHD at the same time that they are at higher risk of escaping diagnosis. This contributes to greater rates of delinquency determinations and custodial dispositions for underclass juveniles of color than for affluent white children when the same actions and the same medical condition are in play.

## 32. Criminalization of Mental Illness

### 32.1. Institutions to Incarceration: Criminalization of the Mentally Ill in the United States

Claudia Kachigian, *Southern Illinois University* (drkach22@charter.net)

The increasing numbers of arrests, incarcerations, and harsher sentences for those with mental illness eventually resulted in the over-representation of the mentally ill in jail and prison populations. Inadequate treatment in these settings without regard to follow-up treatment and support after release perpetuates a cycle of further arrests and incarcerations. This phenomenon has been termed “criminalization of the mentally ill” and brings the United States back to an era of using the correctional system as our main source of mental health services. The presentation will review this process of criminalization that has occurred in the United States over the last century.

### 32.2. Criminalization of the Mentally Ill

Alan R. Felthous, *Southern Illinois University* (dhsc6624@dhs.state.il.us)

In little over the last half century the treatment and care of the seriously mentally ill has been radically transformed. Impressive progress has been made in achieving improved psychopharmacotherapy and understanding the science of the brain. Unfortunately,

delivery of services has not kept pace with scientific and technological progress. In the 1950s, most seriously mentally ill individuals in the United States were treated for extended periods in large state hospitals. Today state hospitals are fewer in number and size; Censuses and lengths of stay are substantially reduced. Many mentally ill individuals function reasonably well with community treatment services, which is favored over the earlier custodial, institutional model. Others do not succeed in the community and enter either the revolving sallyports of jails or massive, densely populated prisons to serve lengthy sentences. As prison populations expanded, the numbers of seriously mentally ill persons in jails and prisons increased as well. An early concern about newfound rights and freedoms of the mentally ill was that they would “die with their rights on.” Today we see that many have been “criminalized” through transinstitutionalization.

### 32.3. Demographics of Psychiatric Treatment in U.S. Correctional Settings

Philip Pan, *Southern Illinois University* (ppan@siumed.edu)

Per U.S. Department of Justice Bureau of Statistics figures, by the end of 2004, 2,267,787 individuals had been incarcerated by years end. An earlier report noted that 10% of prison and jail inmates reported having a mental or emotional disorder, with almost a third of all inmates reporting a history of a mental condition or treatment at some point. Department of Justice statistics indicate that there are four times as many severely mentally ill persons incarcerated in correctional settings, than there are inpatients in psychiatric hospitals. While the correctional population continues to grow, in the 1990's psychiatric beds decreased 40%, on top of even greater reductions occurring over the previous two decades. Total state spending for mental health treatment has declined by one-third since the deinstitutionalization movement began in the 1950's. More and more frequently, psychiatric patients are receiving care in corrections, often because resources are lacking in the community. The presentation will explore the various factors in mental health service funding and utilization, both within the justice system and in the general community, that lead to a greater tendency towards the criminalization of the mentally ill.

### 32.4. Mental Health Services in Prisons in the United States

Rupa Maitra, *Choate Mental Health Center, Anna, Illinois, USA*  
(DHSMHTB@dhs.state.il.us)

A staggering number of persons with mental illnesses are confined in US jails and prisons which have become, in effect, the country's frontline mental health providers. Most of the mentally ill who end up in prison are initially incarcerated in jail as pre-trial detainees. Due to having inadequate mental health screening and services in jails, the prison systems inherit exacerbated mental health problems when the pre-trial detainees suffering from mental illnesses are ultimately sentenced and moved from jail into prison. Indeed, two of the largest mental health providers in the country today are Cook County and Los Angeles County jails. During a study done in 1990, based on a sample of Cook County jail inmates, over 6 percent inmates were actively psychotic, a rate four times that found in the outside population. Based on the above facts, the author discusses the program of diverting individuals with mental illness away from jails and prisons towards more appropriate community-based mental health treatment. Also discussed are the growth of mental health services in correctional facilities between 1988 and 2000 and current services in Cook County jail.

### 32.5. The Reinstitutionalization of the Mentally Ill in Correctional Facilities

Abraham Ramy Frenkel, *Tinley Park Mental Health Centre, Illinois, USA*  
(DHSMHAI@dhs.state.il.us)

During the 1970's, a sweeping surge of social and individual rights movements embraced the cause of the institutionally chronic mentally ill, often under dubious clinical mantel and poorly validated diagnoses, treatments and dispositional determinations. The new moral attitude led to deinstitutionalization - setting free of masses of chronically mentally ill, who were unprepared for the sudden life of independence, lacking skills to negotiate their daily needs. Yet the development of infrastructure for community treatment and support lagged far behind. The result was a surge of homeless chronically mentally ill, driven to a life of survival in the streets, where many found a new dependency on alcohol and drugs. The toxic combination of untreated mental illness and substance dependence led to an increase of unacceptable societal behaviors and a subsequent dramatic increase in the number of mentally ill arrested and imprisoned. As psychiatric beds capacity and community resources continued to dwindle, the correctional system has become the new institution for the chronically mentally ill. This presentation will address the scope of the problem and remedial alternatives.

## 33. The Cultural Psychology of Workplace Litigiousness

### 33.1. University of California Culture and the Perils of Practice: Preventing Grievances and Lawsuits by Faculty Members

Amy Rosen, *University of California at San Diego* (arosen@ucsd.edu)

This paper will examine the tendency of academics to file a grievance or lawsuit when they perceive, accurately or not, that their rights have been violated and they have not been heard and properly valued. Using current faculty case studies from the exceptionally litigious School of Medicine and Department of Ethnic Studies, the author will elucidate the thicket of academic personnel and administrative procedures for responding to a variety of faculty misconduct issues, as well as to disputes, grievances, and pre-litigation investigations. Accordingly, the paper focuses on models of coordination and cooperation among administrators at each level of a grievance, its negotiation, and the specialized strategy envisioned for ongoing case management and ultimately, when required, University policy revision.

### 33.2. The Neglected Issues of the “Passive and Convenient Focus” and the Use of Psychological Defense Mechanisms in Workers Compensation Medical-Legal Evaluations

David M. Reiss, *Consulting Psychiatrist, Santa Fe, USA* (dmreiss@cox.net)

It has been widely accepted that a comprehensive psychiatric evaluation involves consideration of all relevant “bio-psycho-social” factors: “biological” factors – including issues of innate temperament, neurophysiological phenomena, hormonal effects, and the impact upon psychiatric status of concurrent medical conditions; “psychological” factors including underlying emotional conflicts, personality traits, personal psychodynamics, uses of defense mechanisms, and the subjective experiences and perceptions of the patient and “psycho-social” issues such as “stress”, trauma, interpersonal relationships and interactions, family dynamics and socio-cultural influences. Theoretically, only through an integrated analysis of all of these factors, can an accurate psychiatric evaluation be completed – and only at that point, can there be comprehensive case formulation which addresses the nature and etiology of any claimed industrially-related psychopathology, as well as an integrated treatment plan. However, in the author’s experience working within the California Workers Compensation system, it appears that such comprehensive evaluations are rare, and the different interdependent aspects of psychopathology which need to be integrated are addressed superficially, if at all – with particular neglect of exploring the issues of psychological defenses, and most

specifically, projection and displacement. This presentation offers a number of vignettes which demonstrate the issues associated with this phenomenon.

### 33.3. Litigation Narratives: Understanding and Preventing Employment-Related Lawsuits

Micah D. Parzen, *Luce, Forward, Hamilton and Scripps LLP, San Diego, USA*  
(mparzen@luce.com)

Narrative theory has long played an important role in contributing to our understanding of human experience in a wide variety of practical settings. In the field of medicine, for example, scholars and clinical practitioners frequently call upon “illness narratives” as a tool for learning from the stories that afflicted individuals explicitly and implicitly tell about themselves, the medical system, and their status in society at large through their illness experience. In law, however, relatively little, if any, attention has been paid to the “litigation narratives” of individuals who file lawsuits, particularly within the context of employment-related disputes. Drawing upon data from qualitative interviews with plaintiffs who have filed and litigated lawsuits against their employers, this paper examines the various stories that plaintiffs explicitly and implicitly tell about themselves, the workplace, and the nature of employee-employer relations in our society through their litigation experience. In doing so, the paper identifies the significant psycho-cultural themes that emerge through these “litigation narratives” as a means of understanding the complex network of variables that drive employees to sue their employers. The paper concludes with a discussion of how employers might prevent employment-related lawsuits by incorporating this knowledge into their everyday practices, policies and procedures, and institutional structures.

### 33.4. Occupational Stress Claims in Australia: Clinical Assessment and Legal Liability

George Mendelson, *Monash University* (george.mendelson@med.monash.edu.au)

The Commonwealth of Australia is a federation consisting of six states and two territories. Each state and territory has its own workers’ compensation scheme established under statute; thus, there are ten separate workers’ compensation jurisdictions in Australia (the Federal Government has two parallel systems, one established for all Commonwealth employees under the Safety, Rehabilitation and Compensation Act 1988

(ComCare), and the other pursuant to the Seafarers Rehabilitation and Compensation Act 1992). Recent data from ComCare indicate that occupational stress claims account for 18 per cent of compensation expenditure and for about five per cent of compensation cases for which liability is accepted. The average cost of each stress compensation case was, according to figures released in 2005, approximately \$ 23,000, which was nearly three times the average cost of a non-stress claim. In response to the increasing rate of occupational stress claims, as well as the rising costs of such claims, ComCare has launched a number of initiatives, involving both legislative amendments and changes to its claims management procedures. Some of these initiatives have also been implemented by the states and territories, which similarly have sought to both reduce the frequency of work stress claims and to manage these in a more cost-effective manner. This presentation will review the clinical assessment of workers who have lodged occupational stress claims and the approaches to the initial determination of liability by ComCare and some of the other workers' compensation jurisdictions in Australia, as well as legal approaches to curtail workers' eligibility in relation to work stress claims.

## 34. Current State of Knowledge in Forensic Child and Adolescent Psychiatry

### 34.1. Forensic Screening and Diagnostic Assessment in Juvenile Justice Settings in Europe

Theo A.H. Doreleijers, *Free University of Amsterdam* (t.doreleijers@debascul.com)

Steve S.L. The, *VU University Medical Centre, Amsterdam, The Netherlands* (ssl.the@gmail.com)

Empirical screening studies of incarcerated youths have reported high levels of psychopathology (Teplin 2002; Vermeiren & Ruchkin, 2006). In the Netherlands 65% of adjudicated youths met criteria of a DSM-III-R disorder (Doreleijers 1995), 90% of incarcerated youths had a DSM-IV diagnosis (Vreugdenhil et al. 2003). Forensic psychiatric diagnostic assessment with incarcerated youths is necessary to advise the Court and in order to set up a long term treatment plan, as well as assessing whether acute psychiatric help is needed. Additionally, assessment is necessary since incarcerated youths have no direct access to psychiatric help from their location. Every European country has different judicial procedures for youths; some countries have pre-trial detention centres, some lack these. Consecutively in different countries laws for youths start at different ages (ie. in Switzerland at the age of 7, in Germany at 14). This paper

reports on a study of procedures and instruments used for screening and forensic diagnostic assessment in various countries, ie. United Kingdom, Italy, the Netherlands, Spain, Belgium, Russia and Portugal. The paper will end with recommendations for European standardization for screening and diagnostic assessment in juvenile remand and detention centres.

### 34.2. Outcome of Specific Groups of Juvenile Offenders

Robert Vermeiren, *University of Leiden/ Curium* (r.r.j.m.vermeiren@curium.nl)

Studies have shown that severe behavioral and conduct disordered children are very likely to have a detrimental future, characterized by the persistence of antisocial behavior resulting in contact with court and police and a multitude of social and mental health problems. As a result, the cost for society is extremely high, although the subgroup of persistent criminal individuals is very small. Somewhat surprisingly, most studies have been conducted in the general population, and only a limited number have focused specifically on youth in residential facilities within the juvenile justice system. Gaining insight into the longtime prognosis of this subgroup is however essential, since this is the most disordered population, and because this may aid the development of intervention programs, and the evaluation of programs once they have been implemented. In this lecture, studies that have investigated the outcome of youth in contact with juvenile justice institutions will be reviewed. The consequences of current knowledge will be discussed and advice for clinical practice and further research will be given when possible.

### 34.3. Meeting the Needs of Juvenile Offenders in Detention

Sue Bailey, *University of Central Lancashire* (njwhittle@gardener.bstmht.nhs.uk)

Paul Tarbuck, *University of Central Lancashire* (paul.tarbuck@bstmht.nhs.uk)

Paul Mitchell, *University of Central Lancashire* (njwhittle@gardener.bstmht.nhs.uk)

Jenny Shaw, *University of Central Lancashire* (jennifer.shaw@manchester.ac.uk)

This paper will review the range of current research projects in the UK relevant to this topic which include: 1. The development of an integrated health screener, mental health, physical health and substance misuse for all young people in detention in

England, 2. The results from a pathways study to establish how multidisciplinary teams can best deliver needs led, risk managed care for juveniles in detention, 3. The clinical lessons to be learned from how to offer CBT interventions to young people in detention arising out of an RCT CBT study in England, and 4. Using research to inform policy and government about strategic planning to meet the needs of young offenders in detention.

#### 34.4. Recommendations for Treatment of Juvenile Sex Offenders

Joerg Michael Fegert, *University of Ulm* (joerg.fegert@uniklinik-ulm.de)

Michael Kölch, *University of Ulm* (michael.koelch@uniklinik-ulm.de)

In this study of psychiatric statements in sex cases, severe insufficiencies in quality were found. The assessment of criminal responsibility of young offenders was in many cases not carried out by an expert for child and adolescent psychiatry and showed just as many insufficiencies in quality as statements about adults. Some of the offenders had already committed sexual offences when they were too young to be prosecuted. Their repeated crimes can be seen partly as a result of failures in care, education, treatment and therapy. Earlier therapeutic intervention may have helped prevent at least some of the crimes that were subject to psychiatric assessment. The findings of our study inspired experts to discuss standards in treatment of young sex offenders. Whereas promising approaches can be found in treatment of adult offenders, there is very little activity in developing treatment standards for juvenile sex offenders. Treatment is carried out following practical experience or adaptation of studies in adults rather than evidence-based treatment standards. The paper discusses important general statements compiled by a group of experts on diagnostics as well as recommendations for treatment plans, therapy components and general conditions for treatment. This paper should be seen as a first step towards treatment standards for juvenile sex offenders.

### 35. Current Status of Mental Health Laws and Policies from a Variety of Countries

#### 35.1. Mental Health Legislation in Developing Countries with Special Reference to South Asia: Problems and Solutions

Anirudh K. Kala, *Indian Psychiatric Association, Delhi, India* (anirudhkala@gmail.com)

Developing countries like those in South Asia have a very serious resource deficit. South Asia has 0.1 psychiatrists per 100,000 population, 0.3 psychiatric beds per 10 thousand population and 0.1 nurses per 100,000 population. Even these meager resources are unevenly distributed leaving vast tracts of land without any mental health facilities. Trained personnel and mental health infrastructures are required to implement Mental health provisions. For example in India for an involuntary admission to occur, both a psychiatrist and a psychiatric bed should occur together. Since there are only about 30,000 psychiatric beds for a billion people, this often leads to a situation where mental health law is un-implementable. The same situation exists in all the South Asian and most other developing countries. There is need to make emergency involuntary admission up to 72 hours possible even in community and primary health settings. There can be various other improvisations which are in the context of available mental health and cultural resources.

## 35.2. Psychiatry and Public Policy in the Pacific Region

Bruce Singh, *University of Melbourne* (singh@unimelb.edu.au)

The countries that form the Pacific Rim on the Western (Asian) boarder include countries which encompass the full spectrum of development. Mental health services are similarly at varying stages of sophistication in these countries. In this presentation I will provide an overview of the state of psychiatry in a number of countries of the Pacific Rim as well as of the island states in the South Pacific. The role that advocacy and leadership can play in the development of public policy for mental health in the region will be discussed. The international mental health leadership program run jointly by the University of Melbourne and Harvard will be described as well as Asia Australia Mental Health an initiative offering advice on mental health to countries in the Asia Pacific Region.

## 35.3. Mental Health Legislations in South Asia with Special Reference to India: Shortcomings and Solutions

Jitendra Kumar Trivedi, *Lucknow Medical University* (jktrivedi@hotmail.com)

Mental health legislation codifies and consolidates fundamental principles, values, goals, objectives and mental health policy. Such legislation is essential to guarantee that the

dignity of patients is preserved and that their fundamental rights are protected. In WHO health REPORT (2001) it was reported that 67% of countries in South-Asia have mental health legislation and the remaining 33% have no such law. The central government of India selected 1st April 1993, as the day on which the Mental Health Act 1987 came into force in all states and union territory. This act has provided some respite both to the patients and the professionals but is inadequate with various shortcomings which act as a barrier to accessing mental health services. The legislation does not promote community-based mental healthcare and widespread access to mental health services or incorporating mental healthcare into primary healthcare. There is no explicit legislation requiring the informed consent oral or written of a patient for medical treatment upon admission under voluntary or involuntary circumstances. We need a modern mental health law that gives priority to protecting the rights of persons with mental disorders, promotes development of community-based care and improves access to mental healthcare.

#### 35.4. Mental Health Courts – A Bad Deed Goes Unpunished but an Illness Finds Treatment

Augusta R. Clarke, *John Marshall Law School* (aclarke\_60187@yahoo.com)

A retrospective of the first 24 months of a functioning criminal court pre-plea diversion program will show the outcomes in terms of: level of medication compliance, presence or frequency of new offenses, rate of homelessness, drug and alcohol usage, employment – each of which is weighed against costs of the program. The costs of mental health treatment including hospital stays, crisis centers and day programs must usually be borne by the court program. Psychotropic medications are expensive and frequently not well covered by insurance and Medicaid. The high incidence of co-morbidity of substance abuse with mental illness increases the likelihood that many defendants will need intensive outpatient or even in-patient treatment to address the substance abuse before being able to appreciate their mental illnesses. The high cost of substance abuse treatment is coupled with the likelihood that persons would need to stay in jail while awaiting a treatment placement. Savings occur but they occur long term. The first decrease is usually in the amount of time local law enforcement needs to devote to the individual. This is followed by the decreased time spent on new court filings although this is offset by the frequency of mental health court appearances. When the defendant is brought into the mental health system early, it may be possible to avoid a string of recurring imprisonment. There is a direct as well as societal saving associated with this but it is hard to compute. One cannot precisely quantify what does not occur. Nevertheless, experiential data allows us to make some reasoned estimates.

## 35.5. Opportunities and Barriers in Efforts at Reforming a Mental Health System: The Case of Israel

Uri Aviram *Hebrew University of Jerusalem* (msaviram@mscc.huji.ac.il)

*Objectives* The study aimed to assess mental health (MH) policy trends in Israel and to understand why the efforts at reform during the last thirty five years have consistently failed, identifying factors that hindered the efforts to change the policy and those that could have facilitated the planned reforms.

*Methodology* Three case studies were performed, one for each of the three major efforts of the state to reform MH services by transferring the locus of care from psychiatric hospitals to the community. Data sources included government and MH organizations' documents, legislative material, analysis of budgets, media assessment and interviews of decision makers and key players.

*Findings* Conflicts revolved around issues of budgets, control, and autonomy. Proponents of the reform failed to organize a strong coalition in support of the reforms. Failure to implement the reforms was due in part to the structure of services, their historical and organizational background, and the traditional orientation placing the psychiatric hospitals as the hub of the system.

*Discussion* The major factors that may explain the failure of the reform efforts were the marginality of the mentally disabled, their traditional exclusion, and stigma. Also, the lack of saliency of the issue and the low importance the public attributes to the matter relative to other issues of societal concern contributed to the failure of the MH reform efforts. While Israeli society must continuously cope with existential problems, there is little energy left to deal with a subject considered by most to be complex and marginal.

## 36. Dangerous and Severe Personality Disorder: The Peaks Unit

### 36.1. Three Years On: Characteristics of DSPD Admissions and Implications for Treatment

Kevin Howells, *Nottingham University and Peaks Academic and Research Unit*  
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Gopi Krishnan, *Personality Disorder Services, Rampton Hospital, Retford, UK*  
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DSPD services have a relatively short history but are increasingly involved in the implementation of therapeutic programs. In this paper we describe the background to the DSPD initiative and describe patients admitted to the Peaks Unit over its first three years. Personality Disorder, Risk and other characteristics are described and the implications for treatment interventions are discussed. We consider two other bodies of evidence in terms of their relevance for treatment planning: work on Personality Disorder and the “What Works” literature in offender rehabilitation. The former, we suggest, is, as yet, of limited value. The latter is clearly relevant but greater consideration of the responsivity principle and of breadth of treatment is required in the DSPD setting. The important task is to integrate personality disorder and offending behaviour treatment components in a holistic manner, as suggested by Livesley’s model. The authors describe three challenges in delivering treatment and suggest that the need for ongoing evaluation of treatments is critical in this area of practice, given the impoverished knowledge base.

### 36.2. Developing Services for Dangerous and Severely Personality Disordered individuals – Pitfalls and Challenges

Gopi Krishnan, *Personality Disorder Services, Rampton Hospital, Retford, UK*  
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This presentation will describe the development of the DSPD initiative from inception to the present time. The public concerns and government thinking leading to the establishment of the service will be outlined. The four high security sites and community services will be described. The particular focus of the presentation will be the Peaks Unit, a DSPD high security pilot at Rampton Hospital. The service has been operating for three years. A number of lessons have been learned in this time around issues ranging from the culture of the service, developing and delivering treatment interventions, staffing patterns and levels, safety and risk considerations, managing the anxiety of diverse stakeholders and evaluating benefits. These and other issues arising in developing and managing the service will be discussed.

### 36.3. Does Early-onset Alcohol Abuse Mediate the “Functional Link” between Personality Disorder and Dangerousness?

Rick Howard, *University of Nottingham*

One view of the alleged “functional link” between personality disorder (PD) and dangerousness is that they are linked via a history of early-onset alcohol abuse. By impairing the function of prefrontal cortex during adolescence, a critical period for its development, early-onset alcohol abuse (EOAA) is hypothesised to lead to deficits in the neuropsychological substrates of goal-directed behaviour and emotional self-regulation, placing the individual at high risk to become a life-course persistent violent offender in adulthood. This hypothesis is currently being tested by examining violent offending and history of alcohol abuse (early- vs. late-onset vs. nil history) in a sample of 100 personality disordered men covering the spectrum of security (high vs. medium vs. low security). We predict that (i) men showing a combined APD+BPD diagnosis, who show the highest levels of violence and psychopathy, and are over-represented in high-secure settings, will show the highest prevalence of EOAA, the highest degree of affective impulsivity, and the clearest signs of frontal brain dysfunction. At the other extreme, those with Cluster A and C PDs will show a low rate of violent offending, a low prevalence of EOAA, low affective impulsivity, and lack of frontal brain dysfunction. Preliminary results will be reported.

#### 36.4. Social Climate in a DSPD Unit

Jacqueline Stacey, *University of Nottingham* (jacqueline.stacey@notshc.nhs.uk)

Kevin Howells, *University of Nottingham* (Kevin.Howells@nottingham.ac.uk)

The assessment of newly admitted patients and the measurement of functioning pre- and post- therapeutic interventions are routine aspects of the clinical service at DSPD units. In addition to the assessment of the individual patient, it is also important to assess the institutional climate within which treatment is delivered. The importance of institutional climate has been recognized for over 30 years, largely as a result of pioneering studies by Rudolph Moos (1997). Positive climates are likely to promote mental-well-being, reduction in environmental stress, effectiveness of specific therapeutic interventions and maintenance of high morale in staff. An important advance in this field has been the development of scales to measure social climate in forensic settings. In this paper, social climate on the Peaks Unit is described in a preliminary and 6 month follow up study using Schalast’s ESSENces scales. Comparisons are then made between the studies and a further study carried out within the Personality Directorate. Clear differences emerged between staff and patients in their perceptions of the climate on their wards with significant variations between wards and directorates. The paper concludes by identifying future work required in this area.

## 37. Dangerous Women

### 37.1. Themes on Homicidal Women in Finland

Hanna Putkonen, *Vanha Vaasa Hospital, Helsinki, Finland* (hanna.putkonen@vvs.fi)

Ghitta Weizmann-Henelius, *Vanha Vaasa Hospital, Helsinki, Finland* (ghitta.weizmann-henelius@vvs.fi)

*Background:* During the past decade, women have committed ca. 11 % of the homicides in Finland. Previous studies show that the victim-offender relationship seems to differ from the relationships in male homicide.

*Aim:* The aim of the study was to examine the victim-offender relationship and several offender background variables using the thematic solution of multidimensional scaling analysis.

*Method:* The study group consisted of all female homicide offenders who had undergone a forensic psychiatric assessment during 1993-2003 in Finland. The forensic psychiatric assessment reports collected from the archives of the National Authority for Medicolegal Affairs were examined.

*Results:* A total of 108 homicides were committed by women in Finland during the years 1993-2003. The mean age of the offenders was 36 years with a range of 17 to 82 years. In 18 % of the cases there were multiple offenders, and in 7 % of the cases there were multiple victims. Of the 122 victims, 4 % were strangers, 19 % were blood related (in all but one case a child), 34 % were past or present partners, and 41 % were acquaintances.

*Conclusions:* The victim-offender relationship was in accordance with earlier studies. The findings are further discussed.

### 37.2. “Legal Insanity” Decisions: Does the Perpetrator’s Gender Matter?

Jenny Yourstone, *University of Stockholm* (jye@psychology.su.se)

*Aims:* Forensic psychiatric decisions play a key role in the legal process of homicide cases. The aim of this study was to examine whether differences in the treatment of men and women during the legal process can be explained by gender-based biases in forensic psychiatric assessments.

*Method:* A total of 45 specialists in forensic psychiatry, 46 chief judges, and 80 psychology students participated. Participants received a written vignette. Half of the participants read about a female, and the other half about a male perpetrator.

*Results:* The results showed several gender effects on legal insanity assessments and decisions. For both specialists in forensic psychiatry and psychology students the case information was perceived to be more indicative of legal insanity if the perpetrator was a woman than a man. The decision maker's gender also mattered, especially for the male- and the female chief judges.

*Conclusion:* If findings generalize to the court situation, the implications are severe.

### 37.3. Antisocial Personality Disorder and Psychopathy in Women: A Literature Review on the Reliability and Validity of Assessment Instruments

Birgit Völlm, *University of Manchester* (birgit.vollm@manchester.ac.uk)

Although rates of violent crime are low in women compared to men, rates of antisocial personality disorder (ASPD) and psychopathy appear to be high in female offenders. The assessment and management of personality disorders and psychopathy has become a policy priority in many countries due to the significance particularly of the concept of psychopathy for the assessment of future risk. However, developments in forensic psychiatry often ignore gender and the utility of assessment instruments for personality and psychopathy in female samples remains unclear. This paper will present a literature review on the reliability and validity of such instruments in women. A systematic literature search of publications from 1990 onwards covering MEDLINE, EMBASE and PsycINFO was conducted; abstracts were assessed for relevance and full articles obtained as appropriate. Results suggest that ASPD rates are lower in women than in men and that symptoms expressed may be different. The concept of psychopathy appears to be relevant in women. However, its factor structure is likely to be different in men from that found in women. Clinical implications of these findings will be discussed.

### 37.4. Personality and Risk Profile of Infanticidal Women in Buenos Aires

Maria Almiron, *Rampton Hospital, Retford, UK* (maria.almiron@nottshc.nhs.uk)

As part of the homicide research programme of the University of La Plata, a study of maternal filicide was conducted in the province of Buenos Aires between April and June

2005. The study was commissioned with the coordinated action of the Prosecution Service, University of La Plata, Police and Prison Service. Figures of incidence and prevalence of maternal infanticide in the province of Buenos Aires were obtained. All women detained in prison for a filicide offence during the study period were interviewed. Information was gathered around demographic, social, criminogenic and familial variables. A PCL-R and an HCR-20 was completed with all women. All information obtained through interview was cross-referenced with their file information. Results of this study will be presented, compared and discussed during the session.

## 38. Decision-making in the Mental Healthcare Setting

### 38.1. Capacity to Consent to Psychiatric Treatment: Values and Relationships

Gwen Adshead, *Broadmoor Hospital, Crowthorne, UK* (gwen.adshead@wlmht.nhs.uk)

In this presentation, the author will suggest that recent accounts and terms of capacity have ignored relational aspects of personhood, and autonomy. Drawing on Jacinta Tan's work, it will be argued that personal value systems contribute strongly to a service of autonomy and choice-making ability. The author will also argue that relationships with others, and their mental representation, influence the security of personal identity, and thus autonomy.

### 38.2. Pro-Anorexia Discourses and Biomedical Knowledge: The Social, Ethical and Treatment Implications of Conflicting Claims

Anna Lavis, *Goldsmiths University of London* (an50211@gold.ac.uk)

Through an exploration of two seemingly contrasting fieldsites: pro-anorexia websites and a London eating disorders clinic, this research explores how knowledge is made meaningful for anorexics themselves and how this shapes their own sense of illness. Pro-anorexia websites are significant spaces for many sufferers of this condition to appropriate and reconfigure medical information. They claim this 'knowledge' and use it to legitimate claims directly opposed to those of the clinic. The author assesses the role

played by the internet in this process, as anorexics use it to establish virtual communities, shape identities and question or appropriate biomedical definitions of their illness. Such virtual activities generate very different notions of patienthood, ideas of normality and knowledge claims from those in a medical setting. An exploration is therefore done of how medical information is exchanged both on these websites and in a hospital and also, crucially, how it travels across these domains. Acknowledging the circularity of this exchange allows exploration of how pro-anorexia websites actively produce 'knowledge' that may impact on the efficacy of medical intervention and treatment decisions made both by patients and professionals.

### 38.3. Confidentiality in the Treatment of Anorexia Nervosa - The Parental Perspective

Giovanni Passerini, *General Practitioner, Sondrio, Italy* (passegi@inwind.it)

Jacinta Tan, *University of Oxford* (jacinta.tan@nuffield.oxford.ac.uk)

Confidentiality is increasingly important in clinical practice. However, the dilemmas faced by mental health practitioners can be highly complex and difficult to resolve. When treating anorexia nervosa, professionals struggle with dilemmas between involving the families who have to care for vulnerable and physically fragile patients, and respecting patient autonomy. This difficulty is compounded by the fact that confidentiality is subject to several different types of legislation based on different principles, and many of the policies which are formulated for general medical practice may not fit well with the mental healthcare context. The ethical principles, evidence base, legal context, developmental considerations and clinical context relevant to each situation must all be integrated, in consultation with patients and their families, in order to arrive at individually tailored treatment plans for each case, which are sensitive to the views of all, developmentally appropriate, and responsive to changes in the situation or attitudes. In this talk, some empirical findings will be presented of the accounts of dilemmas concerning confidentiality given by parents of female adolescents and young adult women who suffer from anorexia nervosa. Some practical approaches are offered, including clinical practice algorithms, to consider the issues of confidentiality in the mental healthcare setting.

### 38.4. Decision-Making in Treating the Detained Mentally Ill: The Working Psychiatrist's View

Sameer P. Sarkar, *Broadmoor Hospital, Crowthorne, UK*  
(Sameer.Sarkar@wlmht.nhs.uk)

Decision making in mental health treatment is complicated by many factors including competency and level of coercion that can be imposed legally. In this presentation, the author will discuss a real life case of a patient detained in a maximum security hospital where competence was an issue. The case went to the Appeals court in UK who decided that in detained mental health patients, competent treatment refusal can be overridden if medical necessity can be demonstrated and competence, although important, is not the be all and end all in cases of treatment over objection. In addition to summarizing the case law in such cases, the presentation will discuss how a clinician makes such treatment decisions in his daily work. It will discuss what real weight competence has in clinical decision making.

### 38.5. Human Agency and Anorexia Nervosa: A Philosophical Analysis of Patient Accounts

Emma Baldock, *Institute of Psychiatry, London, UK* (emmabaldock@cantab.net)

Is it possible to make a competent refusal of treatment for anorexia nervosa? If competence requires intact information-processing, the answer appears to be yes, but if it also requires having so-called authentic values, the answer may be no (see the work of J.Tan and colleagues). Scrutinising values is ethically controversial in the autonomy-biased West, but in a widely used manoeuvre Tan and colleagues protect themselves from charges of over-paternalising by arguing that anorexic values may be inauthentic because they are caused by mental disorder (see also Department of Health, 1999, Expert Committee report on the 1983 Mental Health Act). This paper presents a method of probing anorexic values without depending in this way on an unelaborated concept of mental disorder. Anorexia nervosa is described in the empirical clinical literature as ‘intentional yet non-volitional’ (e.g. Keel & Klump, 2003 *Psychological Bulletin*). The author draws out candidate definitions of ‘non-volitional’ from philosophical and empirical sources and uses these to inform the analysis of patients’ narratives. It is hoped that the result is a more transparent account of why anorexic values worry us and what kind of justification for involuntary treatment (if any) those worries leave open.

## 39. Detection of Deception in Forensic Settings

### 39.1. Statement Validity Analysis as a Means for Detecting Deception

Jennifer Brown, *University of Surrey* (jennifer.brown@surrey.ac.uk)

This paper will discuss Statement Validity Analysis (SVA) as one means for detecting deception. Originally developed from content analysis, SVA has been revised and refined and largely addressed at children's testimony in sexual abuse cases. The present paper will detail an adaptation to this for use in adult rape cases. A premise of SVA applied to children is that descriptions of sexual activity outside the normal range of a children's developmental knowledge is a feature of the experience likely to be true. This premise does not hold for adults as developmentally they are more likely to have sexual knowledge. Nevertheless, there are features of adult rape accounts that do appear to distinguish true from false. The issue of grounded truth is also explored. The absolute truth of a rape accusation is problematic because often there is no clear-cut independent corroboration. This is a problem for the courts, and why juries seem reluctant to convict defendants, but also presents problems for researchers. An example is given of a statement subjected to SVA in an appeal case. The evidential issues for research and courts are specified.

### 39.2. Individual Differences in the Detection of Deception

Charles F. Bond, Jr., *Texas Christian University* (c.bond@tcu.edu)

To illuminate individual differences in the detection of deception, the author reports a psychometric analysis of findings from over 100 studies. In the relevant literature, people classify others' statements as lies or truths in real-time with no special aids. Meta-analytic results show that people barely differ in the ability to detect lies. Investigators who purport to uncover ability differences have, in fact, found random noise introduced by the brevity of their lie detection tests. While differing little as detectors of deception, people differ more in their skill at perpetrating deceit. Those who are appear credible when lying also appear credible when telling the truth. I discuss implications of these meta-analytic findings.

### 39.3. Deception Detection: Evaluations of Truthful and Deceptive Autobiographical Accounts

Deborah Bradford, *University of New South Wales* (dbradford@psy.unsw.edu.au)

Detection of deception and the accuracy of credibility assessments is an important forensic concern. Recently, the application of text-based techniques to assess deception, such as Criteria-Based-Content-Analysis (CBCA), Reality Monitoring (RM) and the Aberdeen Report Judgment Scales (ARJS), have shown promising results in distinguishing between truthful and deceptive accounts. This study examines the utility of the ARJS to distinguish truth and deception in accounts of personally significant autobiographical events. Participants provided truthful and deceptive accounts of confessions or victimisation statements. All narratives were transcribed and assessed by two lay observers trained in the application of ARJS criteria. Findings are discussed in terms of the performance of the ARJS to successfully distinguish truth and deception and trained observers' ability to successfully classify truthful and deceptive accounts.

#### 39.4. Detecting Deception: The Problem of Ecological Validity

Lynsey Gozna, *University of Surrey* (l.gozna@surrey.ac.uk)

Detecting cues that are associated with lying has largely been undertaken in the laboratory within an experimental paradigm. This has led to a range of findings about nonverbal indicators made by liars such as gaze aversion or speech errors but which have also been found in anxious truth tellers. Research indicates that police officers are no better at detecting deception than the lay public. However, much of the experimental research lacks the complexity of real world situations. Often the subject of the deception for experimental participants is inconsequential, they are exposed to fragments of a scenario in which stooges are asked to lie, and experiments are not tightly controlled for possible contaminating effects. Police officers in the real world have much richer sources of contextual information available to them and often have a history with suspects whom they are interviewing. This study reports the challenge presented by conducting ecologically valid observations in the setting of the police interview room. It details findings which reveal the strategies used by suspects in which they admit their offences, partially lie or fabricate their alibis. Practical implications of this work are discussed.

#### 39.5. Deception Detection: Mind Reading and Strategic Disclosure of Evidence

Pär Anders Granhag, *Gothenburg University* (pag@psy.gu.se)

In this paper the author views and uses mind reading in an instrumental (vs. descriptive) manner, and defines the goal of mind reading as improving the ability to predict other people's behaviour. It is argued that this ability can help detect deception and truth when interviewing suspects. Biases which may cause misreading of other people's minds (and subsequent behaviour) will be described. Furthermore, the author shows how the reading of a suspect's mind can be improved by utilizing psychological theory on fundamental human behaviour (e.g., aversive conditioning; avoidance and escape) and reasoning (e.g., the illusion of transparency). The predictions are tested empirically following psychologically informed mind reading on guilty and innocent suspects' verbal behaviour. Finally, a description is given of how the outcome of mind reading can be translated into interview tactics (strategic disclosure of evidence), and ultimately improve our ability to detect deception and truth.

### 39.6. The Psychology of Deceit: An Evolutionary and Legal Perspective

Danielle Andrewartha, *Monash University* (dmand2@student.monash.edu)

This paper concerns the psychology of lying and deceit and the difficulties such behaviour poses in the context of litigation. The paper focuses on verbal and non-verbal lies to others, lies by act and by omission, and self-deception. First, these concepts will be defined, with appropriate examples given, drawing from both human and animal experience. An exploration of the evolutionary origins of lying and deception will then take place. This will involve an analysis of the development of the human mind, both conscious and unconscious, and its role in our daily interaction and communication with others. This leads to a discussion as to why the 'need' to lie arose - the biological and social functions it developed to address - and culminates with a critique of the role deception serves in our contemporary society. This analysis highlights both the positive and negative aspects of untruths in human relations. Finally, the presentation specifically addresses the difficulties lying and deception pose in relation to litigation. This involves an analysis of the impact dishonesty has upon the reliability of evidence and the decision making process generally, and briefly highlights the importance of effective and accurate mechanisms for lie detection in our judicial system.

## 40. Developmental Well-Being: Pre-Birth through Age 3

## 40.1. The Right to Thrive

Craig Ramey, *Georgetown University* (ctr5@georgetown.edu)

Children are naturally dependent upon care from others, often parents and kin, their physical and spiritual communities, and their political and international context. Young children's vulnerability, coupled with their inability to self-protect and self-nurture, creates a need to establish policies and practices to ensure thriving. Essential to children thriving are three vital issues. The first is an appreciation by key adults for the fact that neglect, abuse, and/or living in a chaotic world without providing counterbalancing positive supports results in harm – both immediate and long-term. The well documented consequences of extended and severe maltreatment will be reviewed, along with evidence of effective ways to provide preventive and educational interventions. Without affirmation of the right to thrive, children cannot become fully competent and contributing citizens. The second issue is that all children need multiple sources of support, from infancy through independence. Children's needs may be met well by many family units, but families themselves are vulnerable to economic, political, and health challenges that can prevent them from being adequate sole providers for their children. This need for multiple supports to promote children's thriving should be addressed through both natural informal networks and systematic formal systems of care that provide surveillance and timely help in urgent situations. Third, children's right to thrive should be established worldwide through policies that are adopted at the local community level, endorsed by diverse faith-based and political organizations, and publicly reviewed by national and international groups. This proposed international policymaking provides a framework to assist those places that face exceptionally difficult times with inadequate resources to meet the essential needs of children. Further, the process of refining and re-affirming the basic right to thrive can enhance a global agenda in which leaders increasingly see direct linkages between their future success and how their children are treated.

## 40.2. Identifying Child, Family, and School Factors that Promote Developmental Well-Being among Children Exposed to Social Risks

Margaret Burchinal, *University of North Carolina at Chapel Hill* (burchinal@unc.edu)

Children, especially African American children in the United States, exposed to multiple social risk factors during early childhood, often experience academic difficulties. It is therefore important to identify protective factors to ensure that these children have economic and social opportunities as adults. Several studies, including those described in

this session, demonstrate that vulnerable children have substantially better academic outcomes when they experience higher quality of home and child care environments during early childhood, and thus acquire more advanced child language and social skills at entry to kindergarten. Research studies provide fairly clear evidence that children who experience multiple social risk factors, such as poverty, having a single, very young, or depressed parent, or living in a large household, are much more likely to start school without adequate readiness skills and continue to fall behind their more advanced peers. However, it is also clear that such at-risk children are much more likely to meet academic standards if they experienced either high quality child care or parenting prior to entry to school. These children learn good language and social skills from supportive relationships with caregivers at home in child care, and those skills keep them from falling further and further behind after they enter school. While in school, evidence suggests characteristics of the schools can also enhance the academic skills of children exposed to social risk factors. Formal after-school programs that combine activities with studying have been shown to promote academic skills. Attending schools in which in less than half the children are from low-income families has also been linked to better academic skills among at-risk children. These studies suggest that public policies need to ensure that vulnerable families with infants, toddlers, and preschoolers have access to high quality child care or to programs that enhance parenting skills. Further, the policies should permit and encourage these children to attend schools that serve economically diverse children and that offer high quality after school programs.

### 40.3. Experiencing Intimate Partner Violence

Ayman El-Mohandes, *George Washington University* (sphaxe@gwumc.edu)

Women living in poverty often experience abuse and violence from their intimate partners. A critical aspect of this is its impact on an unborn child, with low birth weight a major factor. As we are concerned about the developmental well-being of the next generation, it becomes important to provide interventions that ameliorate these conditions. Psychosocial risk is a significant contributor to reproductive morbidity in minority populations, and it has been suggested that exposure to intimate partner violence is one of the risk factors. The question seeking answers is: Can an intervention into the lives of these vulnerable African American women improve the birth weight of their newborns? A study was conducted to test the efficacy of an integrated psycho-behavioral intervention for smoking, intimate partner violence, depression and environmental tobacco smoke exposure, in reducing reproductive morbidity in African American mothers who had a history of intimate partner violence (IPV) within the past year. The results of the study indicate that an integrated psycho-behavioral intervention during pregnancy for African American women improves the birth weight distribution of their

newborns with a significant reduction of babies born in the very low birth weight category.

#### 40.4. Policies and Practices Contributing to the Development Well-Being of Military Families with Infants and Toddlers

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Officers and enlisted men and women serve all over the world with the United States Army, Marine Corps, Navy, Air Force, Coast Guard and Reserve Component. They experience frequent deployments and moves, usually involving their families. The focus in this paper is on families, in particular, families with infants and toddlers. The United States military provides health care for more than two million children of active duty and retired service members, about 650,000 of which are ages 0 to 4, through a comprehensive health benefit (TRICARE). Families also have access to Department of Defense programs such as Family Support Centers, Child and Youth Programs, New Parent Support Program, Family Advocacy Program, Exceptional Family Member Program (EFMP), and Army/Navy/Air Force/Marine Corps Relief. Extensive referral services through Military OneSource link families with resources in communities. Through these and other programs, the Department of Defense provides support for deploying and returning military members and their families; developmental clinics and specialized health care for infants and toddlers with special needs; referrals to a wide range of services nationwide; and research initiatives to seek better understanding of the needs of infants, toddlers, and families and to develop better ways to address these needs. However, many challenges and unmet needs remain that must be addressed to ensure the developmental well-being of these families. Challenges include the stress of military life, meeting the needs of infants and toddlers with special needs and developmental delays, and caring for young children with complex health conditions. System-level challenges include complexities of delivering the health benefit to beneficiaries across the world, inconsistencies in available services and funding, active duty/retiree differences in benefits, rules and regulations that change, and the need for relevant regulations and shared language across the system. Ongoing efforts will further the Department of Defense commitment to the well-being of these children and families.

## 41. Developmental Well-Being: 4 through Age 12

### 41.1. Obstacles and Resolutions to Help Families Foster Developmental Well-Being

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Families are the basic units that have a lifelong commitment to children's well-being. Well-being is a multidimensional concept that includes a child's (1) health and health behavior, (2) social and emotional skills and the ability to cope with challenges that arise, and (3) educational and intellectual competence to become an independent thinker and contributing citizen. Families increasingly face major obstacles to providing the continuity and level of care needed to nurture their children. These range from those that are external to the family, such as natural disasters, disease, famine, unemployment, and political turmoil and war; internal to the family, such as domestic violence, divorce, untreated mental health problems in parents; and related to exceptional conditions to meet a child's special needs, such as disabilities, serious illnesses, and injuries. This presentation will provide examples of creative solutions to such obstacles and highlight new, effective interventions families can use. Themes of this presentation are the interdependence of children's health and education and the importance of families being able to understand, use, and provide long-term support for community programs to ensure the well-being of their children. Characteristics of families that are successful in overcoming obstacles will be described, along with practical strategies to compensate for and overcome external threats to children's developmental well-being. Vitaly important is a network of policies that are in place that families can understand and benefit from, and that can serve as the framework for identifying high priority needs for training of health and education professional in different parts of the world. Research about the effectiveness of the outreach programs and supports for families offers further help to local, national, and global efforts, provides key information to help monitor and improve services and supports to families.

### 41.2. From Resilience to Well-Being Street Situation Children & Comprehensive System

Aurea Alcalde, *San Marcos National University* (aurealcalde@gmail.com)

The purpose of this research was to know the Resilience status – identifying psychic inner world factors associated with their construction – in Street Children, a risk population of Metropolitan Lima, Peru, a developing country. The study was conducted in collaboration with Maria Julia Alcalde, a Clinical Psychologist, and Alejandra Palacios Banchemo, a Social Psychologist. The sample consisted of 20 male children, 12 to 13 years old, with basic education not confirmed, recently admitted to a shelter home after a long stay on the streets. Resilience Predictors were obtained through a selection of Rorschach variables and a constellation of variables according to the Comprehensive System, whose validity and reliability have been probed in order to meet scientific criteria. Finally, relevant information was obtained -quantitative and qualitative- revealing the potentials and resources of the studied people. An attempt at articulation or integration was made with the attained results (psychic inner world factors: strength and weakness) in terms of detection, intervention and promotion of Resilience, with two approved and adapted models, applied to Latin America reality: a) Sources of Resilience, Edith Grotberg (1993, 2003): I am, I can, I have, and b) Pillars of Resilience, system actualized by Néstor Suárez Ojeda (1997): Introspection, Autonomy, Relationship capacity, Initiative, Creativity, Morality, Consistent Self-esteem. Resilience is a human capacity, based in a meaningful vinculum established between the subject and one or more persons of the environment. Resilience can be obtained gradually and be fortified by protective factors. In consequence, it is identified as a very valuable element for the growth of infant and juvenile populations. If positive elements of the reality are emphasised, the protective factors will be increased, diminishing risk possibilities. In consequence, the responsible adults in charge will be able to design and apply intervention programs oriented to propitiate resilient attitudes and behaviours beyond a healthy growth, and better conditions in terms of quality of life, well-being and the future.

### 41.3. The Impact of Media on the Developmental Well-Being of Children and Youth

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Research on the impact of media on children has proliferated recently. Additionally there is new research on positive psychology and resilience in children. These different bodies of knowledge can help with the understanding of developmental and health related threats embedded in the media as well as possible strengths that the electronic age can foster. Media have the power to influence behavior, values, and moods. We now have the opportunity to use media as a resource for the enhancement of the development of the well being of children and youth. The implications for public policy of this new research will be considered. A review of current laws in the U.S. and other countries will inform

our discussion. Censorship is an anathema to the American people, but what kind of monitoring, rating system or regulation can be adopted without threatening free speech? The possibility of creating a new profession with special expertise and responsibility for protecting children and youth from harmful exposure at vulnerable stages will be explored. Further research is needed to clarify distinctions with respect to the most vulnerable populations affected by media and specific content. Also, how can media engage a new profession that will serve to self-regulate and what fields of study might best be included in the training of such a new profession. More broadly, how can we use the media for global transformation to benefit children's health and well being?

#### 41.4. Mathematically Gifted Children: Developmental Brain Characteristics and the Prognosis for Well-Being

Michael W. O'Boyle, *Texas Tech University* (michael.oboyle@ttu.edu)

Recent research in the field of cognitive neuroscience has demonstrated that the brains of mathematically gifted children are both quantitatively and qualitatively different from those of average math ability. Specifically, they exhibit enhanced development of the right cerebral hemisphere, and when engaged in the thinking process, exhibit extensive reliance on one of its specialized cognitive capacities, namely mental imagery. They further manifest heightened interhemispheric cooperation and exchange of information between the left and right sides of the brain, reflecting an unusual degree of neural connectivity. In light of these unique brain characteristics, educators have been encouraged to develop instructional techniques and classroom activities that capitalize on the special learning styles of children who are gifted in mathematics. Such techniques may include multi-modal lecture presentations and/or other classroom activities that highlight the use of mental imagery, both of which may readily engage the unique processing characteristics of the mathematically gifted brain. In addition, the creation of specialized outreach programs in math/science that provide supplemental learning experiences not often supplied by under-staffed and under-resourced school systems, have proven particularly valuable to the development of math gifted children. Until such measures are placed into practice on a regular basis, however, the risk of underachievement of some of our very best young thinkers looms all too large. Research by developmental scientists frequently reports that many math gifted children are "bored to tears" in their current classroom environments, a fact that contributes to at least two undesirable outcomes: (1) "Dumming down" to better fit in with classmates, and (2) engaging in disruptive classroom behaviors which ensures that no child ever learns. Policy decisions specifically designed to attend to and provide the needed support for math gifted children are needed to optimize their learning potential. Simply put, failing to do so severely compromises their (and indirectly our own) developmental well-being.

## 42. Developmental Well-Being: 12 through Age 29

### 42.1. Developmental Well-Being for Adolescents, Youth and Young Adults

Matilde Maddaleno, *Pan American Health Organization, Washington, USA*  
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Young people in this age group represent 30 percent of the world's population. They are the future of the world. One quarter of this age group lives on less than one U.S. dollar a day, according to the World Bank. If poverty is defined as more than just lack of income, and includes low levels of education, poor health, insufficient political and social voice and powerlessness, young people suffer from a lack of these assets more than any other group. This age group has resurfaced on the political agenda mainly due to age-related problems and conflicts, including early pregnancy, HIV, alcohol and substance use, delinquency, and violence. This problem approach paradigm has driven our interventions and programs. However, we need to move to a new paradigm of well-being and healthy youth development. Efforts have been made at the national level in many countries to improve laws and social policies to promote young people's well-being. However, much more is needed. Interventions need to have an ecological model framework with a better integrated approach, focusing on individuals, families, communities and societies, using evidence based interventions, scaling them up, and evaluating them. Some questions needing answers are these: What help do parents need in raising healthy adolescents in a changing world? What help do schools need to improve their quality? What help do communities need to impact young people's well-being? What interventions help to improve gender inequity? It is highly recommended that youth be involved in policy decisions and social agendas that reflect an integrated approach improving intersectorial and inter-agency efforts through strong strategic alliances.

### 42.2. Promoting Resilience in Vulnerable Youth through Interagency Collaboration

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As part of the non-profit sector, community based organizations and government institutions that work with adolescents and youth face a complex set of challenges. One has to do with providing direct services, using a human development model, and including the promotion of resilience, to those youth who live at social disadvantage. Another one has to do with the organizational requirements to be constantly adapting to the community and individual needs while working in a collaborative manner and keeping a certain level of effectiveness. To date, major emphasis has been given to direct services. However, efforts need to be made with the second aspect, which is coordinating with other institutions, in order not to replicate efforts or allow individuals to fall between the cracks of the different services provided. In Chile, 29% of children and adolescents live under extreme poverty, which is usually associated with high drug abuse, school drop-out, teen pregnancy, street and family violence, and mental health problems. Even though many government institutions were reaching out to these adolescents and families, these services were offered in an isolated way, and sometimes replicating efforts and resources. In 2003 the Drug Abuse Prevention Program (CONACE), along with the health Ministry, the Education Ministry, the Child Protection Government Institute (SENAME) as well as with other government institutions, developed a comprehensive psychosocial intervention aimed at creating a stable and sustained relationship between a mentor and the adolescent, including the promotion of resilience, in order to take the individual off the streets, offer social inclusion opportunities planned in coordination among all participating institutions. The model relates, coordinates, strengthens and follows the whole social inclusion process based on a shared theoretical framework and plan. To date, many children have gone back to school and reestablished their family and social relationships, saving social and economic resources for the country.

### 42.3. Developmental Well-being in the Western Hemisphere: The Challenge and Potential for Special Needs Youth

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Medical advances and inclusive education policies have resulted in communities that include more people with special needs in the prime productivity years from 12-29 years old. In some indigenous communities, it has been estimated that nearly a third of school-aged children “are handicapped in some way”. Certain practices and policies associated with health, education and family supports demonstrate how children with special needs can flourish. As they grow up, the developmental roles associated with school, family and work become more challenging, however. Most literature and research focus on supports for special needs from birth through school age. Adolescence and young adulthood have received much less attention. Culture, practices, and policies create environments where the meaning of disability becomes more or less prominent. For

example, the phenomenon of the “six-hour handicapped child” describes conditions where disability is primarily academic and children are indistinguishable from others in their community outside the classroom. During the years from 12 to 29, the impact of special needs and the social structures needed to support different types of disabilities may change dramatically. The purpose of this paper is to identify formal and informal social structures that promote resilience during the period from 12 to 29 years old. A model designed to characterize the transition to adulthood for persons with special needs will be presented. The paper takes the perspective that practices and policies of society can foster resilience for all young people including those with special needs and that the periods of adolescence and young adulthood are distinctive in the challenges and potential associated with disability. Exemplars will be selected from developed and developing countries in the Western hemisphere. The social structures to be addressed include education, employment, health and social services as well as customs associated with marriage, childbearing and childrearing.

#### 42.4. Developing Appropriate Community and Court Intervention Programs to Reduce Youth Violence: Examples from Southwestern Arizona and Southeastern Brazil, with Suggestions for Application in Other Regions

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Youth involvement in conflict and violence is a global problem. Inter-group conflict and gang violence, interpersonal aggression and social exclusion fuel the problem, as do geopolitical and economic conditions. Political instability, unequal access to material resources and power relations with police and community agencies and rejection by peers, all create social challenges for young people, whether they be street children in Brazil, children of Mexican immigrants in Arizona, children from a variety of backgrounds who grow up in inner-city poverty, or children from mainstream culture who live in relative affluence. The presentation will identify several specific factors research has indicated are correlated with escalating levels of youth violence, namely: Stress; social expectations; cognitive attributions; media influence; peer influence; social identity; and social learning. Case study data from violent adolescents is included. Then, specific strategies for reducing adolescent aggression by reducing prejudice, building successful mentoring relationships and anger management training are highlighted. Examples of how these strategies have been incorporated in adolescent drug courts, community development projects and community justice programs in Arizona and in

faith-based relief programs in Brazil, are then described. Possible avenues for furthering the use of these strategies in preventive as well as corrective programs in a variety of settings, are then explored. Precursors for violent behavior, research on adolescent violence from several countries and strategies for working with adolescents to prevent future violence are analyzed and described

## 43. Developmental Well-Being: 30 Plus

### 43.1. Issues in Promoting Developmental Well-being in the Western Hemisphere

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This paper addresses four issues related to promoting developmental well-being (DWB) in the Western Hemisphere: (1) How adequate is the knowledge basis for such an undertaking; (2) What is the current state of knowledge and acceptance of the concept; (3) Which strategies might prove most effective in promoting DWB in the Western Hemisphere; and (4) How might elements of current promotional strategies be combined for promoting DWB in the Western Hemisphere? The knowledge base is considered weak: there is no coherent theory of DWB; few sound measures of DWB exist; and there are no indicators that can be combined for use in assessing effects of social policies that could affect the DWB of persons. Needed actions are discussed. The current knowledge base remains limited, but appears to be growing. Three strategies are described and assessed for use in promoting DWB. These are dissemination strategies, diffusion of innovations theory, and social marketing. Using elements from all three approaches, some suggestions are offered for promoting DWB in the Western Hemisphere.

### 43.2. Resilience in the Schools and in Working with Street Children

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As adversities are experienced in many settings, young people need to be taught and to learn to understand and to use the skills and strengths of resilience. The Grotberg (1995)

I HAVE - I AM - I CAN resilience model has been used by the author for more than twelve years in a variety of settings. This presentation discusses resilience promoting programs in two very different settings. The first involves two socio-economically diverse schools that have effectively implemented this program to combat bullying, failure, rejection, underachievement and self-harming behaviors. The second uses the resilience model to rebuild or, more correctly, to establish trust with alienated Victorian street youth. Australian statistics indicate that on any given night, one in seventy young people is homeless. That equates to 2800 young persons. Outreach street workers, having established trusting relationships with the homeless youths, are then able to explore options for reconnecting them with the wider community. Significantly, programs and ongoing support for returning to school or finding employment have been successful in giving purpose and direction to these young people and importantly, in improving their sense of self-worth.

### 43.3. Developmental Well-Being of School Leaders and School Cultures

Jerry L. Patterson, *University of Alabama at Birmingham* (jpat@uab.edu)

Janice H. Patterson, *University of Alabama at Birmingham* (janpat@uab.edu)

The developmental well-being of school leaders has a direct connection to the health of school cultures. However, the current research in this field has not addressed this connection, nor has the research addressed the specific attributes of the healthy well-being of school leaders, especially in times of adversity. In the field of school leadership and school culture, there has been an absence of a clearly articulated conceptual framework that describes the dimensions of developmental well-being for individuals and organizations that face adverse conditions. There also has been an absence of concrete strategies to strengthen developmental well-being. The purpose of this presentation is to report on recent research that begins to fill in the missing pieces. Specifically, this paper accomplishes the following: The presenters discuss their research on examining the developmental well-being of school leaders and the corresponding school cultures. The presenters conducted their research in school settings that faced significant adversity and, in the face of adversity, performed at high levels of student performance. The presenters report on three dimensions of resilience that must be in place to achieve the goal of developmental well-being. They also identify six strengths that are critical to the achievement of developmental well-being, both at the individual and the organizational levels. Finally, the presenters discuss possible training programs that agencies can implement to help school leaders and local schools achieve the goal of developmental well-being in the face of adversity.

#### 43.4. Classroom Strategies for Promoting the Resilience and Developmental Well-Being of Children

Janice H. Patterson, *University of Alabama at Birmingham* (Janpat@uab.edu)

For most children in industrialized countries, school is the largest system capable of impacting their developmental well-being. In the last two decades a number of systemic programs have been developed to promote resilience in children in school settings. The Promoting Alternative Thinking Strategies (PATHS) curriculum focuses on developing emotional and social competencies at the student-level through a classroom-based intervention. Responding in Peaceful and Positive Ways (RIPP) is a violence prevention program, focused on grade six that employs a social-cognition and problem-solving model to support the development of appropriate behavior. Such programs are based on the idea that building skills early in a child's life will enhance their resilience and reduce violent or anti-social behavior as they age. Yet, some scholars have cautioned against the adoption of programs to instill resilience and suggested that the emphasis should be on natural processes that emphasize a holistic approach. This presentation will focus on the critical role of the classroom teacher and her approach to classroom organization, pedagogy, content, and classroom management that can provide a natural, holistic approach to strengthening the developmental well-being of the child. Teacher reports of strategies used to promote the developmental well-being of children, such as prosocial bonding, setting clear and consistent boundaries and high expectations, providing caring and support, asking for help when needed, and providing opportunities for meaningful participation will be discussed. Finally, implications for teachers' leadership and professional development will be addressed that help teachers develop holistic approaches for the strengthening resilience and well-being in our children.

### 44. Developmental Well-Being: The Community

#### 44.1. Obstacles and Aids in Changing Laws and Policies Concerning Developmental Well-Being

Elbio Nestor Suarez-Ojeda, *University of Lanus* (pafell@speedy.com.ar)

Whenever a new concept is introduced into society, it challenges the already well-established cultures of education, politics, and services. It requires a major shift in

thinking and behavior to introduce and/or incorporate a new concept. It also takes the commitment of leadership. This paper addresses the role the author adopted to include the concept of resilience into programs and projects in Argentina. This included conducting seminars, workshops and meetings in various cities and incorporating resilience into the curricula of universities and into legislation. There are many obstacles and aids to bringing about change. In Argentina, obstacles included: (1) An irrational resistance to anything that comes from the North, especially from the United States, (2) Fear of some professional groups because resilience may empower communities and families, thus reducing their dependence on established systems, (3) Rejection of change, (4) Corruption of several powers, especially the Traditional Legislative one holding the habit of receiving benefits in order to approve laws, and (5) Vertical structures, very bureaucratic and authoritarian in certain sectors. However, there are favorable factors that make change possible. These include: 1. the attraction of novelty. The term Resilience raised interest for the sake of not being known previously by social, health care, and educational media; 2. The desire to learn in the majority of professionals and health care actors, who make the effort to acquire knowledge and apply it in their professional practice; 3. Presence of innovative political groups attentive to the raising of new constructs, the application of which may contribute to the well-being of the population, especially of the most needy ones; and 4. emergence of innovative universities with a bigger commitment with the people, eager to welcome persons with innovative ideas and the desire to make an effort for the sake of the common well-being.

#### 44.2. Resilience Educational Development for University Education of Health Professionals

Mabel Munist, *University of Lanus* (pafell@speedy.com.ar)

Since 1997 much effort has been made to introduce resilience into the education of students at many Argentine universities. The first formal experience occurred in the Lanus National University School of Nursing. Resilience is deeply related to the assistance role of the nursing profession. And it is vital in those crucial and desperate stages in human lives where the promotion of resilience enhances people's ability to face their dire straits. Thus, it is imperative to incorporate resilience into the syllabi of health related careers. Besides, health professionals are continuously liable to work in woeful and distressed situations that make them vulnerable to stresses that can be ameliorated by resilience. Those were the reasons for incorporating resilience into the Nursing curriculum. Since 1998, in the Lanus National University Nursing Career Program a mandatory course is labeled, A Resilience Module. The Module includes an understanding of what resilience is, and how it is promoted and used. Special attention is given to the promotion of resilience in children and adolescents, as well as the promotion of resilience in people with various diseases. Now, many projects are in the pipeline to

introduce resilience within the Nutritional, Psychological and Occupational Therapy careers in the Tucuman University, in Tucuman, Argentina. The positive experience in the Lanus National University was possible because this university is relatively young with a 10 year history, and its authorities are always looking for innovative approaches. Besides, the presence of the CIER, the International Center for Resilience, in the university, made it possible to work with different department heads. In the case of Nursing, health promotion has become the conceptual core of the curriculum. Further, there is a clear perception of a tight correlation between Health Promotion and Resilience. Conversely, we have found some resistance from the students. For the great majority of them, the concept of resilience is completely new and they have found it more difficult to identify strengths than needs and risks. Classical teaching focuses on diseases and weaknesses. Introducing resilience into other universities has not succeeded as much as hoped. Some of the obstacles have been lack of interest in innovation on the part of the authority figures, conservatism and narrow-mindedness of some faculty members, as well as the bias to hold on to old and fixed models.

#### 44.3. Interdepartmental Education for Patient and Family-Centered Care at the Uniformed Services University of the Health Sciences

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Virginia F. Randall, *Uniformed Services University of the Health Sciences*  
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The medical school at the Uniformed Services University of the Health Sciences prepares physicians for the Military Health System and Public Health System. The medical school follows the traditional departmental organization of universities, addresses accreditation requirements, and operates in the context contemporary challenges in health care. In this environment of sometimes-competing priorities, limited budgets and established requirements, we have integrated teaching on family- and patient-centered care, involved patients and families in developing and teaching medical education activities, and built interdepartmental collaboration for education and research. Developments since 1999 include gathering a large group of patients and family members to help devise and teach innovative activities, initiating a faculty position for an educator to work across primary care departments, and establishing new educational activities in six departments. Patient- and family advisors host home visits in the medical interview course, lead small-group discussions in bioethics, co-teach communication and child development in Pediatrics, and explicate the physician's role in advocating for patients and families in Family Medicine. A new geriatric home visit integrates patients' and families' perspectives in Medicine and a new fourth-year elective explores spirituality in health care. Newly-instituted intersessions provide an opportunity for administrators and faculty from several

departments to collaborate in planning, teaching and evaluating joint activities, some of which will include patients and families. While there are ongoing challenges, these efforts to achieve developmental well-being for the students, faculty, patients and families, result in a more caring community in which we work collaboratively among staff, administration, and patients and families to further patient- and family-centered health care in the Military Health system, Public Health System and other settings in which graduates will practice medicine during their careers.

#### 44.4. Understanding and Building Resilience within the Head Start Community, Serving Low-Income Pregnant Mothers to Children Age Five

Catherine Polanski, *National Head Start Association, Alexandria, USA*  
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Created in 1965, Head Start is the most successful, longest-running, national school readiness program in the United States. The Head Start model has focused on the total developmental well-being of the child in the family and in the community since its inception. It and has been used as model for preschool programs nationally and internationally. Head Start is a federal-to-local program that provides comprehensive education, health, nutrition, and parent involvement services to low-income children prenatal to age five, pregnant women, and their families. Nearly 25 million infants and pre-school aged children have benefited from Head Start. The families served come from an extensive range of ethnic backgrounds including many new immigrants. Head Start programs are community-based and have ongoing collaborative relationships to promote the access of children and families to health care, family, disability, child protective, and child care services. The World Health Organization (WHO) has identified depression as one of the most common disorders in the world. According to a study by the World Health Organization and World Bank, by 2020, depression will cause almost as much disability as blocked arteries in the heart. While depression can and does affect every segment of the population, those most at risk for depression are women of child bearing years, individuals living in poverty and members of racial and ethnic groups, which is the Head Start population. Head Start programs struggle with numerous mental health and well-being issues. They work diligently to increase their capacity to effectively deal with challenging behaviors, child problem behaviors, teacher parent interaction, and parent and staff depressive symptoms. The Head Start model is based on a strength-based approach. Resilience is a key component, families and children entering head start exhibit varying degrees of resilience. Staff work to promote resilience, well-being and self-sufficiency.

## 44.5. The Role of Forensic Psychiatry in Developmental Well-Being

Mark Mills, *Columbia University* (mjmill@forensicsciences.com)

Forensic psychiatry is the application of psychiatric principles (typically, the diagnosis and treatment of mental disorder and other mental states) to issues that arise in the law. Such legal issues include insanity, competence for trial, testamentary capacity, professional malpractice, civil commitment and psychic injury – to name only some of the more frequent occurring issues. When forensic assessment occurs (and for various reasons it may not occur, for example the refusal by a criminal defendant or the fact that the individual is deceased) it typically occurs over a few hours to a day and is a one-time occurrence. Further, because most assessments occur at the behest of one of the parties (in litigation), as opposed to the ideally neutral court, evaluatees are often guarded: particularly when facing an evaluation from someone retained by the other side. That guardedness is not unwarranted: some forensic experts allow themselves to become ‘guns for hire’ and make findings that appear uncomfortably close to results that the hiring party would wish. How then can such assessments lead to developmental well-being? Adroit assessment should not only lead to the acquisition of the required information necessary to address the specific legal issue(s), but should also lead to the evaluatee learning something useful, and occasionally vital, about his/her situation. A series of examples will be provided where in some cases, quite unexpectedly, the forensic assessment leads to the evaluatees completely reassessing his/her situation and (occasionally) life. Surprisingly, such reassessments appear to occur, at least in the author’s experience, as frequently in criminal matters (in contrast to civil ones), where the risk of dissembling and denial would appear greater.

## 45. Developmentally and Empirically Based Assessment of Youth

### 45.1. The Importance of Developmentally and Empirically Based Assessment of Youth in the Legal System

Michele Peterson-Badali, *University of Toronto* (mpetersonbadali@oise.utoronto.ca)

Young people involved with the youth justice system are more likely than those in the general population to have clinical and learning needs (e.g., psychiatric diagnoses, learning disabilities). Some of these constitute criminogenic needs – i.e., issues that have an impact on the likelihood that a young person will re-offend. Others are not related to offending behaviour but, where youth are in the ‘care’ of the justice system, should be identified and addressed. Appropriate assessment is thus critical to meet the needs of youth involved with the justice system as well as to further the goal of public protection through desistance from criminal activity. Such assessment should be both empirically-supported and developmentally-based. This presentation will describe the foundations of good assessment for youth in the justice system. The principles of risk need, and responsivity (e.g., Andrews & Bonta, 2004) will be addressed within a developmental framework and implications for assessment of youth in the context of the justice system will be discussed. This discussion will provide the foundation for the other papers in this symposium, which present cutting-edge research related to the assessment and treatment of young offenders.

## 45.2. Empirically Based Assessment of Juvenile Firesetting

Sherri MacKay, *University of Toronto* (sherri\_mackay@camh.net)

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Diane Warling, *University of Toronto* (diane\_warling@camh.net)

*Background:* Given accumulating evidence that many juvenile firesetters have clinically significant disorders and a high probability of recidivism, evidence-based approaches to risk assessment and management are overdue.

*Aims:* The present study reports risk assessment and follow-up findings from TAPPC, a brief intervention program for juvenile firesetters.

*Method:* The sample consisted of 150 juvenile firesetters aged 6–17 years. The assessment included parent and youth structured interviews and questionnaires to evaluate the presence of risk factors related to the youth’s firesetting behaviors and non-firesetting psychopathology. A cumulative risk score was calculated for each youth. Participants were followed 18 months after assessment.

*Results:* Almost 25% of the sample had further fire setting by follow-up. Higher risk scores at assessment were associated with a greater proportion of youth having firesetting recidivism.

*Conclusion:* Cumulative risk models provide a promising approach for risk assessment and treatment planning with juvenile firesetters.

### 45.3. Crime Prevention with Young Children: Evidence Based Approaches to Clinical Risk Assessment and Management

Leena K. Augimeri, *Child Development Institute, Toronto, Canada*  
(augimeri@childdevelop.ca)

Thinking has shifted over the past two decades from violence prediction to risk assessment and management and structured decision guides have begun to bridge the gap between research and practice. This presentation highlights the Early Assessment Risk Lists for boys (EARL-20B: Augimeri, Koegl, Webster, & Levene, 2001) and girls (EARL-21G: Levene et al., 2001). These devices allow clinicians, educators and others to identify high-risk children at an early age and direct interventions accordingly. The EARLs are used to increase clinicians' and researchers' understanding of childhood risk factors, construct risk summaries and create clinical risk management plans for children and their families. The devices are reliable and total scores predict adolescent and adult criminal involvement (Augimeri, Koegl, Levene, & Webster, 2005). However, further analyses reveal the importance of understanding how individual risk factors relate to one another and combine to produce increased overall risk independently of the total score (Augimeri, 2005).

### 45.4. Efficacy of Matching Services with Youths' Clinically Identified Treatment Needs

Tracey Vieira, *University of Toronto* (traceyvieira@rogers.com)

An empirically supported model of service delivery for young offenders attends to the principles of risk level, criminogenic need, and responsivity. To date, research assessing this model has generally evaluated broad treatment services and neglected to incorporate youths' self-reported functioning. The current study evaluates how matching youths with individualized services according to these principles impacts recidivism and subsequent self-reported functioning. Participants were 130 youths who received a court-ordered clinical assessment at the Center for Addiction and Mental Health (CAMH) in Toronto, Canada. An attempt will be made to contact all youths for a follow-up interview. Participants' probation and clinical records were reviewed to ascertain sentencing details,

and assess the match between CAMH recommendations and received services. Based on the records review, participants' services will be coded as matched, partially matched, or unmatched. Data collection is ongoing. Findings should enhance collaborative efforts between the youth justice system and clinical service providers.

## 46. Developments in Forensic Psychological Assessment and Understanding: Applications to Forensic Mental Health/Aggression

### 46.1. Coping with Prisoners: Current Status and Future Directions

Stephen Brown, *University of Central Lancashire* (slbrown2@uclan.ac.uk)

Carol A. Ireland, *Ashworth High Secure Hospital, Liverpool, UK*  
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Training in coping skills is a key priority for many psychologists in prisons. This is directed toward both coping with prison-related stressors and prevention of re-offending. This paper reviews the knowledge base, finding that the current literature is ill-equipped to provide a secure theoretical or empirical footing for coping training programmes. Promising outcome evaluations of coping training are available. However, there is little theoretical literature that supports programme development, and much of that which does exist appears to be methodologically unsound. Thus, it is unlikely that the effectiveness of current programmes will be maximised. A discussion of research directions, borrowing from the health literature, is presented.

### 46.2. The Inter-relationships between Mental Illness and Personality Disorder in Mentally Disordered Offenders: Exploring the Functional Links

Katie E. Bailey, *Spinney Psychiatric Service, Manchester, UK*  
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Services for mentally disordered offenders generally are provided separately for those offenders suffering from mental illness or those who suffer from personality disorder. Increasingly, however, co-morbidity studies are establishing the degree to which these disorders overlap. When working with mentally disordered offenders, accurate understanding of the patients' presentation is essential if the interventions aimed at addressing offending behaviours are to be effective, and risk assessments are to be accurate. This presentation is based on the assessment of fifty patients detained in a medium secure psychiatric hospital during 2003 - 2006. It looks at the inter-relationship between the diagnosed disorders, and then explores the functional links between the disorders, the offending history and violent behaviour exhibited within the hospital setting. This presentation should interest anyone working with mentally disordered offenders, in forensic or psychiatric settings and those with an interest in risk assessment.

### 46.3. The Role of Cognitive Schema in Psychopathy

Fiona Wilks-Riley, *University of Central Lancashire*  
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Jane L. Ireland, *University of Central Lancashire* (JLIreland1@uclan.ac.uk)

Theories that highlight a role for cognitive schema have been developed in the field of personality disorder and not to the related concept of psychopathy (Beck and Freeman, 1990; Young, 1990). Young, Klosko and Weishaar, 2003 suggest that early maladaptive schema (EMS) are at the core of personality disorder. This study aims to identify the nature of cognitive schema that may be associated with different levels of psychopathy and develop a cognitive profile of psychopathy. The participants were a total of 78 male participants from a medium secure prison (n=39) and a high secure hospital (n=39). Cognitive schemas were assessed using the Young Schema Questionnaire (Short Version) and a Semi-Structured Interview. Psychopathy was assessed using the Psychopathy Checklist Screening Version (PCL-SV). It was hypothesised that increased levels of negative and EMS maladaptive schema would be associated with increased levels of psychopathy. The presence of positive schema was identified from qualitative analysis of the Semi-Structured Interview. Contrary to the hypothesis, the presence of negative schemas and EMS were not correlated with psychopathy. The presence of positive schema was found to be negatively correlated with psychopathy. Lower levels of positive schema were concluded as being associated with higher levels of psychopathy.

## 46.4. Hostage Taking in Secure Services: Assessing and Managing the Role of Mental Disorder

Katie E. Bailey, *Spinney Psychiatric Service, Manchester, UK*  
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Carol A. Ireland, *Ashworth High Secure Hospital, Liverpool, UK*  
(carolireland@blueyonder.co.uk)

Traditionally hostage negotiation training has been based on utilizing skills that would work with general offenders. Following an extensive literature search, a training package has been developed in order to equip hospital staff with the skills and knowledge to be able to negotiate successfully with those offenders who suffer from mental disorder. This work focuses specifically on negotiating with patients in crisis situations; for example those involving a hostage. This training package has been based on the Behavioural Change Stairway model (Vecchi 2002) and is the first British training to utilize this; after consultation with the F.B.I. This presentation examines the adaptations that need to be made to the techniques incorporated in this model when negotiating with those perpetrators who are suffering from mental illness, personality disorder and / or cognitive deficits. In some of these cases the recommended techniques are actually counter-indicated. This presentation should be of interest to anyone working in forensic settings, the Police and the military or anyone has specific interest in working with mentally disordered offenders or crisis intervention.

## 47. Developments in Mental Health Jurisprudence of the European Court of Human Rights

### 47.1. Investigating Allegations of Ill-Treatment under the ECHR

Jan Fiala, *Mental Disability Advocacy Center, Budapest Hungary* (jfiala@mdac.info)

This paper will review the requirements of the European Convention on Human Rights (ECHR) to the investigation of alleged ill-treatment in custodial institutions for people with disabilities, such as psychiatric hospitals and social care homes. Different examples of ill-treatment, such as cage beds, leather straps, overmedication, inhumane conditions, etc. will be provided from the presenter's direct experience as the legal officer of the

Mental Disability Advocacy Center. The presenter will outline how these practices violate different articles of the ECHR, and what method of investigation of these violations the European Court requires from the domestic authorities. The current domestic system of investigation in selected European countries will be briefly outlined and shortcomings compared to the ECHR standards identified. The presenter will argue that the current investigative mechanisms do not adequately protect the most vulnerable people with disabilities, as they concentrate on the guilt of individuals and do not take into account the systemic failures of institutional care. Also, access to justice obstacles facing people living in institutions who do not have living relatives will be highlighted. The presenter will outline possible solutions based on the involvement of NGOs and on setting up special monitoring bodies investigating ill-treatment in closed institutions.

## 47.2. What's in a Win?

Barbora Bukovská, *Mental Disability Advocacy Center, Budapest, Hungary*  
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This paper explores limitations of legal remedies provided by international and domestic instruments for violations of rights to people with disabilities and limitations of litigation for enforcement of guaranteed rights. It argues that although law is a crucial, symbolic and strategic aspect of the solution, if it is to help achieve any measure of equality for people with disabilities, the strategy must include more than just legal protection. Before any legal rule can result in truly equal treatment for people with disabilities, the whole society must be educated about the entitlement that all people with disabilities have to be treated with dignity and respect. Thus, the paper explores methods that scholars have alternatively called “political”, “collaborative” or “rebellious” lawyering that is a method of lawyering that involves collaboration with clients and communities to alter structural and societal impediments to equality.

## 47.3. Forced Psychiatric Treatment as a Violation of the European Convention on Human Rights

Yuri Marchenko, *Mental Disability Advocacy Center, Budapest, Hungary*  
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Forced treatment may engage Articles 8 and 3 of the European Convention on Human Rights. The former provision protects private life, and the Strasbourg Court has been quite willing to find an Article 8 violation when treatment is administered against a

person's will. The Court's approach is quite different, however, in respect of Article 3. The physical and mental suffering associated with involuntary administration of psychotropic drugs may often be severe enough to amount to "inhuman and degrading treatment", if not torture, under Article 3. In an apparently discriminatory manner, the European Court of Human Rights has been apt to lower the degree of scrutiny whenever interference with a person's bodily integrity has a "therapeutic" purpose. In *Herczegfalvy*, a sole landmark case on the issue, the Court did open the door to the application of Article 3. But it did so rather shyly, making it quite easy to escape the Article 3 scrutiny altogether. Hopefully, the ECHR jurisprudence will eventually evolve towards a more rigorous approach; for the distinction that has been drawn so far between forced treatment and other forms of interference with one's integrity is based less on principle or logic than on prejudice.

#### 47.4. Human Rights Implications for Older People with Impaired Capacity in Nursing Homes

Paula Scully, *Barrister, Brisbane, Australia* (paulascu@yahoo.com)

The spotlight of human rights laws is rarely placed on the human rights of older people with impaired decision-making capacity who are placed, sometimes forcibly, in nursing homes for the duration of their lives. International human rights jurisprudence has focused more on the rights of adults with mental health problems. The case of *HM v Switzerland* [2002] ECHR 157 has caused concerns to human rights practitioners as it failed to grasp capacity issues, the irrelevance of HM's subsequent compliance with her placement, and placed undue weight on her freedom of movement. The subsequent case of *Storck v Germany* [2005] ECHR 406 is helpful to future challenges to our complacency about the legal and human rights of older people.

## 48. Developments in Personality Disorder Services and Research

### 48.1. Recent Personality Disorder Service Developments in England

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The development of a wide spectrum of personality disorder services is an important objective in modernisation of both mental health and criminal justice services. Since 2004 the UK Department of Health and Home Office have been developing pilot services for those at risk of serious self harm and individuals presenting the highest risk of harm to others as a result of their personality disorder. Pilot services have included developments led by service users as well as more traditional medium security and community based managed independent living. Whilst the evidence base for interventions has been followed we have experienced the requirement to look beyond psychiatric practice for effective engagement and the establishment of intervention pathways over the longer term. In 2005 the challenges facing these innovative services were presented to the IALMH Congress in Paris. Following independent evaluation and a series of service reviews we can now present current learning from the work so far and identify the next steps required in policy, practice and agency design, and new areas of enquiry.

## 48.2. Recent Developments in UK Personality Disorder Research Approaches

Edward Kane, *University of Nottingham* (eddie.kane2@btinternet.com)

The paper reviews the work of the Personality Disorder Institute (PDi). The PDi is a new international Institute established to develop and co-ordinate the field of personality disorder research. The Institute organises its work into five domains: Service Evaluation and Development, Organisational Research and Development, Research Methodology, Practice and Dissemination, Law, Ethics and Policy and Education and Training. The paper will also present an outline of the Institute's new training programmes for community teams supervising high risk offenders. The work of the Institute's international Journal, published by Wiley, will also be discussed. The Journal aims to unify the three currently distinct literatures around DSM/ICD10 diagnosed personality disorders, offending behaviours and psychopathy.

## 48.3. Seven Years at Risk in the Community: The Role of Developmental Trauma and Personality Disorder in Predicting Failure in Sex Offenders

Jackie Craissati, *Oxleas NHS Trust, Kent, UK* (Jackie.Craissati@oxleas.nhs.uk)

Simple risk prediction tools are now commonplace in the UK, but with a low base rate for sexual recidivism, they have limited utility in identifying those sex offenders most likely to fail in the community. Research data were compiled on all 310 contact sex offenders coming before the Courts between 1993 and 2001 and treatment was provided to half the sample. A preliminary follow up study found that four key developmental variables - in addition to a static measure - greatly enhanced the capacity to predict community failure (Craissati & Beech, 2005, 2006). Subsequent research has confirmed that these variables from childhood are comparable to a diagnosis of personality disorder in adulthood. This paper reports on the longer term follow up of the sample over a period of at least seven years at risk.

#### 48.4. 'Indigenous' Patients and 'Cosmopolitan' Staff in Dangerous and Severe Personality Disorder (DSPD) Units

Nick Manning, *University of Nottingham* (nick.manning@nottingham.ac.uk)

Ethnography has produced some of the most enduring insights into mental health services in past years, epitomised by Erving Goffman's study "Asylums". Yet in recent years this approach has been less commonly reported in the literature. This paper reports on an intensive ethnographic study of the emerging culture of DSPD units in the UK, funded by the UK Department of Health Forensic R&D Programme. Key themes of security, therapy and ward culture will be examined using a framework from critical anthropology that has contrasted 'indigenous' people as the objects of research, with 'cosmopolitan' researchers who have entered the field in search of new knowledge. DSPD units have been funded in part as pilot services in the quest for new 'cosmopolitan' knowledge about 'indigenous' personality disorder. How does this tension play out in terms of security, therapy and culture on these units? What can be learned about the ways in which both indigenous and cosmopolitan members of these units develop the working culture and structure the daily life of the units?

## 49. Disability Rights and the Law I

### 49.1. Market Driven Legal Presumptions and the Implications for Disability Rights

Marcia Rioux, *York University* (mrioux@yorku.ca)

This paper will explore the implications of using rights principles as the basis for legal decisions in the field of disability and mental health law. It will consider the relationship of substantive issues in law that presume biological disability as a natural principle on which to form the basis of legal decision-making as contrasted with the limited body of law that builds on human rights principles. The legal construction of inequality is built into the nature of both the disabled person in law and into knowledge production leading to a presumption that a positivist paradigm is essential to test the parameters of rights entitlements. The paper will argue that most cases are not found by the courts to be cases of rights but rather are reduced to issues of service delivery and service quality. It will conclude with an argument that a market driven perception of what is just and fair and what is discriminatory reins in the creative potential of the legal notion of equality to effect social change and to radicalize the concept of equality for people with disabilities.

## 49.2. Disability, Rights and Law: Rights as an Advocacy Tool

Lee Ann Bassler, *La Trobe University* (l.bassler@latrobe.edu.au)

The process of drafting a UN Disability Convention has ensured that people with disabilities and the rights of people with disabilities are on the law and policy agenda both globally and locally in developed and developing nations. Increasingly, human rights principles, largely developed in the international arena, are being used as an advocacy tool in the employment sector, in the service delivery arena and in domestic courts. Drawing on examples from a number of countries, this paper considers the way in which the principles underpinning human rights – human dignity, equality, inclusion and participation – can be mobilised in advocating for people with disabilities and the way in which human rights principles can be used to argue legal cases. Particular attention will be paid to issues relating to employment and medical treatment (including the right to treatment and the right to refuse treatment).

## 49.3. Reframing International Human Rights Jurisprudence Regarding the Rights of People with Mental Disabilities

Arlene S. Kanter, *Syracuse University* (kantera@law.syr.edu)

The social construction model of disability, which recognizes the right of people with disabilities to equality, rather than charity, pity, or a cure, has now begun to permeate international and comparative disability laws. Within the past decade alone, at least 40 countries have adopted laws recognizing the rights of people with disabilities, some of which are modeled after the United States' Americans with Disabilities Act. Within the United Nations, the first binding Convention on the Rights of People with Disabilities is currently being drafted. Despite these worldwide legislative initiatives, however, many people with mental disabilities remain forcibly institutionalized, and significant gaps remain in the level of employment, health, and quality of life for people with mental disabilities in the United States and other countries throughout the world. After reviewing the history of the development of laws addressing the rights of people with mental disabilities in selected countries as well as the proposed UN treaty, this paper will argue for a reframing of international human rights jurisprudence that may inform the development of international and comparative mental disability laws.

#### 49.4. Legal Constructions of Disability and Equality Rights

Joan M. Gilmour, *York University* (jgilmour@osgoode.yorku.ca)

In Canada, the right to the equal protection and benefit of the law without discrimination on the basis of, inter alia, disability is constitutionally guaranteed. This paper will examine how disability and discrimination have been legally constructed in two contexts: access to income replacement programs for people with mental disabilities or chronic pain, and access to health services for autistic children. It will examine decisions of the Supreme Court of Canada in each area to compare and contrast the understandings of disability and equality rights employed, and will analyze why the applicants were successful in establishing a breach of their equality rights in the former claims, but not in the latter. These case studies will lead to a more general assessment of the potential in law and legal remedies to advance the human rights of people with disabilities.

## 50. Disability Rights and the Law II

### 50.1. Re-Thinking Non-Therapeutic Sterilization of Disabled Women and Girls

Aileen Kennedy, *University of New England* (akenned5@une.edu.au)

A structure of regulation has developed around the sterilization of women and girls who lack capacity to consent to such a procedure due to intellectual disability. Where the disabled girl is a minor, ‘non-therapeutic’ sterilization is unlawful without the authority of the Family Court. Some disability-rights advocates argue that sterilization purely for contraceptive purposes can never be justified. This paper considers whether, in the case of a profoundly intellectually disabled woman where there is no prospect of experiencing the realities of motherhood, but only the biological processes of menstruation, gestation and birth, a blanket prohibition is appropriate. Attributing great psycho-social importance and value to biological reproductive processes where the woman will be unable to experience the realities of parenting is to define identity and personhood in terms of biological determinism. In order to construct a feminist framework of autonomy it is vital to reject individualised and atomised accounts of rights and interests. If we wish to emphasise interconnectedness and relational autonomy, then the interests of women with disabilities should not be isolated and individualised to the point of de-legitimising the views of that person’s family and carers.

## 50.2. You Take My Space, I Take Your Air: An Empirical Study of Disabled Parking & Motor Vehicle Laws for Persons with Disabilities

Donald H. Stone, *University of Baltimore* (dstone@ubalt.edu)

*Background:* The disabled driver: Parking for the disabled, procedures for disabled drivers to receive special licence plates and reserved parking. The role of the Medical Advisory Board in reviewing the ability of disabled drivers to get behind the wheel. The obligation of the physician to notify the Motor Vehicle Administration to prevent injury to the public. Does the Americans with Disabilities Act apply.

*Aim:* Identify the cutting edge issues and explore how states address the needs of the disabled driver.

*Method:* Empirical data will be provided to elaborate and compare various places open to the public and how, if at all, they accommodate disabled drivers. A review of state Motor Vehicle Laws as well as court decisions in the area of reasonable accommodations for drivers with disabilities will be analyzed.

*Conclusion:* Recommendations of the proper policies and procedures for disabled drivers; parking and driving issues.

### 50.3. Lawyering for Clients with Mental Disabilities: Pitfalls and Opportunities

Robert Dinerstein, *American University* (rdiners@wcl.american.edu)

People with mental disabilities need lawyers in a number of contexts -- civil commitment, guardianship proceedings, general civil matters, criminal cases, and so on. Too often, lawyers for these clients fail to provide zealous representation of their clients' positions, act paternalistically toward their clients, or make unwarranted assumptions about the degree of their clients' understanding of the legal proceeding at issue. This paper will explore best practices and ethical obligations that should guide lawyers in their representation of clients with mental disabilities.

### 50.4. Changing Law and Changing Society

Jennifer Boland, *Family Court of Australia* (Justice.Boland@familycourt.gov.au)

In 1976 Australia introduced what were at that time described as radical changes to family law – no fault divorce after 12 months separation, and finality in financial matters. 2006 saw further dramatic changes to the law in Australia affecting children on family breakdown with the introduction of the *Family Law (Shared Parental Responsibility) Act* 1976. This paper examines the demographic changes in Australia during the last 30 years, and how those changes impacted on the way in which Judges determine cases in the Family Court of Australia. In 1976 bride and bridegrooms married at average age of 20 and 22 years respectively. Only 16% of couples cohabited before marriage. Only 40% of women participated in the workforce. A very different picture pertains today. Australians are older at marriage, and children are born to older mothers. Access to IVF procedures is common including by lesbian couples 76% of couples cohabit before marriage. 39% of the Court's cases deal with ex-nuptial children whose parents have often had short term relationships. The societal and legal changes have been examined by a number of major law reform commissions and parliamentary enquiries which have lead to changes to the law. Many cases coming before the Court raise issues of domestic violence, allegations child physical and sexual abuse, as well as issues of mental illness often associated with drug usage. The Court (and the law) has changed or attempted to change to cope with societal change. Two major initiatives of the Court are examined, the Court's specialist case procedures for dealing with cases of child physical and mental abuse, and a new way of dealing with all other children's cases – the less adversarial model. This model adopts Judge managed and directed litigation working in close

consultation with a psychologist or psychiatrist to identify issues to shorten litigation and obtain appropriate therapeutic assistance for the family.

## 51. Disability, Mental Illness and Fitness in Australia and International Contexts

### 51.1. Fitness (Competence) to be Tried in International Criminal Tribunals

Mark Ierace, *Barrister, Sydney, Australia* (ierace@fjc.net.au)

The issue of an accused's fitness to be tried is not as well-known in international criminal law and procedure as it is in national jurisdictions, although it has arisen in the proceedings of every International Criminal Tribunal since (and including) Nuremberg. Recent cases suggest the emergence of an established test of fitness, basic procedure and consequences, although the onus of proof remains unsettled. Tribunals have rejected the option of hearing the trial in the absence of an unfit accused, but the appropriate response where the accused is permanently unfit, and not suffering a life-threatening condition, remains unclear.

### 51.2. The Insanity Defence in NSW: Should the Ultimate Decision to Detain or Release of a Person Found Not Guilty by Reason of Mental Illness be made by the Legal or Political Aystem?

Tania Evers, *Barrister, Sydney, Australia* (tania.evers@fjc.net.au)

A person found not guilty by reason of mental illness has long been recognized by legal principles as not an appropriate medium for punishment. The concern of the legal system has been to protect the community from any harm such a person can inflict if released. Thus expert Tribunals such as the Mental Health Review Tribunal were set up to monitor these patients (often detained in prison psychiatric hospitals), to take the advice of professionals working closely with the patient, or of experts in the fields of psychiatry and mental health, as to when they can safely be released back into the community and then to advise the Minister and the Executive Counsel accordingly. Such advice has been successfully followed for many years with the Executive largely following the

recommendations put to them by the Tribunal. Unfortunately, with the increased acceptance of victims' views in the Criminal Justice System, the Executive is under substantial and direct pressure to ignore the advice of professionals, and to refuse or postpone the release of persons (seen by experts as appropriate to release), in response to victim and media pressure – often because of historical and no longer relevant factors. The implications of changes in the Criminal Justice System will be discussed with reference to recent cases.

### 51.3. The Differential Criminogenic Needs of Juvenile Offenders With and Without an Intellectual Disability

Matt Frize, *New South Wales Department of Ageing, Disability & Home Care, Sydney, Australia* (matt.frize@dadhc.nsw.gov.au)

Diane Kenny, *University of Sydney* (D.Kenny@usyd.edu.au)

C.J. Lennings, *LennMac Consulting, Burwood, Australia* (lennmac@bigpond.com)

This study examined the relationship between age, intellectual disability (ID) and indigenous status of Australian juvenile offenders with respect to their risk of re-offending, criminogenic needs and outcomes of offending in terms of court appearances and sentencing. This sample comprised 800 juvenile offenders on community orders who completed the *NSW Young People on Community Order Health Survey* between 2003 and 2005. Risk and criminogenic needs were evaluated using the YLS/CMI: AA. Those with an ID were found to have a higher risk of reoffending than those without an ID and also expressed a different profile of criminogenic needs. Those with an ID had significantly higher scores on domains that related to previous and current behaviour history, education, leisure, peers and attitudes. Those with an ID, whilst having offended more than those without an ID were not more likely to have committed a particular crime or received a certain type of court outcome. Those with an ID were also found to be younger and more likely to be Indigenous than those without an ID. For indigenous participants, there was no difference between those with and without an ID in risk category allocation or number of court dates, whereas the opposite was found for those who were not indigenous. The impact of these findings in relation to the principles of 'risk', 'needs' and 'responsivity' are discussed with particular emphasis placed on the requirement for addressing the social needs of juvenile offenders with an ID and doing so using a collaborative all-of-government approach that targets the individual needs of juvenile offenders with an early intervention focus.

#### 51.4. Diversion from the Criminal Justice System into the Humanities Sector

Peter McGhee, *Intellectual Disability Rights Service, Sydney, Australia*  
(peter@idrs.org.au)

It is unfortunate that, due to a lack of social services for people with an intellectual disability, the courts have become the emergency room for people with behavioural challenges assuming responsibility for where they are to be housed and cared for (i.e. corrective services). It appears that the Local courts are better able to serve the needs of this sector of the community than the District courts and, thereby, more able to conform with the United Nations Declaration on the Rights of Disabled Persons. The paper will review the real and significant obstacles experienced by people with an intellectual disability needing to make application to the Local Court under s.32 of the Mental Health (Criminal Procedure) Act 1990 and under s.10 of the same Act in the District Court.

#### 51.5. The development of a Community Forensic Psychiatric Service in New South Wales, Australia

Stephen Allnutt, *Justice Health, North Sydney, Australia* (stephenallnutt@mac.com)

In Australia, New South Wales Forensic Psychiatric Services has lagged behind much of the international community in service provision to forensic patients. While many countries opted to place forensic psychiatric services in the community with an arm into the prison environment providing ambulatory care, NSW chose to position itself within the prison environment. This was a decision that arguably, contributed to the delay in the progress of Forensic Psychiatric Services in this state. In the past 5 years, commencing in 2002 there has been a profound change in political will and increased commitment to developing a Forensic Psychiatric Service that is of a high standard. NSW now has a thriving court liaison service and well-established correctional psychiatric services, and a new forensic psychiatric hospital is currently under construction. In 2004 the NSW Community Forensic Psychiatric Service (CFMHS) was established. NSW in Australia covers a large area and is sparsely populated. This presents a challenge to providing forensic psychiatric services in the area. The model of service that is being implemented is an integrated model with the placement of forensic clinicians within area health services around the state in order to work alongside general mental health clinicians and to provide expertise in the management and assessment of high risk and forensic patients in the community. This presentation will give a brief overview the developments of the Community Forensic Mental Health Service since its inception in 2004, a description of

the nature of the services, and overview of the assessment processes utilized by the service.

## 52. Disgust, Shame, and the Law

### 52.1. Emotional Competence, “Rational Understanding,” and the Criminal Defendant

Terry A. Maroney, *Vanderbilt University* (tmaroney@law.usc.edu)

Adjudicative competence, commonly referred to as competence to stand trial, is an under-theorized area of law. Though it is well established that a criminal defendant must have a “rational” as well as “factual” understanding of her situation, the meaning of “rational understanding” has gone largely undefined. Given the large number of prosecutions in which competence is at issue, the doctrine’s instability stands in stark contrast to its importance. Adjudicative competence, properly understood, asks whether a criminal defendant has capacity to participate meaningfully in the host of decisions potentially required of her. Further, sound assessment of such capacity requires attention to both the cognitive and emotional influences on rational decision-making in situations of personal relevance and risk. The role of emotion has been neglected, both in traditional accounts of decision-making and in assessments of competence, and merits particular attention. This paper explores two examples of competence-threatening emotional dysfunction—severe mood disorder and organic brain damage—either of which may interfere with decision-relevant emotional perception, processing, and expression. Existing legal theory and forensic testing methods wrongly reflect a predominantly cognitive approach. A proper adjudicative competence inquiry should consider the cognitive and emotional influences on rational decision-making processes.

### 52.2. The Rhetoric of Shame and Megan’s Law: Retributive v. Restorative Justice

Pamela D. Schultz, *Alfred University* (fschultz@alfred.edu)

In the United States, public perception of child sexual abuse is created and maintained by a mass-media glut of misleading statistics and lurid accounts of molestation. Media accounts frame child molesters as monsters, and this deeply rooted stereotype has driven public policy and legal responses to the crime. By emphasizing offenders' "otherness," we maintain the belief that the crime cannot be combated because the perpetrators are inhuman, hence cannot be considered fully responsible agents. Yet our retributive public policies rely upon very human motivations to control the perpetrators and combat the crime. Community notification policies such as "Megan's Law" communicate the message that "outing" child molesters is a means of controlling their behavior by exposing them to a community's disgust. Yet the ultimate effectiveness of Megan's Law is undermined by the paradox it represents, since isolating and alienating child molesters merely emphasizes their unnaturalness while paradoxically assuming that these monsters can be motivated by natural impulses of shame and fear. To this point, legal interventions and public policies have emphasized retributive forms of justice, yet punishment alone cannot heal the wounds caused by the prevalence of sexual abuse in American society.

### 52.3. "There Was an Evil Messenger": Blame, Mental Illness, Wickedness, and the Pretexts of the Justice System

Michael L. Perlin, *New York Law School* (mperlin@nyls.edu)

The conflation of mental illness with concepts of evil has profound implications for both the criminal justice and the mental disability law systems, and is, in large part, responsible for our needs to blame individuals with mental disabilities for their mental disabilities, as part of our "culture of punishment." In my paper, I will explore this conflation with specific focus on its relationship to insanity defense policies and jury decision-making in death penalty cases, but will also briefly consider such other issues as: C sentencing decision making, C procedures in sex offender cases, and C the construction of "dangerousness" in involuntary civil commitment cases and in right to refuse treatment cases. In Part I, I will consider the historical roots of this conflation. In Part II, I will discuss each of the subject matters referred to above. In Part III, I will explain the concepts of sanism and pretextuality, and discuss how they infect the American legal system. In Part IV, I will show how these factors have dominated the discourse that has shaped policies in each of the subject matters in question. Finally, in Part V, I will conclude by focusing on the ways that these factors have created an environment in which the improper conflation of mental illness and evil flourishes.

### 52.4. Pathological Justice: Seeing Disease as Crime and Crime as a Disease

Joseph E. Kennedy, *University of North Carolina* (kennedy4@email.unc.edu)

The U.S. has been in the grip of a series of chronic moral panics about crime over the last few decades. At the core of this phenomenon is a terrible irony: mentally ill offenders commit crimes as the result of their disease but the public comes to see the crime as evidence of a social ill. The result is that the ill offender is treated as a fully responsible offender and the society channels its anxieties into disproportionately punishing certain types of offenses and offenders. Rampage killings, particularly those that involve shootings by students in high schools, have periodically captured public attention in the United States, for example. Such crimes are typically the product of a mental illness on the part of offender. The public readily accepts, however, constructions of the crime by the media and claims makers as evidence of more widespread moral or cultural failings of today's youth and of our society in general and demands countermeasures that are as severe as they are ineffective. Ultimately, such punishment is best seen as a futile attempt to negotiate a secular sense of the sacred in an anxiously plural society.

## 52.5. Ill-Equipped: Offenders with Mental Illness and U.S. Prisons

Jamie Fellner, *Human Rights Watch, New York City, USA* (jamie.fellner@hrw.org)

The United States has the highest rate of incarceration in the world. It may also incarcerate more people with mental illness than any other country. An estimated 1.25 million people behind bars have mental health disorders. The staggering rate of incarceration of the mentally ill is a consequence of under-funded, disorganized and fragmented community mental health services. Many people with mental illness, particularly those who are poor, homeless, or struggling with substance abuse – cannot get mental health treatment. If they commit a crime, even low-level nonviolent offenses, punitive sentencing laws mandate imprisonment. As a result, the rate of reported mental health disorders in the state prison population is five times greater (56.2 percent) than in the general adult population (11 percent). Unfortunately, woefully ill deficient mental health services in prisons and jails leave prisoners under-treated or not treated at all. Prisoners with mental health problems face a shortage of qualified staff, lack of facilities and prison rules that interfere with treatment. Many prisoners with mental illness who break prison rules end up in prolonged solitary confinement, where there is even less possibility of receiving effective mental health treatment and where the likelihood of deficient mental health services in prisons and jails leaves prisoners under-treated or not treated at all. Across the country, prisoners with mental health problems face a shortage of qualified staff, lack of facilities and prison rules that interfere with treatment.

## 53. Diversion of Offenders with Mental Illness - Building Bridges between the Criminal Justice System and the Public Mental Health System

### 53.1. Past Successes and Future Opportunities for Diversion

Tom Hamilton, *National Alliance on Mental Illness (NAMI), Texas, USA* (tom-hamilton@usa.net)

The Mental Health and Mental Retardation Authority (MHMRA) of Harris County is one of 40 public community mental health centers in Texas and one of the largest urban centers in the U.S. Due in part to a lack of appropriate funding for public mental health care, the Harris County jail, with several thousand beds, has become the largest psychiatric facility in Texas. Driven by economic necessity and legislative initiative, MHMRA has substantially restructured its operations, not only for efficiency but also for improved quality of care. Over the past few years, in addition to the previously existing forensic psychiatric unit in the jail, relationships have been expanded into the law officer's patrol car, the court room and the front and back door of the jail. In addition to new facilities such as a neuropsychiatric crisis center, new programs, and data systems the transformation has required a new way of thinking and acting for all involved. The presentation will highlight the magnitude of contact that persons with a mental illness have with the criminal justice system in a large urban area and the programs and relationships required for successful diversion to treatment.

### 53.2. Diversion of Offenders Legislation & Initiatives in Texas Over the 15-year Period between 1992-2007

Brian Shannon, *Texas Tech University* (brian.shannon@ttu.edu)

*Background:* The State of Texas, like many jurisdictions, has seen large increases in the numbers of offenders and alleged offenders with mental illness in its criminal justice system. Over the last 15 years, Texas has enacted an array of statutory initiatives that have addressed the many aspects of the criminal justice continuum pertaining to offenders with mental illness. The statutory guidelines, which have been nationally recognized, have created mechanisms for improved mental health screenings, the

diversion of non-violent offenders, improved treatment, and a greater assurance of continuity of care.

*Aims:* This presentation will highlight specific legislative enactments in Texas that have facilitated the diversion of offenders with mental illness, along with provisions relating to treatment and outcomes for such offenders. Other presenters in the session will address how this statutory framework has facilitated policy changes to create improved bridges between the state's criminal justice system and public mental health system.

### 53.3. Diversion of Offenders with Mental Illness: A Law Enforcement Perspective

David Gutierrez, *Sheriff of Lubbock County, Texas, USA* (dgutierrez@co.lubbock.tx.us)

The State of Texas is focusing on diversion methods that will benefit both law enforcement agencies and offenders who are struggling with mental illness. The Texas State Legislature has supported the necessity for a diversion plan through legislation. The Legislature, in cooperation with the Texas Commission on Jail Standards, has recognized that by focusing on a rigid diversion plan that is standardized amongst all the 268 county jail facilities in the state, we are ensuring that there is a continuum of care for those who need specialized mental health care. The diversion plan is beneficial on multiple levels in that it helps share the responsibility of proper mental health care between the law enforcement officers who have the first contact with the offender and those professionals who are uniquely trained to care for those with mental illnesses.

### 53.4. Jails: New Asylum or Same Old Poorhouse

Trevor Hadley, *University of Pennsylvania* (thadley@mail.med.upenn.edu)

This presentation provides preliminary results from study matching data on persons on Medicaid in Philadelphia in 2003 with persons who were incarcerated in the Philadelphia municipal jail system in 2003 through 2004. This is one of the only studies that track populations for rates of incarceration and is likely one of the largest. This study focuses on the association of mental illness with the risk for incarceration, and uses those persons receiving Medicaid who did not receive Medicaid-reimbursed mental health services and corresponding diagnoses as controls. An extensive literature documents high rates of mental illness among incarcerated populations, and given this it would be assumed that persons diagnosed with mental illness would be at greater risk for incarceration. On the

other hand, mental health services and related supports, if effective, could provide a protective factor that would be associated with a diminished risk of incarceration.

## 54. Domestic Violence

### 54.1. Marginalized Men in Batterer Intervention Programs: Disorders & Disparities

Larry Bennett, *University of Illinois at Chicago* (lwbenn@uic.edu)

One out of five court-referred men attending a batterers program have battered before they came to the BIP, batter while they are in the BIP, and continue undeterred to batter after the BIP, which most never complete anyway (Gondolf, 2002). Half of the men sentenced to BIPs never complete them, and there are few consequences. Either these non-completers and especially bad guys are not a good fit for BIPs, BIPs need to change to accommodate them, or the system response to these men needs to change—perhaps all three. There are other marginal groups in BIPs who may experience unintended consequences of this marriage of convenience between the criminal justice system and BIPs. Some of these include batterers with ethnic or language disparities, batterers with co-occurring problems, batterers with lower SES, or in general, batterers without an adequate stake in conformity. What shall we do about batterers who don't fit the standard model of court-based BIPs? Using findings from experimental and quasi-experimental studies of BIP effectiveness, from the U.S. Multi-site Study (Gondolf, 2002), and from a study of 899 offenders sentenced to BIPs in the metropolitan Chicago area, the author will explore an important subset of men who do not do well in BIPs. Social class (the elephant in the BIP room), ethnicity, substance abuse, and mental disorders will emerge as key factors in our difficulty engaging men into batterer programs and translating that engagement into non-violent behavior. Ultimately, the community non-response to failure in BIPs reinforces men's violence and contributes to the failure of BIPs to be all they can be.

### 54.2. Transforming a Flawed Policy: A Call to Revive Psychology and Science in Domestic Violence Research and Practice

Kenneth Corvo, *Syracuse University* (kncorvo@syr.edu)

*Background:* Intimate partner violence (IPV) continues to be social problem in much of the world. Unfortunately, legislation aimed at solving the problem has been based on models of IPV that are not empirically supported. This paper reviews the prevailing criminal justice intervention model in North America, provides examples of how the paradigm supporting this model distorts interpretation of research and compares this flawed research with methodologically superior studies suggesting a different and potentially more effective approach.

*Aims:* To clarify participants understanding of weaknesses in domestic violence policy, research, and practice.

*Method:* Synthetic review of the literature/policy analysis

*Results:* Review supports author's contention that domestic violence policy and practice are flawed by adherence to sources of data that are not empirically supported.

*Conclusion:* Domestic violence policies must change in light of documented flaws and potential, scientifically supported, better practices.

### 54.3. Domestic Violence and Child Abuse Potential: Implications for Child Custody Evaluations

Ingrid Perdew, *University of Arkansas* (iperdew@uark.edu)

*Background:* Research suggests female victims of domestic violence experience increased levels of parenting stress and trauma symptomatology. In addition, research indicates these experiences increase risk for child abuse potential. However, there is little research examining how time out of an abusive romantic relationship and a lifetime history of abuse affects these variables. This knowledge can be particularly beneficial in child custody evaluations where domestic violence has occurred.

*Aims:* There are two aims from this project: 1) to determine both risk and protective factors associated with child abuse potential, and 2) to determine how a history of abuse and time out of an abusive romantic relationship affects parenting stress and child abuse potential.

*Method:* The sample will consist of approximately 200 women with different histories of domestic violence. Participants will complete several questionnaires (e.g., CTS2, TSI, CAPI, PSI) in either a paper-pencil or on-line format.

*Results:* The study will be complete and the results analyzed in spring, 2007.

*Conclusion:* There are no conclusions at this time.

#### 54.4. Juror Perceptions of Women who Kill their Abusive Husbands

Kristine M. Jacquin, *Mississippi State University* (kmj8@psychology.msstate.edu)

Previous research (e.g., Terrance & Matheson, 2003) indicates that many jurors are sympathetic to battered women who kill their abusers, but that this sympathy may not translate into a verdict of “not guilty.” The current research examines this issue further with a homicide trial in which the defendant admits killing her husband, but claims that she did so in self-defense. Mock jurors were randomly assigned to hear one of six cases, which varied according to the defendant’s psychological diagnosis (PTSD, BWS, or no diagnosis), and the deceased husband’s alcohol use status (recovering alcoholic or recently relapsed alcoholic). It is expected that jurors will sympathize the most with the defendant with a PTSD diagnosis when the husband had relapsed; jurors’ sympathy is expected to lead to recommendations of a reduced charge (manslaughter instead of first-degree murder) and lighter sentence. The results and conclusions will be provided in the presentation.

#### 54.5. Adding Psychology to the Equation: The Utility of Assessing Clinically Significant Change When Evaluating Domestic Violence Perpetrator Programmes

Erica Bowen, *Coventry University* (E.Bowen@coventry.ac.uk)

Typically, evaluations of domestic violence perpetrator programmes neglect to consider the association between psychological change and re-offending, despite the focus of such programmes on psychological treatment targets. In this study data is presented from a sample of 43 male domestic violence offenders court-mandated to attend a British pro-feminist psycho-educational rehabilitation program. The extent of both statistically and clinically significant psychological change achieved across a variety of measures (pro-domestic violence attitudes, anger, locus of control, interpersonal dependency) assessed pre- and post-treatment, and their association with post-treatment re-offending within an 11 month follow-up period is examined. The results indicate that program completers achieved limited significant psychological change. However, the level of psychological change achieved had no association with re-offending. The implications of these results and methodological considerations are discussed in relation to current treatment perspectives.

## 55. Educating Professionals to Work Together

### 55.1. Law Students Address Barriers to the Delivery of Mental Health Care

Howard Taras, *University of California at San Diego* (htaras@ucsd.edu)

Vivian Reznik, *California Western School of Law* (vreznik@ucsd.edu)

Linda Morton, *California Western School of Law* (lmorton@cwsl.edu)

Mental health problems plague an increasing number of school-age youth, with depression, attention and anxiety conduct disorders among the prevalent problems confronting this segment of the population. There are difficulties and complexities in the sharing of relevant mental health information between parents, schools, primary care physicians, and mental health specialists. Largely responsible for this conundrum is a complex web of laws, regulations, and confusing reimbursement schemes within the health system, as well as misperceptions of how to best protect patient confidentiality. Solutions to these issues must be sought among professionals within and outside the health care sector. At one southern California law school, health care professionals and law students jointly investigate complex health care delivery and public health problems to find workable solutions. Second-year law students' knowledge of the law is adequate to comprehend regulations and to navigate through the complicated business of health care delivery. This session will demonstrate how law students, working together with doctors, bring new ideas to problems with mental health care delivery. This interdisciplinary exercise benefits health professionals, their patients, and a future generation of lawyers who gain direct experience with how laws and regulations actually influence patient access to mental health care and preventive services.

### 55.2. Interdisciplinary Collaboration to Improve Children's Health: The Next Generation of Medical-Legal Partnerships

Charity Scott, *Georgia State University* (cscott@gsu.edu)

The Health Law Partnership (HeLP) is an innovative community-based partnership in Atlanta, Georgia, that addresses the socio-economic determinants of low-income children's health and well-being. This interdisciplinary medical-legal partnership consists of three non-profit participants: Children's Healthcare of Atlanta (which operates children's hospitals in Atlanta), the Atlanta Legal Aid Society, and Georgia State

University College of Law. In addition to a sick child's medical problems, the social, physical, environmental, and financial conditions in which he lives can seriously affect his health. Poor housing conditions can exacerbate chronic health conditions such as asthma. Domestic violence can affect a parent's ability to provide appropriate care. Failure to protect the legal rights of a developmentally disabled child can lead to her inability to get remedial special education. A low-income parent who cares for a hospitalized child may face loss of income or even a job because of repeated absences from work, leading to a housing foreclosure or eviction. Often, lawyers can intervene and effectively address such underlying social or economic conditions that adversely affect children's health and well-being, and thereby break a poverty-related cycle of health problems and hospitalizations. Through two hospital-based legal clinics, HeLP provides legal assistance to low-income families and their children who are patients of Children's on civil matters that have the potential to improve their health and quality of life, such as laws related to public benefits, family welfare, housing, education, consumer rights, employment, disability, and permanency planning. HeLP is currently expanding its program by establishing a third clinic at the Georgia State law school. This educational clinic will allow HeLP to expand its direct-services capacity to help more underserved families. It will also provide a model interdisciplinary educational program to train the next generation of legal and health-related professionals in how to collaborate effectively to improve the health of their communities, especially among disadvantaged and vulnerable patient populations.

### 55.3. Drug Screening in High School: A Legal; Emotional and Public Health Debacle?

Howard Taras, *University of California at San Diego* (htaras@ucsd.edu)

Floralynn Einesman, *California Western School of Law* (feinesman@cwsl.edu)

Drug screening of students is advocated as a deterrent to drug abuse and a promotion of health and safety. The U.S. government provides grants for schools to initiate and operate such programs. Legal challenges to drug screening have resulted in two U.S. Supreme Court rulings that permit public schools to test students participating in school athletics and extracurricular activities (e.g., band, choir, chess club). To engage in these activities, students must agree to be tested. Those testing positive for drugs may be suspended from the activity. While U.S. law does not consider random student drug testing to be a breach of students' rights, what constitutes a breach of rights from the emotional and developmental perspective of an adolescent is a different matter. In this session, a pediatrician (specialized in school health) and a law professor (who teaches Criminal Procedure) will address the following questions and make recommendations: Are school-based drug screening programs consistent with other public health screens? Do they prevent mental health and substance abuse problems? Are there inadvertent

harms related to mental health (e.g., emotional reaction of students, anguish from false-positive test results, and discrimination against students with underlying mental health problems)?

#### 55.4. The Benefits and Challenges of Holistic Advocacy: Law and Medical Students Learning Together

Elizabeth Tobin Tyler, *Roger Williams University* (ltyler@law.rwu.edu)

In 2002, Roger Williams University School of Law partnered with Brown Medical School, Hasbro Children's Hospital, Rhode Island Legal Services, and Rhode Island Kids Count to create the Rhode Island Family Advocacy Program, now called the Rhode Island Medical-Legal Partnership for Children (RIMLPC). RIMLPC aims to improve the health and well-being of low-income children and their families by providing legal assistance to address the social causes that contribute to child health problems. A key component of RIMLPC is to educate law and medical students about the benefits and challenges of collaboration between doctors and lawyers through both classroom and on-site learning. Through interdisciplinary seminars taught by faculty at the law school and the medical school, students explore the medical, legal and ethical implications of childhood health problems, such as childhood lead poisoning, asthma, malnutrition, and exposure of children to family violence. Students participate in collaborative problem solving through case simulations. In addition to the classroom component, law students spend two and half days per week as externs providing legal service to low-income families at Hasbro Children's Hospital under the supervision of the RIMLPC attorney. Medical students participate in rotations with RIMLPC through the medical school's community health clerkship program.

#### 55.5. Collaborative Law in Medical Error/Mistake Cases

Kathleen Clark, *Tilburg University* (coachkac@aol.com)

This presentation will explain the use of collaborative law, a non-litigation process, in medical error/mistake cases that traditionally involve litigation. This process involves attorneys agreeing to work collaboratively as advocates and advisers/counselors to bring compassionate practices, such as disclosure and apology, among others, to what otherwise likely would be very adversarial situations. This process is useful on many levels, including the ability to structure any type of accord that works for the parties,

which may include agreement to change medical practices and/or procedures in the future.

## 56. Effective Psychotherapy for Sex Offenders – Dynamic Processes in a Cognitive Behavioral Therapy World

### 56.1. Exploring the Therapeutic Alliance in Sex Offender Treatment

A. Scott Aylwin, *Alberta Hospital, Edmonton, Canada* (scottaylwin@cha.ab.ca)

This paper will present preliminary findings from a prospective clinical study examining the therapeutic alliance among a sample of convicted adult male sex offenders. For patients undergoing psychotherapeutic treatment, the pantheoretical construct of the therapeutic alliance has been validated. Further, a strong therapeutic alliance has been shown to promote positive outcomes in other populations. However, there has been little attention paid to the alliance in work with forensic populations generally, and with sex offenders specifically. A sample of inpatient convicted sex offenders attending intensive group psychotherapy provided multiple ratings of their alliance with clinical staff, and with their co-patients over the course of therapy (approximately 12 months). Multi-level modeling was used to examine the nature of change in alliance between patients, co-patients, and clinical staff. The relationship between various predictor variables (such as personality factors, demographics, patient self-assessments) and the nature of alliance will also be considered.

### 56.2. Long Term Efficacy in the Phoenix Program Three Phase Sex Offender Treatment

Shelly Takacs, *Alberta Hospital, Edmonton, Canada* (shellytakacs@cha.ab.ca)

The Phoenix Program at Alberta Hospital Edmonton is a voluntary three phase sex offender treatment program consisting of one inpatient and two outpatient treatment components. Referrals are received from the Canadian provincial and federal correctional systems. A significant factor that differentiates this program from many others is that it has not adopted a typical hard-line focus on a Cognitive Behavioral

Therapy/Relapse Prevention format. For the more than 19 years that the program has been in existence, it has maintained a focus upon elements of the Therapeutic Community. Milieu, relationship dynamics, and modeling respectful relationships assume a pivotal importance. This approach also allows the patients a greater degree of freedom and autonomy of decision making with the concomitant expectation of responsibility. Phoenix research demonstrates an encouraging association with recidivism for program completers versus non-completers. Significant positive results have been found using cumulative data over time as well as using cohort data across time.

### 56.3. An Analysis of Pre and Post MMPI-2 Data in a Sample of Treated Sex Offenders

Gladys Severson, *Alberta Hospital, Edmonton, Canada* (gladysseverson@cha.ab.ca)

The Phoenix Program is an intensive inpatient sex offender treatment program, utilizing a multidisciplinary team approach. The MMPI-2 is used as one of the assessment inventories, being administered at the beginning of treatment and at the time of discharge. Pre and Post treatment MMPI-2 data were analyzed to aid in determining whether treatment had made a relevant and significant clinical change in personality characteristics in a sample of 108 patients. Statistically and clinically relevant differences were found on four of the clinical scales for treatment completer's pre-versus post-treatment MMPI-2 profiles, suggesting improvements were made over the course of therapy. This sample of MMPI-2 pre-treatment profiles for treatment completers (N=108) was also compared to a sample of non-completers (N=104), resulting in significant and clinically relevant differences on five of the clinical scales. Additional patient data have been collected and will be analyzed to determine whether these general trends continue on a larger scale and discussion shall focus on how treatment goals relate to these results.

### 56.4. Treatment in Our Program Changes Risk Prediction

Lea H. Studer, *Alberta Hospital, Edmonton, Canada* (leastuder@cha.ab.ca)

The use of actuarial instruments to predict sex offender recidivism has become the gold standard in the field. All these instruments include as factors: relationship to victim, number of prior offenses, and having male victims. Some scales also include deviant arousal, severity of their own victimization and personality disorders as factors. This paper summarizes findings regarding the impact of dynamic inpatient group therapy upon

the risk assessment of convicted adult sex offenders. In a series of studies, successful completion of the Phoenix Program (Alberta Hospital Edmonton) has been shown to ameliorate the influence a number of static risk factors on sexual recidivism. These risk factors are: number of prior sex offences, having male victims, serum testosterone, and severity of offender's own childhood victimization. In addition to this, doubt has been cast on the exclusivity of categories of intra-familial and extra-familial offenders and their respective levels of deviant arousal. Taken together these findings give one reason to seriously question the use of actuarial risk prediction instruments post-treatment. Treatment completion itself might be a more informative predictor of long term recidivism than the established static risk factors. At the very least, treatment completion should be included prominently in risk assessment instruments.

## 56.5. Brain-based Psychotherapy for Adolescents with Conduct Disorder

Marvin Roth

Extensive research has been conducted addressing “what works and what does not work” in the treatment of adolescents with conduct disorders. Cognitive Therapy has frequently been identified as one of the most effective treatment modalities for this population. However, Cognitive Therapy and other psychological interventions place minimal focus on the role of brain circuitry in the treatment process. This presentation will present evidence that a major key to maximizing treatment outcome is understanding how brain circuitry becomes compromised in adolescent with conduct disorders. Brain-based psychotherapy concepts will focus on novel ways to enhance healthy circuits and diminish hair-triggered, unhealthy ones, as well as indicating how common psychological interventions can be more effective if considered in the context of brain rewiring. The role of brain-rewiring in altering brain chemistry will be explained as a significant component of successful treatment. Discussions will address the role of clinical judgment and patient volition in the strategic selection of treatment activities that facilitate optimum brain circuit repair, resulting in improved adolescent conduct. The Six Window Thought Identification Model, developed by Marvin, will be presented as a powerful tool to promote rewiring of the brain. Recovery prospects are also linked to the evidence that the brain is much more plastic than previously realized. Illustrations and discussions include applying brain-rewiring methods to a wide variety of adolescent behavior and mood disorders. Particular reference will be made to the power of process-oriented adolescent group therapy and positive treatment milieu in facilitating improved brain wiring for adolescents.

## 57. Emotional Processing and Psychopathic Traits in Adults and Children

### 57.1. Moral Emotions in Predatory and Impulsive Psychopaths

Maaïke Cima, *University of Maastricht* (Maaïke.Cima@DMKEP.unimaas.nl)

The lack of fear and moral emotions such as guilt, regret, and empathy, all indicate that psychopaths have difficulties in processing emotional information. However, little experimental work has been done on the relationship between moral emotions and different variations (e.g., predatory versus impulsive dimensions) of psychopathic offenders. Furthermore, most research on psychopathic individuals' moral beliefs has employed explicit (i.e., self-report) measures, which have evident limitations. Implicit cognitive and motivational processes have been understudied in psychopathic offenders. Unobtrusive assessment of automatic (i.e., preconscious) cognitions and motivation is of particular interest in forensic populations. First, psychopathic individuals may not be aware of implicit attitudes and may lack introspective access to what motivates their behaviour. Second, forensic patients may present themselves in a socially desirable way. As a consequence, there is an urgent need for techniques to assess attitudes and circumvent problems resulting from limited introspective access and social desirability. An issue that has been frequently addressed in psychopathic research is that these individuals have poorly developed moral beliefs. Using implicit measures, this study will investigate whether this is true for all variations within psychopathy, but it is expected that poor moral beliefs especially relate to the predatory dimension.

### 57.2. Anxiety and Emotional Correlates of Psychopathy-Linked Narcissism

Christopher Barry, *University of Southern Mississippi* (christopher.barry@usm.edu)

Narcissism is considered a core feature of psychopathy, even in subclinical populations of adults (Gustafson & Ritzer, 1995). In addition to callous-unemotional (CU) traits, narcissism has been found to be a measurable personality component of youth psychopathy (e.g., Frick, Bodin, & Barry, 2000). Nevertheless, little attention has been devoted to behavioral and emotional correlates of psychopathy-linked narcissism. The present study examined the emotional correlates of psychopathy-linked narcissism among 346 adolescents (ages 16-18) attending a residential program. Narcissism and CU traits

were moderately positively correlated, and both were associated with peer conflict. However, only narcissism was significantly associated with indices of anxiety. Contrary to prevailing theory, these associations were in the positive direction. In addition, anxiety partially mediated the association between narcissism and peer conflict. Therefore, in contrast to instances when psychopathy may manifest as coldness and distance from others, some peer problems may be partly explained by the preoccupation with social status and aggressive reactions to perceived threat that are definitive of narcissism (Raskin, Hogan, & Novacek, 1991). Further findings pertaining to narcissism and CU traits will be discussed. Future research should explore how different personality facets of psychopathy might differentially predict maladaptive emotional and behavioral functioning.

### 57.3. Emotional Processing and Psychopathic Traits in Adults and Children

Sabine Herpertz, *University of Rostock* (sabine.herpertz@med.uni-rostock.de)

Aggressive behavior in mental disorders may occur in childhood in the context of conduct disorder or in adulthood as a leading feature of personality disorders, antisocial or borderline personality disorder, in particular. Those children, who meet the criteria for conduct disorder already in early life (“early starters”) tend to exhibit high levels of aggression throughout development and continuation of violence in adulthood. There are several lines of evidence that aggressive behavior at any age is closely related to an individual’s capability to regulate emotions. Emotions of anger or fear trigger reactive, impulsive aggression whereas a failure to experience fear, empathy or guilt facilitates instrumental aggression. Reactive aggression is more likely to occur in rather young, emotionally unstable, impulsive individuals, particularly those with borderline personality disorder. In contrast, instrumental aggression predominantly occurs in psychopathic offenders at any age. These subtypes of antisocial personality disorder do not only differ in emotional responses and social perception, but differences in psychopathology are accompanied by specific differences in neurobiological functioning. Up to now, there is little knowledge of how children meeting the diagnostic criteria of conduct disorder process emotional information and in which direction of personality disorder they tend to develop. Etiological models will be advanced.

### 57.4. The Neural Correlates of Deficits in Fear Expression Processing and Response Reversal in Children with Psychopathic Tendencies: Early fMRI Data

James Blair, *University College London* (blairj@intra.nimh.nih.gov)

Previous work has shown deficits in fear recognition and response reversal in children and adults with psychopathic tendencies. These data have been used to support suggestions of amygdala and ventrolateral prefrontal cortex dysfunction in psychopathy (Blair et al., 2005). However, direct tests of neural activity within these regions during the performance of these tasks in children with psychopathic tendencies have not been conducted. In the present study, 10 children with psychopathic tendencies (as indexed by both the Antisocial Personality Screening Device and the Psychopathy Checklist – Youth Version) and 10 age, gender and IQ matched comparison children performed both fear and anger expression processing and response reversal paradigms as event related fMRI studies. Amygdala responses to fearful expressions in the children with psychopathic tendencies were reduced relative to comparison children. With respect to response reversal, rather than observing the predicted reduction in ventrolateral prefrontal cortex activation during the response to reversal errors, a reduced modulation was found instead of the amygdala and medial orbital frontal cortex response following the receipt of punishment. These data will be discussed with reference to models of the development of psychopathy.

### 57.5. Dimensions of Psychopathy and Distinct Patterns of Emotional Reactivity in College Students

Eva Kimonis, *University of California at Irvine* (ekimonis@uci.edu)

Psychopaths show an affective processing deficit with respect to words with a negative valence on the lexical decision task. Physiological research suggests that this emotional deficit may be specific to distress stimuli (e.g., mutilations, assaults). However, given that distressing stimuli are more likely to consist of human images, it is unclear whether these deficits are specific to the negative valence of the stimulus or its social content. The current study explored which dimensions of psychopathy are associated with distinct emotional deficits in 160 college students, using a pictorial version of the dot-probe task. Zero-order correlations revealed a significant association between Fearlessness and response to social pictures, and a marginal association with response to distress pictures. To determine which psychopathy dimensions were uniquely associated with emotional deficits, regression analyses with simultaneous entry of psychopathy subscales and covariates (gender, anxiety, aggression) were performed for predicting response to distress and social pictures. Only the Fearlessness dimension was significantly associated with response to distress pictures, whereas when predicting response to social stimuli, only Blame externalization was a significantly predictor. The results of the current study

suggest that specific dimensions of psychopathy are uniquely associated with emotional deficits in response to distress and social stimuli.

## 58. Emotions and Criminal Law

### 58.1. Forgiveness, Atonement and Reconciliation: Restorative Youth Conferencing in Northern Ireland

Jonathan Doak, *University of Sheffield* (j.doak@sheffield.ac.uk)

Restorative justice initiatives have traditionally flourished in post-conflict societies, and have been used as a mechanism for both inter-communal reconciliation and reconciliation on an individual level. Northern Ireland, which is currently in the midst of political transition, has seen restorative justice flourish in recent years. In contrast to many other jurisdictions, a restorative based youth conferencing scheme has been placed on a statutory footing and become a central response to juvenile offending. Drawing on our evaluation of this scheme, this paper analyses how the scheme works on two levels: through promoting healing and reconciliation between individual victims and offenders, as well as driving forward and bolstering the process of political transition.

### 58.2. Sticks, Stones and Words: Emotional Harm and the Criminal Law

John E. Stannard, *Queen's University Belfast* (j.stannard@qub.ac.uk)

The traditional attitude of the English criminal law to emotional harm can be expressed in the proverb: 'Sticks and stones may break my bones, but words will never hurt me.' Though in recent years the ambit of the criminal law has been expanded so as to penalise the infliction of psychological harm in certain cases, a clear distinction is still maintained in this context between recognised psychiatric disorders and what is often termed 'mere' emotional distress. The aim of this paper is to consider how far this distinction is a justified one to draw.

### 58.3. Law and Emotion: Portrait of an Emerging Field

Terry A. Maroney, *Vanderbilt University* (tmaroney@law.usc.edu)

Scholars from diverse fields have begun to study the intersection of emotion and law. The notion that reason and emotion are cleanly separable and that law rightly admits of only of the former is deeply engrained, but of late has come under sustained attack. Law and emotion scholarship proceeds from the belief that the legal relevance of emotion is both significant and deserving of (and amenable to) close scrutiny. In this paper the author proposes a theoretical taxonomy of approaches to the study of law and emotion, outlines the trajectory of such work to date, and points to current developments and new directions in such scholarship.

### 58.4. Force, Fear and Crime: The Complex Relationship

Eimear Spain, *University of Limerick* (eimear.spain@ul.ie)

Emotions play a significant role in human behaviour, including criminal behaviour, yet, apart from their primary role in the provocation defence, their significance to a wide range of other criminal defences has yet to be fully explored. This paper investigates the complex connection between emotions and human behaviour and examines how emotions are understood in the legal system. The two predominant understandings of emotions will be examined; the first views emotions as forces resulting in a loss of self-control, while the latter looks at emotions as being capable of rationality and reflective of the personal relevance of the given situation for the individual. The paper examines whether the criminal law should exculpate those who act in emotive circumstance and if so, which understanding of emotions should be adopted. Within this paper, particular emphasis is placed on the failure of the law to acknowledge the motivating role played by fear among those who claim a defence of necessity or duress. Opinions are offered on the possible formulation of a defence based on the fear experienced by those who are forced to act due to threats or circumstances and what limitations should be placed on such a defence.

## 59. Engagement with Clients: Influences

## 59.1. Teaching Medical Students about Professional Boundaries

Stella Blackshaw, *University of Saskatchewan* (stella.blackshaw@usask.ca)

Despite widespread prohibition, sexual involvement of physicians with their patients continues to occur, indicating a need for more effective teaching. This paper describes a method using basic principles encapsulated in two basic questions: Q.1. “Is this action in the best interest of the patient or is it meeting some need of my own?” After a discussion of the differences between professional and social relationships, this question highlights the unspoken trust the patient has that the doctor will always act in the patient’s best interest (the fiduciary nature of the relationship). It also acknowledges human frailties, and the risk of getting our needs met through our relationships with patients. Q.2. “If I think that I am acting in the patient’s best interest, am I fooling myself?” This question challenges rationalization. Students are asked to look for behavioural signs, such as a change in their usual pattern of practice, or a need for secrecy, which indicate a need to re-evaluate their motives. The Exploitation Index of Epstein and Simon is then used to allow application of these questions in discussion of “grey areas” concerning boundaries.

## 59.2. Relational Ethics in Adolescent Forensic Settings

Stewart MacLennan, *University of Alberta* (duncanm@ualberta.ca)

The turbulence, uncertainty, and vulnerabilities of adolescence estranges youth from families, friends, and sometimes even themselves. When a young person breaks the law or commits a crime a more pronounced estrangement between the adolescent and the rest of the world occurs. Despite this disconnect, professionals working in adolescent forensic areas do develop some sort of relationship with incarcerated youth. This presentation discusses how Canadian nurses create ethical relationships with imprisoned youth. Relational ethics is the underpinning framework used to examine the formation of care relationships between nurses and incarcerated youth. Nursing is a dynamic practice based primarily within the context of the relationship. Professionals need to be cognizant of the ethical implications our actions have on therapeutic relationships.

## 59.3. Promoting Consumer Participation: The Need for Affirmative Action!

Brenda Happell, *Centre for Psychiatric Nursing Research and Practice, Central Queensland University Carlton, Australia* (bhappell@unimelb.edu.au)

Australian government policy now clearly articulates an expectation that consumers be given the opportunity to participate in all aspects of mental health services. Strategies have been implemented to encourage participation, but there is little evidence that they have been evaluated for their effectiveness. Indeed the literature suggests that not enough has been done to encourage genuine and effective consumer participation and this relative inaction represents a major barrier to implementation. This presentation will articulate the need for affirmative action to compensate for the current and historical discrimination which prevented consumers from active participatory roles.

#### 59.4. Falling on ‘Stony Ground’: A Foucaultian Analysis of the Verbal Interactions between Mental Health Practitioners and Service Users or their Families

John Cutcliffe, *University of Texas* (dr.johnr@suddenlink.net)

It is difficult to conceptualise mental health care occurring without dialogue. Talking as the centre piece of such care is not a new concept, but it has again been stressed in the recently published reviews of psychiatric nursing (Dept. of Health, 2006; Scottish Executive, 2006.) Some would even argue that one cannot have mental health care without dialogue. Furthermore, another inescapable and perhaps uncomfortable truth about mental health care is that it is replete with power dynamics. The potential for such ‘power over’ is enshrined in mental health care policy, for example, within the UK mental health professionals have the power to compel people with mental health difficulties to follow compulsory courses of treatment (Dept of Health, *White Paper Reforming the Mental Health Act*) and is played out in day-to-day interactions. It is referred to in seminal discursive works on psychiatry (Ingleby, 1981; Miller and Rose, 1986) in numerous ways. Whether or not we are open in admitting this, the inescapable reality is that the mental health practitioner operates in an inter-personal climate that is underpinned by psychiatry’s (society’s?) power. The French philosopher Michel Foucault’s work is synonymous with power, and power in psychiatry, and while his work does not provide a straightforward theoretical framework that one can follow as a means of analysis, it does however, provide a set of methodologies for understanding discourses. Accordingly, this presentation (itself a collaboration between a mental health professional and a service user’s family member) reports on a Foucaultian analysis of dialogue (and thus from Foucault’s perspective – a discourse) between a psychiatrist and a family member. In so doing we hope that this may serve to remind mental health practitioners that our interventions are not technical, value free phenomenon as perhaps we would like

to believe (Thomas and Bracken, 2004 – *Advances in Psychiatry*) but can be power-laden and power-wielding. Furthermore, we consider the implications of this analysis in the light of the beguiling effects of power, according to the oft cited dictum of the British historian Lord Acton, namely “Power tends to corrupt; absolute power corrupts absolutely.”

## 60. EQUIP: A Multicomponent Cognitive Behavioral Group Treatment for Juvenile Delinquents

### 60.1. Theoretical Background of EQUIP and Comparison with A.R.T.

Kees Mos, *Forensic Centre Teylingereind, Sassenheim, The Netherlands*  
(mosk@dejutters.com)

The Equip-program, or ‘EQUIP’, is an evidence-based cognitive behavioural multi-component group treatment program for antisocial adolescents with behaviour problems. In psychiatry EQUIP can be used for youngsters with conduct disorders, ADHD and for youngsters with a disorder in impulse control. In psychiatry for adults the EQUIP program is used in a slightly altered way in institutions where people are detained under a hospital order. The program is meant for clinical practice, but can also be used in outpatient and day treatment. EQUIP was brought to the Netherlands and there first used by Forensic Centre Teylingereind, a closed institute for juvenile delinquents. ‘Het Palmhuis’ of Foundation ‘De Jutters’ is the first youth forensic psychiatric clinic (with outpatient, day- and clinic treatment) in Holland who worked with EQUIP. For the last two years ‘Het Palmhuis’ has been working with 7 groups of youngsters who were sent there by the court with an obligation to follow EQUIP. FC Teylingereind and Het Palmhuis are cooperating strongly in training these groups of youngsters. All groups are trained by a trainer from FC Teylingereind and by a behavior therapist from Het Palmhuis.

### 60.2. Explanation of the EQUIP Program

Thimo v.d. Pol, *Forensic Psychiatric Centre ‘Het Palmhuis’, De Jutters, The Hague, Netherlands* (PolT@dejutters.com)

EQUIP is a very well worked out program. It contains 40 completely described sessions of the 4 parts of EQUIP: the mutual help meetings and training sessions about moral reasoning, social skills and how to deal with your anger and aggression. In EQUIP the youngsters are trained with necessary social skills, helping them to control their aggression and correcting their thinking errors. This is done by training sessions and by mutual help meetings, according to the ideas of Gibbs and Kohlberg about a 'just community'. An institution with a stimulating moral climate is an institution characterised by a strong feeling for community and a fair decision making. In such a community there is also time for a discussion about norms and moral considerations. It is also a goal of the program to stimulate a positive peer culture. In this way EQUIP is also reducing aggressiveness in the institute. The basic assumptions underlying EQUIP come from cognitive therapy, behavioural therapy and developmental psychology, such as the theory of L. Kohlberg concerning moral development.

### 60.3. A Video and Live Presentation of the EQUIP Program

Peter van Beelen, *Forensic Psychiatric Centre 'Het Palmhuis', De Jutters, The Hague, Netherlands* (beelenp@dejutters.com)

Kees Mos, *Teylingereind Forensic Centre, Sassenheim, The Netherlands* (mosk@dejutters.com)

This presentation contains a short video demonstration and also a short live demonstration. The similarities and differences between EQUIP and A.R.T. (Goldstein, 1998) will be discussed, especially the differences in the mutual help meetings and in the more cognitive basis of the aggression management part by focusing on the correcting of the Thinking Errors of the youngsters.

### 60.4. Room-sharing in Dutch Young Offender Institutions: Evaluation of a Pilot Study

Leonieke Boendermaker, *Netherlands Youth Institute, Utrecht, The Netherlands* (l.boendermaker@planet.nl)

In the spring of 2005 a pilot study was launched on room-sharing in three juvenile correctional institutions in the Netherlands. The aim was to realize savings by increasing the size of the groups while maintaining the same level of staff. The three institutions have a total capacity of 350 beds. In the pilot 40 beds were created in multi-person

rooms. The Dutch Ministry of Justice ordered an evaluation of this pilot in which two critical questions were addressed: (1) How would the introduction of room-sharing in juvenile correctional institutions affect the health and safety of the inmates and staff?, and (2) Under what conditions could room-sharing be introduced nationally and does room-sharing cut costs and increase capacity? Various approaches and tools were employed to answer these questions: a literature review was conducted, experience was sought from other countries and settings, national and international legislation on room-sharing was examined, the implementation of the multi-person rooms was described as was the selection procedure, and last but not least: interviews were conducted with young offenders and staff. In this presentation the author will focus on the results of the literature review and experiences in other settings, the implementation of the multi-person rooms and the health and safety of young offenders and staff. No substantial arguments in favour of room-sharing were found.

## 61. Ethical and Methodological Issues in Forensic Psychiatry from a Scandinavian Perspective

### 61.1. Conceptual Analyses in Forensic Psychiatry

Helge Malmgren, *Göteborg University* (helge.malmgren@filosofi.gu.se)

Susan Radovic, *Göteborg University* (susanna@filosofi.gu.se)

Conceptual analysis can mean different things. Traditionally, it was conceived either as a philosophical clarification of the standard sense of a word or phrase, or as the making of distinctions between different but easy-to-confuse senses. But conceptual analysis can also, following the example of Wittgenstein, be an investigation of the practical roles of concepts or words in communication. “Role” is here understood not as intra-linguistic role but the function of a phrase in decisions about practical affairs. For example, the word “ill” has widely different roles to play in different social contexts. These roles in turn have a decisive influence on the meaning (content) of the word in these different contexts. In the present paper it will be argued that an analysis of such practical roles is essential both to the understanding of the meaning of central terms in forensic psychiatry and to the work of improving or reforming its conceptual apparatus.

## 61.2. The History and Development of Forensic Psychiatry in the Scandinavian Countries

Sten Levander, *Lund University* (sten.levander@med.lu.se)

**Background:** The Scandinavian countries have been ethnically, culturally and language-wise homogenous. A modern penal code was introduced in all three countries in the mid 19<sup>th</sup> century. Since then only Sweden has replaced it with a Lombroso-inspired model, free of metaphysical terms.

**Aims:** To identify differences in the judicial systems between the countries, particularly with reference to forensic psychiatry, and trace the roots of these differences.

**Method:** Reflections with its base in the history of ideas, political movements and power, and the decisive role of a handful of individuals.

**Results:** Focus on rationality and contempt of metaphysics (social engineering) led Sweden astray. Things became still worse in 1992 with an amendment to the penal code referring to forensic psychiatry, without consultation with the profession.

**Conclusion:** Respect metaphysics. Do not leave the law to psychiatrists but do not exclude them. Political power should shift regularly because too much power corrupts.

## 61.3. Philosophical Motives for the Swedish Penal Code of 1965

Christer Svennerlind, *Göteborg University* (christer.svennerlind@filosofi.gu.se)

The Swedish Penal Code officially changed from retribution to treatment in 1965. The influence exerted on the reform by the forensic psychiatrist Olof Kinberg is viewed as considerable. One aim of the paper is to display Kinberg's philosophical motives for rejecting retribution in favour of treatment, psychiatric if need be, as the reasonable purpose for penal sanction. Among these motives some are metaphysical while others are normative, or ideological. Another aim of the paper is to discuss to what extent Kinberg's ideas have actually been implemented.

## 61.4. The Concept of Free Will and Volitional Disorders

Frank Lorentzon, *Göteborg University* (frank@filosofi.gu.se)

**Background:** According to the accountability doctrine, one criterion for legal excuse is the lack of free choice. This can be put into question on the view, underlying Swedish legislation, that all agents are determined in their actions, hence equally responsible. The difference between offenders sentenced to prison and those to psychiatric care does not depend upon free will, but rather on whether or not they suffer from severe mental disorders.

**Aims:** To examine the relationship among intention, desire and rationality, delineating what role volition plays in action and what would, conceptually, qualify as volitional disorders.

**Method:** Conceptual analysis of relevant key concepts.

**Results:** Presenting a clearer view of the relationship between free will and volitional disorders.

**Conclusion:** Free will does not matter for actual praxis, since the relevant delineation in terms of volitional disorder is compatible with both the accountability doctrine and the Swedish view.

## 61.5. Ethical Problems in Forensic Psychiatry

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**Background:** Forensic psychiatry is a “morally charged” practice. Practitioners in the area are routinely faced with difficult decisions, and the problems involved are often moral in character, i.e. the morally right thing to do is not always evident. This holds not only for decisions concerning the appropriate treatment, but also for decisions regarding assessment and diagnosis. For example, what coercive measures are morally acceptable, and is it ever justified to predict future behaviour from insufficient evidence?

**Aims:** First, to list the ethical problems most commonly encountered in forensic psychiatry, and to classify these problems in a theoretically fruitful way. Second, to discuss what moral principles are most relevant and helpful in this context.

**Method:** Interviews with practitioners combined with traditional ethical analysis.

## 62. Ethical Issues in Forensic Settings

## 62.1. Engagement with Persons who have Committed “Evil” Acts: An Aspect of Professional Practice in Forensic Psychiatric Settings

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

“I remember the first time that I had dealt with a murderer, looking at his hands. He had strangled somebody.” “I had a young woman admitted ... she had murdered her children.” “My first forensic client had murdered prostitutes with an ice pick.” In a Canadian hermeneutic phenomenological study of ethical relationships in forensic psychiatric settings, health professionals described to researchers their efforts to practice ethically. An element of forensic practice is that one’s client may have committed acts that can be described as horrendous, disgusting or even “evil.” How does one engage in a meaningful and ethical way with such clients? In this paper, the experiences of study participants (nurses, psychiatrists, psychologists and social workers) in addressing this question are described. Explored, as well, is the idea of “evil” in the context of human behaviour from the perspective of forensic professionals.

## 62.2. The Experience of Psychologists who are Exemplars of Ethical Practice

Anne Marie Dewhurst, *University of Alberta* (valerian@telus.net)

Ethics are an important aspect of being a psychologist. Graduate training and registration processes affirm this. This study used interpretive inquiry, informed by hermeneutic phenomenology to explore the experience of highly ethical psychologists. Exemplars of highly ethical psychological practice suggest that being ethical goes beyond training. Participants in this study affirmed that to be ethical they must be competent and stay competent as their practice evolves. They indicated that virtue ethics, utilitarian ethics and ethics of care informed their practices. Being ethically mindful and practicing within an informed, supportive yet critical environment were also key to their continued ethical practice. This presentation will develop these findings in more detail as well as discuss ways to support the development of ethical practice for psychologists newly entering the field as well as to support the continuing ethical efforts for established psychologists.

### 62.3. Suicide-By-Cop: When Police Pull the Trigger for Suicidal Individuals

Joanna Fava, *John Jay College of Criminal Justice* (jfava01@yahoo.com)

Suicide ranks 11th as the cause of death in the United States. In addition, the American Association of Suicidology estimates that for every suicide death in this country, 25 attempts occur. In addition, it has been estimated that approximately 10% of police shootings a year in the United States involve a victim who deliberately provokes and exposes himself to police gunfire in an attempt to bring about his own death. These cases have been termed “suicide-by-cop” and the phenomenon is a familiar occurrence to law enforcement officers. This study investigated 61 cases of suicide-by-cop across the United States and is the largest sample of such cases to date. Regarding the gaps in the current literature, little is known regarding the precipitating factors leading individuals to opt for suicide-by-cop. While many cases involved mentally ill individuals, there were also certain issues causing overwhelming distress and many cases involved contact with law enforcement within 24 hours of the suicide-by-cop incident. This study attempts to detect warning signs for friends, family, and law enforcement that may help to prevent such occurrences. Special attention is given to those cases where subjects attempted suicide-by-cop but were not killed.

### 62.4. Clinical Trials Registration and the Holy Grail

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In the last couple of years, several controversies have raised concerns about the control of the pharmaceutical industry over the design, conduct, interpretation and publication of clinical trials. These controversies have made it more publicly known that clinical trials are often conducted in secrecy and that research results which do not serve the sponsor’s interests can easily be kept out of the public domain, even if public health interests are at stake. In the wake of these controversies, several organizations, including the World Health Organization and the International Association of Medical Journal Editors, have promoted the idea of a worldwide clinical trial registry. This paper will first explore the rationale behind these registries, in particular focusing on WHO’s International Clinical Trials Registry Platform initiative. It will further discuss some of the difficulties associated with the implementation of an international mandatory registry. Finally, the paper will emphasize the limits of clinical trial registration and indicate how registration will not be sufficient to ensure the integrity of medical research. It will mention more

radical regulatory measures that ought to be considered to ensure the reliability of medical research.

## 63. Ethical Relationships in Forensic Science

### 63.1. Mass Fatalities and Identification: Could it be that Some People Just Don't Matter?

Julija Kelecevic, *University of Alberta* (julija@ualberta.ca)

In the case of human fatality, one of the primary goals of forensic science is to identify the deceased individuals. In some cases, such as with Air India Flight 182, forensic scientists must identify a large number of individuals in a short period of time. Other tragic events (the tsunami in Southeast Asia, ongoing famine in Darfur in Sudan, and past or present war conflicts) also resulted in many deceased individuals who remain unidentified. This paper examines why certain events appear to be more important to the international community, how resources are allocated during investigations, and what it really means to be identified using different techniques, including DNA and dental evidence. In order to do so, cases will be reviewed from the 2004 tsunami in Southeast Asia, the 2005 flood in New Orleans, USA, and war conflicts in the Balkans, East Timor and DR Congo. Using combinations of published academic papers and journalist reports, an exploration will be done of whether there is a systematic institutionalized neglect regarding the identification of victims depending upon where they come from and who they presumably were, and how such situations are reflective of ethical conduct in forensic science and the social construction of human rights.

### 63.2. Politics of the Dead: Ownership of the Image

Erika Goble, *University of Alberta* (egoble@ualberta.ca)

McLuhan's claim "the medium is the message" is widely accepted in the electronic age, but what is the message when the chosen medium is dead human bodies? This is one of the troubling questions that arise from Gunther von Hagens' public displays of "plastinated" bodies. While his work is an extreme example of the public display of the dead, it is by no means unique. Images of the dead have become common place in

popular culture, academia, and medicine, including forensic science. Public displays of the dead – physical displays and photographs – are often viewed by their audience with little reflection. It is only when we are presented with extreme displays of the dead that we begin to question their presence and meaning in our lives. This paper considers a little addressed issue concerning the literal and figurative displaying of the dead: the competing claims of “ownership” over their images. Specifically, it addresses the complex array of assertions of legal and moral rights over the control and use of any given image of the dead, including the overt public claims of the dead person’s kin and the tacit assertions of authority and “rights of usage” by news media, educators, and scientists.

### 63.3. When a Guilty Verdict is in the Accused’s Best Interests

Dale Dewhurst, *Valerian Consulting, Edmonton, Canada* (annemariedewhurst@telus.net)

Lawyers’ ethical codes direct defence counsel to protect clients from criminal conviction. If acquittal isn’t possible, the minimal sentence should be secured. This paper argues that in specific case types neither an acquittal nor a minimal sentence is in the client’s best interests. It is argued that the clients’ best interests must be understood in the context of their overall lives. Criminal behaviour is often more than single incidents of offending isolated in time and place. An analysis of case examples shows that focusing on acquittal and minimal sentencing may leave clients in continuing conflict with the law; facing increased long term punishment; and failing to proactively address underlying mental health concerns. In cases where the offending is directly connected to compulsive or repetitive behaviours that are grounded in mental health concerns, mental health professionals should be consulted early in the legal process. They may help determine whether the clients’ best interests are better served by acceptance of criminal responsibility and sentencing that ensures proper mental health intervention. Breaking the offence cycle through treatment and promoting a healthier crime-free lifestyle may meet the clients’ best interests better than protection from criminal conviction.

## 64. Ethics and Values in Mental Health

### 64.1. The Professional Virtue of Empathy: when Good Intentions may lead to Harmful Consequences in a Culturally Diverse Society

Alison Abdool, *Homewood Health Centre, Guelph, Canada* (abdoalis@homewood.org)

How often we are encouraged to “put ourselves in the other person’s shoes” in the clinical encounter, almost as if this would necessarily lead to treating the patient with respect and dignity. Empathy, a much propagated but perhaps not well-understood virtue, is defined in the Oxford Dictionary as “the power of identifying oneself mentally with (and so fully comprehending) a person...” We need to remember that a vital component of empathizing involves suspending our own values and beliefs and embracing the other person’s – quite a challenge in itself. After all, depending on the values and beliefs that one subscribes to, individuals’ responses may be very different in the same situation. Empathy therefore requires a reasonable understanding of the other person, lest our perceptions and actions, though well-intentioned, be based on false assumptions. This paper will critically examine the nature of the virtue of empathy, its relationship with other values and virtues (such as compassion, autonomy and discernment), and its place in culturally diverse health care delivery. It is argued that while internalized virtues are highly desirable character traits for everyone – and health care professionals are certainly no exception – it is crucial to recognize that transference and counter-transference issues may readily cloud one’s perceptions and judgments, and thus effectuate much harm to unsuspecting and vulnerable others.

## 64.2. The Inextricable Socio-Cultural Dimension of Psychiatric Diagnosis and Psychopathology and its Implications for Care and Treatments

Steve Abdool, *University of Toronto* (abdools@smh.toronto.on.ca)

Canada, like most western nations, comprises a culturally diverse society. The psychiatric labels that are attached to mental illness ought to be culturally dependent. Culture largely determines its members’ perception and conception of their environment, and strongly influences the forms of behaviors and psychopathology that occur within the culture and sub-cultures. For example, many mental disorders in such cultures would manifest themselves through somatization, partly because of the extensive negative connotations that mental illness carries in these cultures and the predominant biomedical model that is used, whereby psychological and socio-economic dimensions are minimized if not altogether excluded. In other sub-cultures, ‘mental illness’ is viewed much more positively, and sufferers are perceived as having the unique ability to access spiritual realms and interact with deceased and other spirits. Some of the labels that characterize culture-bound mental experiences include Koro in Southeast Asia, Susto in Spanish-American culture, Bewitchment in Nigeria, Shinkeishitsu, Latah and Imu in Japan, Evil Eye (known as Mal Ojo in Mexico and Fellahi in Egypt), Windigo among Native Indians in Canada, Spirit Possession or Boufee delirante aigue among Haitians.

Another example of the cultural element to psychiatric diagnosis is the use of psychiatric diagnosis in the West as a solution to human problems, such as explanation, mitigation and absolution for unacceptable behaviours. On the one hand, diagnosis, it appears, can transform social deviance into psychological illness, requiring not condemnation and sanctions but compassionate care. On the other hand, psychiatric labelling and diagnosis may be used as exclusion and dehumanisation, as we continue to witness in many countries. This paper will facilitate discussion on the socio-cultural dimension to psychiatric diagnosis and care, as well as the use and impact of psychiatric labels on patients from diverse cultures.

### 64.3. Ethical Issues in Providing Psychiatric Care to Inuit People in the Eastern Canadian Arctic

Ken Balderson, *University of Toronto* (baldersonk@smh.toronto.on.ca)

The Inuit people of the eastern Canadian Arctic have been shown to have high rates of mental health problems including suicide, depression, substance abuse and violence. Substantial evidence has related these problems to the results of colonization, including the cultural dislocation and oppression resulting from sedentarization, removal of children to residential schools, and forced culture change. There is limited knowledge of traditional Inuit approaches to mental health problems, and most services are provided by non-Inuit professionals who come from outside the communities. Commonly used psychological models may not fit well with the cultural values of people who have traditionally lived in small groups and whose links to animals and the environment have been integral to their sense of self. The application of Native ethical principles and rules of behaviour that have been described for other Native peoples and of cultural psychiatry to the Inuit are discussed. Evidence relating individual mental health to cultural continuity indicates the importance of community development and promotion of local control to address underlying social problems. Issues of equity in mental health and well being are challenging due to the remoteness of the communities and limited resources available.

## 65. Existential Pain and Palliative Management

### 65.1. Pain Management, Palliative Care and Self-Determination

George P. Smith, *The Catholic University of America* (smith@law.edu)

This paper examines the issue of existential or psychological pain and how, heretofore, it has been dealt with by hospice or palliative care – concluding, as such, that terminal or deep sedation should be embraced more widely within the Ethic of Adjusted Care as a part of the compassionate management of the dying. The first element of palliative treatment in hospice care is symptom control—pharmacological and psychological—in the dying patient. Today, pain relief—be it physical, mental, social or spiritual—is being recognized more and more as a fundamental human right. If voluntary refusals by competent dying patients of hydration and nutrition are tolerated routinely by both the legal and medical professions, as well as society at large – even though these actions hasten death--then, surely, under the Doctrine of Mercy and/or Principle of Beneficence, assistance in relieving chronic, irremediable pain should be allowed when requested. The Doctrine of Medical Futility, supplemented by the Doctrine of Double Effect, can serve as a decisive tool for both physicians and judges when called upon to evaluate end-of-life care; for, surely, if a patient is in a futile condition, efficacious treatment should be given even if the secondary effect of that assistance means hastening life’s cruel and inhumane ending. Terminal sedation is just that: recognized treatment. It should not be confused, taxonomically, by denominating it as euthanasia, murder, or assisted suicide. Rather, it is but an act of self-determination. The time has come to step outside the mired and endless moral argumentation over the “slippery slope consequences” of validating a right, however exercised, to a good (painless) death and acknowledge – decisively – that standards of common decency, compassion and mercy demand nothing less.

## 65.2. Dying with Dignity

Margaret Kelly, *Macquarie University* (margaret.kelly@law.mq.edu.au)

'Existential pain,' is a term of dubious meaning. Its use to justify palliative care for the dying is problematic. Physical pain may require medical ameliorative intervention to assist healing : but this itself raises questions as to the purpose of suffering. Non-physical pain, associated as it must be with the non-physical individual body, raises non-medical questions. Here the realms of religion, law and medicine intersect. Every person hopes to die with dignity-but dignity has never been associated of necessity with an absence of pain. Dignity relates to self-recognition, and acceptance of that by others. The human struggle to cope with the vicissitudes of life has endless permutations. To deny, and to encourage the denial by, the individual of her capacity to cope with and to attempt to understand reality of either physical pain or mental distress is to rob that person of her dignity. To intervene with 'palliative' care in cases of 'existential' pain misapplies medicine, since there is no physical disease which may be treated, let alone alleviated. It could be seen as contributing to deprivation of liberty, as the facilitation of death, and in

some cases, assisting a suicide, wrongful death, manslaughter or murder. Death is not a medical condition.

### 65.3. Terminally Ill Patients and the Limits of Autonomy

Loane Skene, *University of Melbourne* (l.skene@unimelb.edu.au)

Patients who are terminally ill, or more often their families, sometimes demand that medical treatment should be continued even if that is against medical advice. They think that the decision about what is in the patient's best interests should be made by the patient or the patient's family, and not by medical staff, who may conclude too readily that the patient's life is 'not worth living', or face resource constraints in treating other patients. Doctors and nurses, on the other hand, feel that they have the training and experience to assess the pain and distress of heroic measures and whether the continuation of treatment is justified in cases where a patient cannot survive, or will have profound disability. This paper reviews recent case law in the United Kingdom and Australia on the role and processes of courts where a patient or family members apply to a court order regarding medical treatment. The author argues that a patient's right to autonomy in decision making is in reality a right to refuse unwanted treatment, not to demand that treatment must be provided.

### 65.4. Rethinking Double Effect: A Common Law Explanation of Terminal Palliation

Cameron Stewart, *Macquarie University* (cameron.stewart@mq.edu.au)

Recent legal developments in the UK, USA, New Zealand and Australia have highlighted the need to rethink the current legal orthodoxy and its explanation of double effect. This paper will examine the fundamental flaws in the common law's adoption of double effect reasoning and argue that the law has twisted itself into an unsustainable and unethical position. The paper offers a number of solutions to the problem, in particular a revisit of Glanville Williams's doctrine of necessity.

## 66. Eyewitness Identification and the Conviction of the Innocent

### 66.1. Exploring New Directions in Eyewitness Identification Tests

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Two major concerns for eyewitness identification researchers have been to minimise the likelihood of false identifications of innocent suspects and to maximise the likelihood of culprit identifications. Although significant progress has been made, especially with respect to reducing the likelihood of false identifications (e.g., via the use of unbiased lineup instructions, the sequential lineup), current approaches fall well short of solving these problems. Here, guided by predictions derived from theories of recognition memory, we examine new approaches designed to increase our capacity to reliably discriminate accurate from inaccurate identifications. In contrast to the traditional eyewitness identification paradigm in which witnesses make a single identification response, our approaches include the examination of (a) the characteristics of the distributions of confidence judgments across multiple lineup stimuli, and (b) the patterns of identification confidence and latency across multiple lineups. Data from several experiments in each of these domains are reviewed, with results indicating that, with further refinements, these approaches may provide promising alternatives for the discrimination of accurate eyewitness identifications.

### 66.2. One Hundred Years of Trial and Error: Identification in England 1906-2006

Graham Davies, *University of Leicester* (gmd@le.ac.uk)

Guidelines for conducting identification parades in England have been periodically revised in the wake of successive miscarriage of justice based on mistaken identification. The author was involved in a number of such cases and errors could usually be ascribed to the failure of the police to adhere to existing guidelines, rather than some novel source of error. The introduction of CCTV surveillance prompted further cases as civilian staff

learned the same lessons that they could be honest but mistaken witnesses. In 2006, English police abandoned the traditional identification parade in favor of a video-based procedure. This has many advantages in terms of cheapness, portability, reliability and access to appropriate foils. However, miscarriages of justice are still likely to occur as long as cases are permitted to go ahead on the basis of a single positive identification.

### 66.3. Sequential Lineups, Simultaneous Lineups, Correct Identification Rate, and Strength of the Memory Trace

Roderick C.L. Lindsay, *Queen's University* (lindsayr@post.queensu.ca)

Early research suggested that correct identification rates were similar from sequential and simultaneous lineups and false positive choices were greatly reduced for sequential lineups (Lindsay & Wells, 1985). A meta-analysis replicated the large difference in false positive choices but found larger differences for correct identifications (Stebly, Dysart, Fulero, & Lindsay, 2001). A model of lineup decision making suggests that differences in correct identification may result from differences in stimuli (strength of the memory trace) and guessing (Penrod, 2006). Studies are reported that tested this hypothesis. Varying the quality of the stimulus type (e.g., via knowledge that a lineup task would follow, event duration, etc.) tested the impact on correct identification rates from target-present lineups presented sequentially versus simultaneously. The data to date support the hypothesis. Higher correct identification rates from simultaneous (versus sequential) lineups occur when memory for the face is poor and result from a higher rate of guessing.

### 66.4. Expert Testimony in the U.S. on the Eyewitness Reliability and Eyewitness Evidence Collection: Tales from the Front

Solomon Fulero, *Sinclair Community College, Dayton, USA*  
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For the past 70 years, social and cognitive psychologists have been asked by lawyers, usually in criminal cases, to present expert evidence on eyewitness identification, the factors that affect it, and how the manner in which the evidence is collected affects its reliability. In the United States, this has become a major battleground over which the admissibility of expert psychological testimony has been fought. This presentation is a review of the history and case law regarding the admissibility of such testimony, and a discussion of specific cases in which the testimony has and has not been admitted. The

focus is on the rationales which have been used by judges to exclude the testimony, as well as those which have been used to admit the testimony. Finally, empirical research on the impact of expert testimony on juror decision-making is discussed.

## 67. Eyewitnesses: Acquiring the Best Information and Detecting Deceptive Accounts

### 67.1. Eyewitness Memory for People, Places and Events Associated with Highly Stressful Events

Vlad Coric, *Yale University* (Vladimir.Coric@yale.edu)

Forensic examiners are often asked to perform evaluations of individuals claiming exposure to traumatic events as well as to perform an assessment of eyewitness -based information. Often the eyewitness account is the only evidence available to the forensic examiner. This presentation will discuss current scientific data regarding the assessment of eyewitness memory for highly stressful events and how these data may be of use to the forensic examiner confronted with the task of assessing the validity of the memories. In addition, this presentation will include data on new methods that may be useful in assessing the validity of eyewitness memory for people, places and things. Implications and future directions for forensic examiners will be discussed.

### 67.2. Is there a Misinformation Effect for Memories Associated with Personally Relevant, High Stress Events?

Charles A Morgan, *Yale University* (Charles.A.Morgan@yale.edu)

Over the past 15 years numerous studies have provided robust evidence that exposure to misinformation may lead to the creation of false memories in humans. The majority of laboratory studies have focused on events in a person's distant past and/or have assessed the impact of misinformation on non-stress events. This presentation will address the key findings from a recent study designed to test whether the misinformation effects can be observed for personally relevant, high stress events of recent origin. This presentation will also address how forensic examiners might be aware of the factors that contribute to

the misinformation effect in order to be able to speak to this issue in court. Recommendations will be made on steps forensic examiners may take to reduce the likelihood of misinformation effects during forensic evaluations.

### 67.3. Efficacy of Forensic Statement Analysis in Distinguishing Genuine from False Eyewitnesses

Steven Southwick, *Yale University* (Steven.Southwick@yale.edu)

George Kallivrousis, *Yale University* (George.Kallivrousis@yale.edu)

The present study was designed to test how well forensic statement analysis (FSA) methods would distinguish between genuine and false eyewitness accounts of exposure to a highly stressful, personally relevant event. Active duty military personnel were randomized to Genuine or Deceptive Eyewitnesses groups. Genuine eyewitnesses reported on exposure to interrogation stress at Survival School; Deceptive eyewitnesses studied genuine eyewitnesses' transcripts for 3 days prior to interviews. Cognitive Interviews were recorded, transcribed and assessed by FSA raters blind to status of participants. Genuine accounts contained greater numbers of external and contextual referents, unique words, and larger response length than did false accounts. The type-token ratio (TTR) was significantly lower in genuine, compared to false, witness statements. When controlling for differences in response length, the mnemonic prompt elicited more detail in genuine compared to deceptive eyewitnesses. FSA methods distinguished genuine from false eyewitness accounts for real world, high-stress events. Access to genuine accounts and rehearsal on the part of deceptive eyewitnesses may have contributed to differences in the present, compared to previous, findings. FSA methods offer potential methods that will enhance forensic evaluations.

### 67.4. The Practical use of Statement Analysis in Law Enforcement: In What Situations is it Helpful?

Wes Clark, *Connecticut State Police Major Crime Squad, Middletown, USA*  
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Numerous studies have provided evidence that an analysis of speech content may assist in the detection of deception. This presentation will address when and in what manner speech content analysis may be useful (or not useful) to law enforcement officials. Drawing from real world case examples, the presenter will show the evidence that was

available to the police, the way this evidence was used for the speech content analysis and the results of this process. In addition, the presenter will discuss potential pitfalls and how to avoid them in the practical use of speech content analysis.

## 68. Forensic Aspects of Psychiatry and Psychology in Sao Paulo, Brazil

### 68.1. Temperament and Character Traits and Anxiety in Murders with and Without Psychopathy

Antonio de Pádua Serafim, *University of Sao Paulo* (apserafim@hcnet.usp.br)

International literature on Forensic Psychiatry and Forensic Psychology has revealed high rates of psychopathic traits in individuals with forensic problems. This is a cross-sectional study which aims to evaluate personality traits and anxiety, among murderers with psychopathy, compared to controls (murderers without psychopathy and controls). The population of the study was composed of men, aged 18 years or over (N 115). This was a descriptive and cross-sectional study, with three comparison groups (group one N 37, psychopathic personality disorder murderers; group 2 N 38, murderers without psychopathic personality disorder; and group 3 N 40, individuals with no psychiatric diagnosis or forensic problems. All the Subjects were evaluated using SIDP-R, PCL-R, STAI and the Cloninger's Temperament and Character Inventory (TCI). Murderers with psychopathic traits expressed low levels of anxiety, and imprisonment time led to a reduction of anxiety responses in murderers without psychopathy. Results indicate that high scores in Novelty Seeking and Self-Transcendence TCI sub factors might be markers of antisocial behavior, whereas low scores in Harm Avoidance might be markers of psychopathy. Low levels of anxiety, high novelty seeking and low cooperativeness scores are all attributes of psychopathic murderers. Our results corroborated all personality features empirically attributed to criminals with psychopathy.

### 68.2. Crimes Committed by Mentally Ill People

Sérgio Paulo Rigonatti, *University of Sao Paulo* (nufor@hcnet.usp.br)

This presentation will be an epidemiological study of inpatients in Forensic Hospitals, which nowadays are called “Custody Hospitals for Psychiatry Treatment.” The cases studied refer to one of the Custody Hospitals, located in Franco da Rocha City. The Epidemiological Data will be the following: Age, ethnicity, nationality, psychiatric admission, criminal life, cause of condemnation [item of the Penal Code], and diagnosis. Such information will be the basis for the establishment of prevention strategies related to crimes committed by mentally ill persons [Axis 1]. Such data will be gathered during the research along with the data from another forensic hospital. In São Paulo State there are criminal groups that fight to control the prison environment, jeopardizing the incarcerated mentally ill people. However, the Forensic Hospital is not subject to this type of problem, and this study is aimed not only at the prevention of crimes committed by mentally ill people, but also to avoid the control of Forensic Hospitals by the various criminal organizations. It must be emphasized that such occurrences would be extremely harmful to the ongoing treatment of the mentally ill in the Forensic Hospital.

### 68.3. Association between Personality Disorder and Delinquency

Daniel Martins de Barros, *University of Sao Paolo* (dan\_barros@yahoo.com.br)

The antisocial personality disorder (APD) is characterized by ICD-10, among others, as “gross and persistent attitude of irresponsibility and disregard for social norms, rules and obligations”. Nevertheless, according to medical literature few of these patients have problems with the justice system. The prevalence of delinquency was studied among patients with APD (F60.2) and patients with emotionally unstable (borderline) personality disorder (BPD)(F60.3) in a personality disorder facility, examining the misdemeanors or felonies described in the medical records. As a control group records were analyzed of patients without personality disorder seen in the same medical facility. 100% incidence of delinquency was observed among APD patients; 52,4% among borderline patients, and 18% in the control group, pointing to a statistical association between delinquency and personality disorder, greater for APD ( $\chi^2=14,83 > \chi^2=13,812$  gl  $\alpha= 0,001$ ). The high incidence of delinquency in APD patients in this facility differs from that observed in the literature and points to a bias. If few APD patients seek treatment spontaneously, the facility receives a biased sample, because patients arrive only after some misbehavior. These results show not only a strong association between personality disorder and delinquency but also indicate the necessity of educating the population and healthcare workers regarding the possibility of treatment regardless of the misbehavior.

#### 68.4. The Use for Rorschach test in Young Offenders and the Backsliding Prognostic in Wrongful Actions

Maria Emília Marinho de Camargo, *University of Sao Paolo*  
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*Background:* Opposing tendencies, emotional immaturity and egotism are considered normal characteristics of teenagers. Whenever these dynamics are pathological, they reinforce the teenager's rejection of social rules and can cause his/her misconduct. Through Rorschach inkblot test, we can detect the examinee's flaws in dealing with impulses and consequently set psychotherapeutic strategies aiming at his/her social reinsertion.

*Aims:* The study aims at detecting possible delinquent traits and preventing misconduct recidivism of teenagers in Correctional Institutions at FEBEM (Foundation for the Well-being of Minors of the State of São Paulo), Brazil.

*Method:* Semi-structured interview and Rorschach inkblot test.

*Results:* In addition to the incapacity to delay the action and control emotional manifestations through thinking (acting-out), the evaluated records show flaws in the egoic structure of underage offenders.

*Conclusion:* Rorschach inkblot test is an essential instrument to distinguish the "typical teenager crisis" from an actual personality disorder.

#### 68.5. The Role of the Psychologist in the Brazilian Prison System

Fabiana Saffi, *University of Sao Paolo* (fbnsff@yahoo.com.br)

Brazil's Penal Execution Law was ratified in 1984. It aims to put into effect the provisions of the criminal sentence and enable inmates' harmonious social integration by means of individualizing the punishment. When one considers the Brazilian prison system, one must also refer to the Sao Paulo State prison system. The Sao Paulo State Secretariat for Prison Administration was created in 1993. It resulted from the state government's concern to better enable convicts under its responsibility to return to society. It was the first governmental office in Brazil to address the prison sector exclusively. One of its goals is to "rehabilitate prisoners by offering them jobs, professional training, and education, simultaneously seeking to engage society in the issue of prisons." Therefore, psychologists came to play a fundamental role in the social reintegration of prisoners. This presentation aims to describe the role played by

psychologists in the process of individualizing the punishment laid down by the Penal Execution Law.

## 69. Forensic Clinical Settings for Adolescents

### 69.1. The ‘Competence Model’: A Treatment Model for Adolescents with Severe Psychiatric Disorders in a Forensic Residential Setting

Tijs Jambroes, *Youth Forensic Psychiatric Hospital, Amsterdam, The Netherlands*  
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The main focus of treatment in forensic adolescent psychiatric residential hospitals is to reduce the risk of recidivism in criminal behaviour. In disruptive, criminal psychiatric patients, risk of recidivism is strongly related to psychiatric disorders. Consecutively, forensic treatment must be disorder specific. A treatment method based upon the principles of learning theory, the so-called ‘Competence Model’, has been used in many residential facilities for juveniles with behavioural problems. Treatment is focused according the various psychiatric disorder deficits. For instance, in adolescents with psychotic disorders, focus of treatment is reducing psychotic symptoms and learning to deal with the vulnerability. The ‘competence model’ is adjusted to account for this vulnerability. Adolescents with Pervasive Developmental Disorders have difficulties in understanding the perspectives of other people, and recognizing or nominating emotions. They often have strong tendencies to maintain to sameness and they miss the ability to deal with changes. The ‘competence model’ has been changed in accordance with these deficits. Disruptive, criminal adolescents with personality disorders, are often characterized by poor frustration tolerance and difficulties in impulse control. This specific group does not have the deficits as mentioned in the other groups. Adjustments made in the ‘competence model’ have been focused specifically on impulse control and frustration tolerance.

### 69.2. Severe Externalising Behaviour Problems and Social Problems: Developmental Continuity and Suggestions for Intervention

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For some individuals externalising behaviour may start in childhood and become life-course persistent, and others start showing increasing levels from adolescence onward. These trajectories may be associated with poor adult outcome due to permanence of risk, or cumulative vulnerability. This study aimed to identify externalising trajectories, and assess their association with adult social problems. The author used 5 assessments of the Child Behavior Checklist (CBCL; Achenbach 1991) of externalising problems in a general population sample of 2,076 children ages 4-16 (51% female), and self-reported social problems at 14-year follow-up (N=1,615; ages 18-30 years) using standardized methods. CBCL items were organized in the categories aggression (gets in many fights), opposition (stubborn), property violations (steals, vandalism), and status violations (truancy). (cf. Frick et al., 1993). Children with opposition and status violations reported more impaired social functioning as adults than children with aggression and property violations. Adults who showed adolescence onset problems reported overall less impaired social functioning than individuals with externalising problems starting in childhood. The results will be discussed from the perspective of the clinical relevance of the findings and will incorporate various aspects of the developmental continuity of different externalising behaviours and the development of social problems and useful intervention strategies.

### 69.3. Juvenile Offenders with Severe Psychiatric and Psychological Problems: Does Inpatient Treatment Affect Behavioral Functioning?

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The Youth Forensic Psychiatric Hospital The Catamaran offers psychological and psychiatric assessments and treatment to Dutch youngsters between the ages of 16 and 24 who have been involved with the Criminal Justice System and/or pose a risk to themselves or to others. In this presentation, a first exploratory analysis of behavioral changes during admission is presented. Since The Catamaran began admitting youths only in 2003, with a total bed capacity of 24 beds, in combination with the fact that the estimated average treatment duration is 21 months (sd=13 months; discharged patients only), it is difficult to already evaluate the results of treatment in terms of criminal recidivism after discharge. An instrument to assess the psychiatric condition of patients regularly, is the Forensic Inpatient Observation Scale (FIOS; Timmerman et al., 2001). It comprises six subscales: self-care, social behavior, oppositional behavior, insight offence/problems, verbal skills and distress. The way the FIOS has been implemented will first be elaborated on. Then, the FIOS-scores - and changes in these scores over time - will be presented for patients of which 6 or more assessments are available. Separately,

it will be investigated whether there is a subpopulation that improves faster or slower during admission.

## 69.4. Pilot Study of CBT Treatment for Adolescents in Secure Care

Vicky Hollis, *University of Manchester* (vicky.hollis@bstmht.nhs.uk)

*Background* Adolescence is a key transitional period in the pathway to antisocial personality. Research suggests that the maintenance of antisocial tendencies during this period is not simply due to the autonomous unfolding of pathological processes but depends on the evolving interaction between individual and environmental effects. There may therefore be opportunities for breaking the chain linking early behavioural problems and adult personality disorder.

*Method* This is a pilot study of CBT intervention for boys aged 14-18 years admitted to secure care. The control group consisted of boys in secure care who received routine care as usual. Comparisons were made, between groups, on a number of outcome measures including a needs assessment (S.N.A.S.A.), a risk assessment (SAVRY) and an assessment of levels of psychopathology (CBCL). The groups were also followed up with regard to their criminal behaviour.

*Results* Preliminary findings showed the CBT group reported improvements in a number of areas including lower number of needs at follow up.

*Conclusion* The limited effect of CBT may be due to the small sample size. However, results from the study do provide some justification for a larger scale replication, as a CBT intervention for young offenders in secure care in a feasible option.

## 70. Forensic Frontiers: Therapists and Lawsuits

### 70.1. Regulatory and Legal Impact on Physician Prescribing in Child/adolescent Psychiatry

Melinda L. Young, *Northern California Psychiatric Association, San Francisco, USA* (myoung@drpsylex.com)

This presentation addresses both Federal agency and State legislative intervention into prescribing practices of child & adolescent psychiatry in California. At the Federal level, the Federal Drug Administration has reacted to evidence that certain antidepressant medications may increase the rate of “suicidal behaviors” in adolescents (from approximately 2/100 to approximately 4/100) by placing a “Black Box” warning (the most serious warning of danger) on the prescription of ALL antidepressants for adolescents and children. In the California state legislature, an attempted ban on prescribing all “off-label” medications did not succeed. Implications of these actions for the practice of child & adolescent psychiatry are discussed.

## 70.2. Ewing v. Goldstein: Confusion over what Triggers the Duty to Warn (Tarasoff) from the Place Where it All Began

A. Steven Frankel, *Golden Gate University* (drpsylex@earthlink.net)

Ewing v. Goldstein is a California Appellate case that holds that a psychotherapist’s duty to warn and protect foreseeable victims of a serious threat of physical harm is triggered by a report of that threat by a patient’s “intimate family member,” despite statutory language requiring that the patient communicate the threat to the psychotherapist in order to trigger the duty. This presentation examines the factual, statutory and judicial perspectives on the triggering of the duty to warn and protect from Tarasoff through Ewing and discusses several approaches to remedying the Ewing holding.

## 70.3. Completeness, Accuracy, and Confidence of Memory in Forensic Interviews

Daniel Brown, *Harvard University* (danbrown1@rcn.com)

Intensive research has been conducted over the past two decades on various types of forensic interviewing: 1) field studies of investigative interviews with children disclosing abuse; 2) field studies of police interrogations; 3) memory enhancement with hypnosis; and 4) memory enhancement with the cognitive interview. These independent domains of research have yielded similar findings, namely the identification of specific personality factors, expectancies, and interview methods that lead either to significantly reliable or unreliable memory. Based on these findings new standards for conducting forensic interviews are emerging that are designed to maximize the completeness and accuracy of new information about a criminal offense while minimizing the error rate. New

guidelines are presented for forensic interviews with respect to: 1) assessing personality factors associated with memory completeness and accuracy; 2) establishing realistic expectancies; 3) introducing interview questioning strategies and memory enhancement procedures that maximize completeness and accuracy of new information, while avoiding interview strategies that increase the memory error rate.

#### 70.4. Informed Consent: Lawyers vs. Therapists

Alan W. Schefflin, *Santa Clara University* (aschefflin@scu.edu)

Informed consent is an integral aspect of the delivery of professional services. After detailing the evolution of informed consent in law, the author will focus on the difference between the legal “event” model and the mental health “process” model. A recent case, the only known published opinion on this subject, will be discussed.

#### 70.5. Psychotherapy: When Due Influence becomes Undue Influence

Edward J. Frischholz, *Loyola University* (amjch@sbcglobal.net)

Psychotherapy is one of those influence factors people are voluntarily or involuntarily exposed to every day. But when are psychotherapeutic influence factors appropriate and when do they become undue? Black’s Law dictionary (2000: abridged seventh edition) primary definition of “due” is that which is “just, proper, regular and reasonable (p.405). These four qualities may constitute individual, specific tests for judging whether psychotherapeutic influence factors are due or undue. In contrast, it is the secondary definition of “undue” as that which is “excessive or unwarranted” which appears to complement the primary definition of due influence. For instance, the primary definition of “undue influence” is “the improper use of power or trust in a way that deprives a person of free will and substitutes another’s objective. For example, consent to a contract, transaction, relationship, or conduct is avoidable if the consent is obtained through “undue influence”. These issues will be considered in order to develop a hierarchical due/undue influence standard for psychotherapy that can be generally and equitably applied to various treatment situations as well as to developing statutory definitions designed to protect the public.

## 71. Forensic Psychiatry and Psychopathology

### 71.1. ISD as a Special Measure for Addicted Offenders in the Netherlands

Hanny Elzinga, *State University of Groningen* (h.k.elzinga@rechten.rug.nl)

*Background:* Habitual offenders are responsible for many crimes committed in public. Moreover, many habitual offenders are addicted to (hard) drugs. For more than ten years the Dutch government has tried to protect the public against crimes committed by addicted habitual offenders. Since 2001 the Dutch criminal system has a special measure directed at addicted habitual offenders (SOV, Strafrechtelijke opvang verslaafden). In 2004 this special measure for addicts was converted to a general measure directed at habitual offenders (ISD, Plaatsing in een inrichting voor stelselmatige daders).

*Method:* The legal procedure; especially the arguments found in statutory law and case law.

*Research:* The criminal approach to the (addicted) habitual offender distinguishes two objectives namely: public protection by 1) imprisonment and 2) treatment. In the view of the legislator in case of the SOV these two objectives were equal, but in practice imprisonment became the leading objective. In case of the ISD the legislator decided that imprisonment should be the leading objective, but in practice the judge also looks at the treatment. The relationship between the two objectives in statutory law and case law, and the development of this relationship is the subject of this research. Attention will also go out to be given to the execution/implementation of the measures.

*Results:* Public protection in the case of the SOV and ISD creates an unstable balance between imprisonment and treatment.

*Recommendations:* To protect the public against recidivism the Dutch government should pay more attention to the treatment of (addicted) habitual offenders.

### 71.2. Juvenile Psychopathology and the PIJ-Order/Measure

Ruud Bullens, *Free University of Berlin* (r.bullens@compaqnet.nl)

*Introduction* In the Netherlands, juveniles who show very problematic (acting out) or/and delinquent behaviour, will - to date - be placed in the *same* residential treatment facility: the judicial juvenile institution (*justitiële jeugdinstelling*). However, a clear distinction

exists between the designation title of the placements under which these youngsters will remain together in these institutions. On the one hand, there are ‘problematic’ juveniles who are placed according to civil law: the group of OTS-youngsters (Being Under Supervision); on the other hand, there are ‘criminal’ juveniles who are placed on a court order: the PIJ-order or PIJ-measure (Placement in Institution for Juveniles). In recent years, there has been a sharp political and social debate about the fact that *both* ‘distinct’ groups have been placed *together*. The danger for the ‘problematic’ group to be infected/corrupted by the ‘criminal’ group, was the opinion most frequently heard in this debate. A political decision has already been made on the basis of these opinions: the two groups will be placed in *different* institutions. This process of separation must be completed by May 2010.

*Method* However, the question is: are these two ‘problematic’ and ‘criminal’ groups really so different? Empirical research has taken place to address this topic. On the basis of the 70 items of the Forensic Profile list for Juveniles (FPJ-list), both groups have been compared.

*Results* Results show an overlap on 50 of the 70 items between the two groups; on 15 items, the PIJ-group performs significant ‘worse’ than the OTS-group; on 5 items, the OTS-group shows more serious characteristics than the PIJ-group. On the basis of these results, the validity of the aforementioned political decision can be seriously questioned.

### 71.3. Dimensional Assessment of Psychiatric Disorders in Incarcerated Boys

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Peter M. Dingemans, *FPA Vredenburg, De Mare, The Netherlands*  
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*Introduction* Several studies have shown that psychiatric disorders occur frequently among incarcerated boys; with up to 90 % meeting the criteria of any psychiatric disorder. The most common are externalizing disorders and less often internalizing disorders. Comorbidity rate is high (67%). Conduct disorder (73 %) and oppositional disorder (14 %) are reported often, as well as ADHD (8 %) and substance use disorder (55 %).

*Aim* To determine the dimensions underlying these psychiatric disorders, to make it possible to adjust treatment.

*Method* One hundred boys who were incarcerated in the The Hartelborgt were included. After informed consent, the participants were administered a structured questionnaire regarding sociodemographics and treatment history, an intelligence test, the SCID I and II

for DSM diagnosis, the DAPP-BQ and the BFI for dimensional diagnosis and the CTQ for trauma history investigation.

*Research* DSM psychiatric disorders measured with the SCID I and II, were compared with the dimensions, measured via dimensional questionnaires.

*Results* Preliminary results indicate that the dimensions of dissociability versus agreeableness and items of extraversion/impulsivity are important in indicating treatment in this population. Neuroticism/emotion regulation and conscientiousness are dimensions found less frequently to be causing problems in this population. Intelligence is a very important factor.

*Recommendations* It is recommended to use a combination of categorical diagnostic instruments and dimensional assessment to support treatment goals. For future research it is recommended to look for physiological or neuropsychological markers.

## 71.4. Personality, Shame and Pride in Delinquents

Joost J. Baneke, *University of Twente* (j.j.baneke@utwente.nl)

*Introduction* Research over the last fifteen years has indicated that shame can be a very negative emotion, predicting conflict, delinquency and many forms of psychopathology (Tangney & Dearing, 2002; Baneke, 2005). Pride can be seen as the counterpart of shame: pride contributes to the social bond and identity, shame is devastating for the human bond and personal identity (Scheff, 1997). In order to enhance our comprehension of the relationship between personality (development) and conflict, we study is done of the relationship between shame, pride and personality in several populations: delinquents, psychiatric patients, elderly, somatic patients, students, and adolescents.

*Method* In the assessment program of delinquents for the court, psychiatric patients admitted for treatment and several other groups were compared for differences in personality, shame and pride. The NEO-PI-R (Costa & McGrae, 1992) and other standardized questionnaires were used for measuring several personality traits. Shame was measured by the EES (Andrews e.a., 2002), pride by the SSGS (MArschall e.a., 1994). Only respondents who returned a written consent were included in the research program. Several variate and multivariate statistical methods were used to investigate the relationships between personality, shame and pride.

*Results* In a pilot study of this particular topic, significant differences were found between male and female respondents in shame and pride: males expressed more pride and females more shame. These differences were replicated in a study of male delinquents and women with eating disorders. This is important from a theoretical point of view, because there are indications that eating disorders are related to self-destructive

hostility and delinquent violence to other-related destructive hostility. In this study we hypothesize that shame is related to introversion, and pride to extraversion. However, we are in doubt about the relationship between shame and pride and other personality traits. The latest results will be presented at this conference.

## 71.5. Ethno Psychiatry

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*Introduction* Working as a psychiatrist with asylum seekers requires diagnosing both malingering and genuine disorders. What criteria can be found to distinguish between these two categories?

*Method* A qualitative investigation into the assumptions of psychiatric thinking.

*Results* This reveals that the inductive-deductive approach underlying the DSM-IV is rooted in western values such as individualism and emancipation from religion and society. The universal character of this perspective is seriously in question, as our ways of thinking and feeling can be interpreted as the result of the way we were socialised. No value can be said to be free from the community in which it was born and shaped. This leads us to the concept of ethno psychiatry recognising the importance of cultural factors for the way we conceptualise psychiatric diseases. Nevertheless, the idea of ethno psychiatry is a western idea. Besides, ethno psychiatry may lead to extreme relativism, claiming that even the distinction between the sane and the insane is completely culturally determined. Finally, the author points to the existence of universally shared values despite ethnic interpretations and different sensibilities.

*Recommendations* To be alert, to recognize ethnically and culturally determined symptomatology against the background of universal classifications.

## 72. Forensic Psychiatry and University in the Netherlands

### 72.1. Comparison of Patient Characteristics between a Forensic Caseload and a Caseload of Patients Referred with Primarily Addiction Problems

G. Schuthof, *Tilburg University* (schut657@wxs.nl)

*Introduction:* After observing some patient characteristics in practice in a forensic outpatient clinic there appeared to be a problem with drug and or alcohol abuse in more than 50%. The question raised, is where there are issues regarding similarities and differences between people primarily referred to a forensic outpatient clinic and a group of patients referred because of addiction problems to an institute of addiction.

*Method:* Out of 100 cases in both patient referral categories, patient files were studied with respect to diagnostic categories and patient variables, with similar methods in the two settings.

*Results:* There were several differences in patient characteristics concerning the incidence of mood problems, anxiety disorders and the number of DSM axis II personality disorders in cluster B and C.

*Conclusions:* In spite of the fact that with forensic outpatients there are many addiction problems, distinctive differences exist in the incidence of cluster B and C personality disorders in both study groups.

*Recommendations:* Further research is needed to define variables that make patients cross the forensic line, to get more insight in the following questions. Is there a more mature personality profile in general for patients with mere addiction problems? Are there specific cluster B symptoms that facilitate forensic behaviour, and is defining of these specific factors needed in risk assessment? Is the age of trauma or onset of parental neglect an influence on the development of forensic risk factors?

## 72.2. Forensic Psychiatry in General Psychiatry's Curriculum in the Netherlands

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*Background:* The interest in forensic psychiatry in today's general psychiatry curriculum is growing every year. Notwithstanding, there is still a practical gap in the perception of the need for specific expertise between forensic psychiatrists and their non-forensic counterparts. An explosive growth of delinquents with psychic problems in detention is paradoxically one of the basic causes of that gap.

*Method:* In this paper, questions about efficiency in today's curriculum for the general psychiatrist will be discussed. Firstly, attention will be paid to developments in the field. Then, opinions of professionals (national and international) will be discussed. Finally,

improvements to the general psychiatry specialisation curriculum of the Amsterdam/Geestgronden consortium will be proposed.

*Results and conclusion:* In everyday practice, forensic psychiatry is mostly identified with criminal law practice. In the Netherlands, there are 19 forensic psychiatric service departments (FPDs of the Ministry of Justice), around the country. 80 Psychiatrists are employed by this work unit. There is a country-wide harmonisation effort with protocols, guidelines and methods on how to work with which diagnostic instruments. There are also many forensic psychiatrists working in penitentiaries, giving consultation to thousands of delinquents often with serious psychiatric problems. In the community, striking a balance between dealing with problems of dangerousness and giving the best medical help has been the subject of intensive debate in Dutch health politics in the last decades. The general psychiatrist's need for expertise in forensic psychiatry is primarily in learning the basics of law with regard to the patient's rights and of risk assessment and risk management. Practical clinical forensic expertise will be a basic need for the new generation of general psychiatrists, too. General and judicial health services are growing towards each other. That is certain.

### 72.3. Discrimination of Impulsive Violent Behaviour by Psychological Test

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Martin Appelo, *Groningen Research Institute, The Netherlands*

*Introduction:* The subject of this research is impulsive violent behavior. In a literature review 16 factors were found that were associated with the subject. Not one of these factors discriminates for impulsive violent behavior. The present study involves looking for combinations of factors and developing a new instrument based on these factors.

*Method:* First, instruments were used that were mentioned in the literature in relation to impulsive violence or impulsive aggression. When there was no instrument available an attempt was made to find an instrument that was used in research on violence or aggression. If this was not found a search was made for an instrument that could be used. Instruments were translated into Dutch and abbreviated if possible.

*Results:* A new instrument was designed based on the Aggressive Acts Questionnaire, Aggression, Questionnaire, Barratt Impulsivity Scale, Arousal Predisposition Scale, Hostile Automatic Thought Scale, Self Attributes Questionnaire, Weis verbal subtest and Sensitivity to Criticism Scale. For some factors a simple question was used. The self-report instrument was validated.

*Discussion:* The instrument was used in a group with impulsive violent behavior and a group that could be impulsive violent but was not so far. The authors present the results of this research and discuss the consequences for treatment, risk assessment and criminal law, especially how the instrument could be used in further neurophysiologic research.

## 72.4. Are You Talking To Me?

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Evaluation of recidivism by the Research Centre of the Dutch Ministry of Justice (WODC) after release from maximum security state hospitals against the advice of the clinic yielded serious communication problems between forensic experts and the judicial system: 1. Differences in emphasis between judicial and behavioural criteria. In some cases, the advice relies relatively heavily on treatment considerations and the judicial criterion of risk of criminal recidivism is not sufficiently underpinned. 2. The uncertainty in risk assessment. In some cases, also after further inquiry by the court, the advice does not have sufficient foundation to convince the court with respect to the risk assessment. The problem is that a higher percentage of former TBS patients relapsed after a ‘contrary ending’ than when the TBS measure was terminated otherwise. The decision to prolong or discontinue the TBS measure is regulated as a judicial decision and the risk of criminal recidivism is the central criterion for this decision. Contrary ending is the termination of the TBS measure by the court, against the advice of the hospital or other institution treating the patient. This presentation goes into the details of these findings and offers some answers to effectively and efficiently communicate with the court, so that decisions are based on solid, transparent arguments.

## 72.5. Towards a Probabilistic Approach in Forensic Behavioural Science

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*Background* There is a discrepancy between the certainty with which forensic experts present their conclusions in reports and the uncertainties that are implicit in this field of knowledge. The history of psychiatry is full of mistakes about mental illness and behaviours and the causal agents that are involved. Crucial is the fact that the

psychiatrists and psychologists try to explain events that have already taken place. And the reconstruction afterwards is of a totally different nature from the prediction of future events.

*Methods* A qualitative analysis is performed aimed at the explanation of the above mentioned discrepancy. If a factor does not predict a future criminal act, it cannot be used as an explanation afterwards. An analysis from the literature was done of predictors of future crime and data were compared with reconstructions post hoc. One important factor is contextuality.

*Results* The certainty with which the experts present an illness or a personality disorder as causally related to a criminal act is at odds with the poor predictive power of these vignettes and ignores the relevance of banal predictors (age, sex, and criminal history), the context and functional impairments that cut across diagnostic categories.

*Conclusion* Calculated uncertainty should replace post hoc certainty.

## 73. Forensic Psychiatry, Development and Life Cycles

### 73.1. The Dynamics of Shame and Guilt in the Diagnostic Process

Frans Schalkwijk, *Tilburg University* (F.Schalkwijk@planet.nl)

*Introduction:* Shame and guilt are powerful emotions, in the integrative as well as in the destructive sense. In Dutch forensic practice shame and guilt are diagnosed as more or less static indicators of the level of moral development. The dynamics of these emotions in the diagnostic process and in the dynamics of the criminal offense are given too little attention. In this static conceptualization, alleged cultural differences about shame and guilt are taken for granted. In the Dutch forensic diagnostics of criminal juveniles, the majority of juvenile delinquents are from a South-Mediterranean culture and stereotyped as driven by shame and lack of guilt.

*Method:* In this paper, the result of exploratory research which is currently being carried out into these dynamics will be presented. The theoretical background in this research will be cognitive psychological and psychoanalytical theory. On a quantitative level shame and guilt were measured with the Tosca-A and correlated with MMPI-A and biographical and descriptive diagnostic data. Data were gathered from court reports of juvenile delinquents ranging in age from 14 to 18 years.

*Results:* As the interpretation of the data is being done in fall 2006, no results can be presented yet.

*Conclusion:* On a qualitative level the dynamics of the offense and the role of (un)conscious shame and guilt therein, will be discussed. The alleged cultural differences will be a specific topic.

## 73.2. Juvenile Sex Offenders and their Criminal Careers

Ruud Bullens, *Free University of Berlin* (r.bullens@compaonet.nl)

*Introduction* Sex offending poses a serious problem to our society. In the last decades, juvenile sex offending has also come to the attention of the judicial system. The question is: how dangerous are these young sex offenders? Are they tomorrow's rapists, pedophiles or incestual fathers? How do they develop? What are the developmental pathways they follow?

*Method* On the basis of the Recognition System of the Police (HKS), in which all serious suspects of criminal activities are registered, young sex offenders ('specialists') and offenders of violence and property who also committed (some) sex offences ('generalists'), approximately 4000 youngsters have been followed during a 7 year period (1996-2002).

*Results* The results show that there is a sharp decrease of sex offences for the group of young sex offenders. Approximately, half of young sex offenders will not recidivate at all (according to HKS). To a large extent, the remaining part will also stop with their sex offending behaviour. Only a small part of these 'specialists', some 10%, will continue. Also violent and/or property offenders ('generalists') will show less sex offending behaviour, as time goes by. There is an increase in property offences during the criminal career of *all* the distinct groups. Some therapeutical implications of these results will be discussed.

## 73.3. Behavioural Manifestations of the Antisocial Personality Disorder among Elderly: A Qualitative Research

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*Objective* An attempt was made to portray the older individual (>65 years) with an antisocial personality disorder (ASPD).

*Method* The applicability of the DSM-IV-TR of the ASPD, specific offences and the concepts “heterotypical continuity” and “maturation” were assessed by means of self-report questionnaires among 69 Dutch forensic psychiatrists and psychologists.

*Results* Only three DSM-IV-TR criteria seem to be applicable to the elderly.

Behaviours typical for this group are: lack of empathy, externalisation, egocentric behaviour and lying/deceit. Heterotypical continuity is well applicable in older adults. Maturation on the other hand seems to be rare in the elderly with an ASPD. Among older adults sexual offence, fraud and abuse are the most common offences with elderly delinquents.

*Conclusion* Personality disorders among older individuals are manifested differently from among (young) adults, implying that the current DSM-IV-TR criteria are, to a large extent, not applicable. These criteria need to be supplemented with a geriatric sub-classification.

### 73.4. Child Murder in Forensic Psychiatry

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*Introduction:* The murder of one’s own children can occur at any time and any place. This phenomenon in the Netherlands has not yet been researched thoroughly. This study aims to map the main features of the perpetrator (mental disorders), the victim, the family, the offence, and the legal consequences.

*Method:* all files of suspects of murder and manslaughter from 1994-2004 were selected and the files of those suspected of the killing of their own children were studied; the psychiatric and psychological assessment ‘pro Justitia’ formed the main source of data.

*Results:* the results at the time of the preparation of this abstract (June 2006) are not yet available but will be presented at the congress in June 2007.

### 73.5. The Potential Forensic Role of the Fetal Anticonvulsant Syndrome

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*Background* A considerable percentage of pregnancies occur in women who have to take anticonvulsants for the treatment of epilepsy. Often the treatment has to be continued throughout the prenatal period of the child and this may result in malformations, developmental and behavioural problems. Until now, no cases have been published in which a connection to criminal behaviour appears plausible.

*Method* The behavioural significance of the fetal anticonvulsant syndrome will be reviewed. Two cases are presented in which two brothers who had a prenatal exposure to several anticonvulsants were convicted for several crimes and were ultimately permanently placed in a forensic hospital.

*Results* From puberty on they showed delinquency. They had developmental retardation, intellectual impairment, dysmorphic signs and quite specific neuropsychological deficits. Several categorical diagnoses were put forward in expert reports, but not the specific syndrome from which they were suffering. Treatment, if possible, was subsequently not focused on the syndrome itself but was of a general nature.

*Conclusion* In spite of the fact that the behavioural teratogenic effects of anticonvulsants are known for decades, the syndrome does not show up in the forensic field, which indicates that a thorough medical diagnosis may be discarded and replaced by the simple descriptive behavioural diagnoses of the DSM

## 74. Forensic Psychiatry: Management Procedures and Governmental Needs

### 74.1. Drug Addiction and Psychiatric Disorders in the Netherlands

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*Background:* The last decade has shown a major shift in the conceptual thinking about addiction in the Netherlands. Traditionally addiction was primarily seen as a behavioral disturbance. Behavioral treatment programs relying heavily on individual motivation to gain abstinence formed the mainstream therapeutic approach. Persons who dropped out of these treatment programs – even after repeated participation – fell back to harm

reduction scenarios with minimal care. Developments in the areas of neurobiology and genetics regarding addiction have produced substantial evidence about the biological mechanisms underlying addiction. Currently addiction is considered a brain disease. Moreover, applying the disease model within the field of addiction has shown that there is a significant number of co-occurring psychiatric disorders in patients with addiction. This new perspective on addiction constitutes a paradigm shift with major consequences for the practice of addiction care.

*Aims:* In this presentation an update will be presented of the neurobiological and genetic background of addiction. Epidemiological data about the co-occurring psychiatric disorders will be given with a focus on special (forensic) populations.

*Conclusion:* The field of (forensic) addiction care is changing rapidly due to a paradigm shift in the conceptual thinking about addiction and the recognition of the high prevalence of co-occurring psychiatric disorders. This has major consequences for the organization of addiction care, the required professional expertise, their training and educational programs and the development of evidence based treatment programs.

## 74.2. Contextual Analysis of Executive Functioning in Psychopathy

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Forensic psychiatric and psychological clinical examination according to DSM-IV criteria fail in differentiating subtypes of complex disorders or in disentangling overlapping syndromes. There is growing evidence in support of a functional psychopathological approach in which the most diverse psychiatric disorders can be understood in terms of psychological (dys)functions with a specific etiology, treatment, and prognosis. Herein, the concept of executive function (EF) plays a central role. EF refers to self-regulating, meaningful, adequate, and goal-oriented behavior in new or unusual situations. The current presentation's address is threefold. First, it will be argued that a functional psychopathological approach has several advantages above traditional classificatory diagnosis. Second, it will be shown that psychopathy, together with several other major psychiatric disorders, may share the same class of executive dysfunction. Finally, it will be argued that EF may be considered as a subset of rule-governed behavior, as recently conceptualized within the context of Relational Frame Theory, and that this may lead to a more appropriate sub typing of psychopathy and a more differentiated view on treatment indication.

### 74.3. Psychotherapy in Detention

Karel T.I.Oei, *Tilburg University* (t.i.oei@uvt.nl)

O. de Haas, *Tilburg University* (opdehaas1112@planet)

*Introduction* Until recent years psychotherapy within prisons and remand houses was politically an impossibility. Even in 1997 the then appointed minister of Justice Mrs. Sorgdrager stated pointedly: ‘. there, treatment should not and could not be allowed.’ Before then several experts in the field of forensic psychiatry had been pleading a more balanced handling of this important issue.

*Method* Demanded by Mr. Korthals, who had succeeded Mrs. Sorgdrager in the mean time as Minister of Justice, some psychotherapy expertise was developed in the detention institutions (the so called *Pilot Studies*). These experiences led, according to Mr. Korthals, in 2000, to the conclusion that: ‘*The Dutch detention system should have, within a period of 4 years, a country -wide treatment method for inmates with psychic and / or personality disorders*’.

*Results and conclusions* From that moment on the question *if* inmates with psychic problems were allowed psychotherapy was replaced by the question of *how* this could be realized.

Due to above mentioned developments a study was initiated into the possible use of *General Psychotherapy*, as generally practiced within the Netherlands inside the general and forensic mental health institutions as well as by self employed psychotherapists, in the Dutch detention situation.

In the presentation several steps will be discussed for implementing this initiative.

### 74.4. Attack or Attach: Attachment and the Treatment of Antisocial Personality Disorders

Anne van den Berg, *Tilburg University* (anne@berg-op.nl)

*Introduction* In the last decade the interest in the attachment theory for understanding and treatment of severe Personality Disorders has been growing through the research and publications by Fonagy and Van IJzendoorn. Especially in the UK, this interest is focused on the Antisocial Personality Disorder (ASPD). The speakers will give a short introduction to attachment theory and the research of the ASPD referring to Bowlby, Winnicott, van IJzendoorn and others.

*Problem* The first question is whether the attachment theory as an integrated theory with developmental, cognitive, psychodynamic, sociological and biological elements, is suitable for the understanding and treatment of patients with ASPD. As for the second question, it is hypothesized that treatment of patients with ASPD will improve by indirect and implicit strategies and interventions rather than by direct ones like training; more likely on form and process than content and control. Inspiration for this hypothesis is found in the theories of milieu therapy, attachment theory, and practice in therapeutic communities. To achieve safe attachments, one of the big problems in ASPD, holding and attunement is necessary. Safe attachments are necessary for patients with ASPD to be willing to learn from interaction with the therapists and with each other.

*Research* People who are suffering from ASPD are busy with maintaining their own position of power and control of their relationship with therapists. Treatment institutions must apply more indirect, intelligent and effective methods to influence patients with ASPD to develop more healthy attachments. Some ideas are proposed for ways to measure the attachment to the therapeutic context of the treatment institutions

## 74.5. Attachment Styles and Sex Offenses

Dirk Van de Putte, *Brussels Forensic Institute, Brussels, Belgium*  
(inge.jeandarme@fracarita.org)

This presentation deals with the question whether patterns of insecure attachment play a role in the etiology of sexually deviant behavior. The current literature offers some indication that insecure attachment is at least partly involved in the development of intimacy deficits, lack of empathy and low self-esteem, all of them characteristic for the psychopathology of sex offenders. Recent studies on sex offenses demonstrate a high occurrence of insecure attachment styles: paedophilia is correlated with “preoccupied” and “fearful” attachment styles, while rapists in most studies show a high rate of a “dismissive” attachment style. Paedophiliacs more often have been exposed to child maltreatment combined with sex abuse than other sex offenders and non-sex offenders. A history of child maltreatment characterised by physical abuse is frequently seen in rapists. This lecture further discusses the effects of insecure attachment from a neurobiological perspective. Attachment as one of the most important motivational systems in human life deeply influences the development of the infant brain. The role of oxytocin in the development of social bonding and the monoamine hypothesis of paraphilic behavior will be discussed. We present some evidence that adverse attachment experiences as a child may have detrimental effects on the development of intimate and romantic relationships with adults and may increase the likelihood of the development of deviant sexual interests. In conclusion, a comprehensive treatment program for sex offenders should not only deal with relapse prevention and modification of deviant sexual preferences but

should also take into account the possible intimacy deficits that originate from negative attachment experiences.

## 75. From Stigma to Legal Protection - Patients' Human Rights

### 75.1. Do Women and Men Suffering from Somatoform Pain Disorders Perceive the Stigma of Mental Illness Differently?

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M. Aigner, *Medical University of Vienna* (marion.freidl@meduniwien.ac.at)

*Introduction* In this study the authors examined whether women and men suffering from chronic somatoform pain disorders perceive the stigma of mental illness differently. Fear of stigma and discrimination can influence the course and prognosis of somatoform pain disorders, because patients may avoid contact with psychiatric services and therapeutic interventions.

*Method* 42 Patients (30 women; 12 men), who were in treatment of chronic somatoform pain disorders at the Medical University of Vienna, answered the Stigma-Questionnaire by Link et al (1989). All data were analysed with SPSS-10 version for Windows.

*Results* 75% of male patients and 63% of female patients think that "most people" are not afraid of a friendship with a person suffering from a mental disease. Seventy-seven percent of the female patients, in contrast to 58% of male patients think, that "most people" would trust a former psychiatric patient as they trust anyone else. On the other hand, 70% of the female patients answered that psychiatric patients have disadvantages when applying for a job, while male patients are more optimistic (58%).

*Discussion* Concerning the perceived stigma of mentally ill persons differences were found between men and women especially in terms of close personal contact like friendship, trustworthiness and applying for a job. In contrast, gender, age and education had no influence on the overall results when asking 101 patients suffering from somatoform, epileptic and dissociative disorders in a previous study. Therefore more

investigation should be done to become aware of different types of stigma-perception of women and men suffering from chronic pain disorders.

## 75.2. Patient Safety in Hospitals – Analysis of Incidents and Risk Management

Leopold-Michael Marzi, *Legal Services of the Vienna General Hospital, Vienna, Austria* (marzi@moser-marzi.at)

The presentation analyzes the legal aspects of the roles of patients and health professionals in treatment-related incidents in the special setting of a hospital treatment environment. In the case of an injury, the following questions arise: 1. Is the injury the result of one of the typical risks of the treatment?, 2. Is the doctor in charge of treatment to blame? 3. If so, are there criminal implications?, 4. If not, can compensation be taken into consideration?, and 5. Is there any need to take appropriate action, e.g. more vigorous information campaigns for future patients? The health care professions are largely facing two major risks in their immediate reactions: 1) being irritated by the legal situation and frustrated by the obvious hopelessness, leading to feelings of anxiety and powerlessness, or 2) (unconsciously) underestimating the actual dangers and subsequently creating new problems. It is not possible to learn systematically from mistakes without a proper error management culture. Risk management requires cooperation across professional lines and continuous training of all persons and groups involved, particularly in high-risk areas. Valuable recommendations for new methods and their concret applications can be taken from other professional fields such as aviation. However, these methods must be tailored and adapted to the needs of medicine. Otherwise, new risks will be created.

## 75.3. Cyber-communities and Psychopathology: Gazing Through the Looking-Glass

Gabriel Diaconu, *University of Quebec at Montreal* (gabi.diaconu@gmail.com)

A nascent problem has been taking, slowly but surely, its own place in the panoply of new challenges for society, but also for a modern medical profession. The use of internet services has reached new proportions, while words like email or spam may soon be associated with their ownhat specific psychopathology. Surely, the appearance of the “www” has opened a Pandora’s Box we are left to deal with. In light of these challenges,

new matters of debate need addressing, as questions arise as to the impact these alternative, artificial realities have on the individual, the effect and consequences of prolonged exposure to cyber-space and cyber-time (also known as “bandwidth”). Contradiction yet exists as to whether the network of networks has brought people closer together, or allowed them to slide further into anomie. A possible victim of this situation is the medical profession. Has the appearance of “www” further pushed the already alienated relation between doctor and patient into the realm of minimal contact? This paper will approach the issue of doctor-patient relations in cyber-communities, with the application of a series of vignette cases as experienced by the author during the years of participation in on-line clinical talk forums. The role of the internet in multi-disciplinary management of cases, as well as potential caveats of cyberspace particularities will also be taken into consideration. Finally, some ethical aspects concerning the interaction between providers and consumers of health via the internet will be analyzed critically, with a special emphasis on the use of medication, online portrayal of violence and homicidal /suicidal behaviours.

#### 75.4. Migration, Deterrent Policies and Medical Ethics

Laurent Subilia, *University Hospital of Geneva, Switzerland* (laurent.subilia@hcuge.ch)

In the struggle to limit immigration, the policy of deterrence through forced limitations has been successful in lowering the number of application for political asylum. However, the toll of this policy on the health of a fragile population is heavy with a severe rise in psychosomatic problems, psychological and psychosocial disorders. This fragility is revealed by the results of the medical screening of refugees arriving in Geneva: 61 % have alleged a traumatic past, 18% allegation of torture, 20% fill the criteria for depression, 25% for PTSD and 15% for an association of both diagnoses. Strong social pressure is therefore applied on individuals who are not able to stand such stressful situations. As result, we see a rising need for psychological support and a growing number of psychiatric disorders leading to hospitalisation in psychiatric wards. The context of migration illustrates in a caricatured way the implication of constraining and restrictive measures used to solve a social problem. The temptation to use the same efficient policy to solve other social problems is now great. In this context, the practitioner is directly confronted with the impact of these methods on the mental and physical health of marginalized patients – both foreigners and nationals. His position is becoming more and more uncomfortable and raises ethical questions. Is it ethical to allow medication for the consequences of social measures and for example to propose non-voluntary psychiatric hospitalisation for auto- or heteroaggressive individuals who break down under heavy social pressure? Can the medical profession accept to see its therapeutic capacities limited by administrative and legal constraint? When should the medical profession denounce measures which have such a negative impact on public health?

## 76. Gender and Research Regulation

### 76.1. Women and Health Research: A Role for Law?

Belinda Bennett, *University of Sydney* (b.bennett@usyd.edu.au)

This paper analyses the role of law and regulatory frameworks in ensuring gender equity in health research, where this is understood to include not only equal participation of women in research, but also sex-based analysis of results. The paper will discuss the regulatory positions in Australia and the US and will examine the following issues from a regulatory perspective in order to explore the role of law in this area: the inclusion of appropriate numbers of men and women in health research; analysis by sex of data that has been collected; and the inclusion of sex as a relevant factor in the formulation of research agendas.

### 76.2. Legal and Medical Definitions of Sex and Gender for Health Research Purposes

Isabel Karpin, *University of Sydney* (isabelk@law.usyd.edu.au)

This paper examines definitions of sex and gender in the context of regulatory frameworks ensuring gender equity in health research. The inclusion of appropriate numbers of men and women in health research and the further requirement of the analysis by sex of data that has been collected raises the question of how we understand and define sex both legally and medically. The paper will discuss and compare legal and medical definitions of sex in Australia.

### 76.3. Gender Equity in Health Research: Analysis of Australian Research Participants

Angela Ballantyne, *Flinders University* (angela.ballantyne@flinders.edu.au)

Australian researchers are obliged by national regulation to avoid sex discrimination in the selection and recruitment of research participants. The regulatory mechanisms to ensure that this occurs include national research guidelines and anti-discrimination legislation. However, there is no reliable or simple way to ascertain actual gender balance in research that is performed in Australia. To answer this question, the authors searched the literature to identify clinical research with Australian participants that was published between 2003 and 2006. The published results were analysed to determine the participation rates of men and women. The results suggest that in clinical research that is not sex-specific, there were approximately equal numbers of men and women. The majority of papers did not analyse results by sex. Our experience and findings demonstrate that currently there is no reliable way to find out the sex ratios in Australian research, and that even where sex is reported, this information is not followed up with sex-based analyses. Our findings have implications for the regulatory framework of research, and for the mandatory data required in clinical trials registers, and provide a benchmark for international comparative research.

#### 76.4. Regulation of Gender Equity in Health Research: A View of Ethics Committees

Wendy Rogers, *Flinders University* (wendy.rogers@flinders.edu.au)

In Australia, one of the main instruments for regulating research is the *National Statement on Ethical Conduct in Research Involving Humans*, published by the National Health and Medical Research Council. This stipulates that there should be no discrimination in the selection and recruitment of research participants on the grounds of sex. Human research ethics committees are responsible for reviewing research proposals, following the guidance of the *National Statement*. This makes ethics committees one of the main regulatory powers in relation to balancing the numbers of men and women in Australian research. We interviewed twenty five chairs of human research ethics committees in order to find out their views on discrimination and sex equity in clinical research in Australia. The majority of those interviewed did not consider that there was any sex-based discrimination in the recruitment of research participants. Few respondents could recall situations in which they had challenged researchers about potential sex discrimination in their recruitment strategies. However, ethics committees did not usually receive feedback on actual numbers of men and women recruited into trials, so that they had no way of knowing if there was sex-equity in the research that they approved. The interviews highlighted the different interpretations of sex-equity and sex-discrimination that the committees used in their review of research protocols.

## 76.5. Gender Equity in Health Research in Canada

Patricia Peppin, *Queen's University* (peppinp@post.queensu.ca)

In the early 1990s, activists drew attention to the under-representation and analysis of women in research and to the adverse health outcomes that resulted. Further attention was focused on the need to develop samples large enough for sub-sample analysis and for researchers to carry out this analysis on women, including particular groups of women such as elderly women. The Canadian government adopted non-mandatory guidelines in 1997 to encourage the inclusion of women in clinical trials. In addition, they promoted the non-exclusion of pregnant women and the analysis by sex of potential effects on fertility, pharmacokinetic responses, and efficacy and safety. The Tri-Council Policy Statement, the ethical framework adopted for funded research in Canada, also includes a non-exclusion provision. This paper analyzes the implications of the approach adopted at the federal level in Canada. Drawing on data about the implementation of such strategies, the paper examines ways to strengthen these approaches. Because knowledge about health is created through the research process, distortions in research create flawed perceptions of diseases, treatments and patients. Improved research is essential to counter perceptions of disease that reflect stereotypical notions of gender. Tailoring drug treatments to the population that will take the drug is essential to health promotion and the avoidance of adverse drug reactions in under-studied groups. The paper will examine ways in which such perceptions have been created and propose means of improving such knowledge.

## 77. Gender-Based Violence

### 77.1. Sex Trafficking of South Asian Women and Girls: Empirical Data and a Call for a Broader Public Health Agenda

Jay G. Silverman, *Harvard University* (jsilverm@hsph.harvard.edu)

Between 600,000 and 800,000 people are trafficked across international borders annually; 80% of trafficking victims are women and girls, often trafficked for the purposes of sexual exploitation. Once considered a more general form of economic and community violence, the U.N. has designated sex trafficking as a critical aspect of violence against women worldwide. However, to date, public health research and practice in this area has

been limited mainly to studies of HIV prevalence and risk among victims; the broader context of the lives and, often, violent circumstances of trafficked women and girls remains almost invisible in both the research literature and models of public health intervention. This presentation will include discussion of data collected from Mumbai, India and Kathmandu, Nepal on the experiences, health concerns and social vulnerabilities of trafficked young women and girls. Based on these data and the current state of research and practice, the need for a broader public health agenda 1) to develop and support interventions to rescue and assist individuals trapped through sex trafficking, 2) to better assess mechanisms of sex trafficking and contexts relating to vulnerability, and 3) to support the design, implementation and evaluation of programs/policies to prevent sex trafficking, will be presented.

### 77.2. Critiquing the Notion of Safety to Reconcile the Needs of women and Children who Have Experienced Domestic Abuse

Elizabeth Gilchrist, *University of Kent* (e.gilchrist@kent.ac.uk)

This paper is based on qualitative research which was conducted with women and children exploring their experiences of abuse within relationships and exploring their needs. One key focus of this paper is to look at how the needs of women and wishes of children have been seen as competing against each other. It is suggested that if we challenge the beliefs which suggest that ending a relationship equates with safety and that remaining within a relationship, or continuing some contact with a perpetrating father, equates to danger, then we can start to reconcile these apparent conflicts. This approach also allows us to develop more effective safety planning strategies which both listen to the wishes of the children and fit with the realities of abusive relationships for women, without blaming adult victims, but also without ignoring the risks faced by children.

### 77.3. Where Women Go: The Global Development of Screening and Treatment Programs in Health Care Settings

Lynne Stevens, *Boston Medical Center, USA* (lynne.stevens@bmc.org)

Studies demonstrate that approximately one-third of all women have experienced some form of gender-based violence. While specialized services such as rape crisis centers and domestic violence shelters exist in many communities, a number of internal and external barriers stop survivors from using such services; in contrast, survivors' utilization of general health care services is more common. Research also documents that women

would like to be asked about the violence in their lives and that health care providers are the people to whom they would be most comfortable disclosing victimization. Using this information, an important development in the field has been the implementation of health care center programs designed to do the following: 1) screen women for violence; 2) assess survivors' experiences of violence and related outcomes; and 3) provide survivors with on- or off-site referral services. Based on programmatic experience in more than 12 countries, including Nepal, Romania, Vietnam, Guatemala, the United States and Armenia, the presenter will identify and discuss some key areas for effective gender-based violence screening and referral program implementation (e.g., staff sensitization and training, protocol and policy development, measures of program effectiveness from both the client and the provider perspectives, and quality of care).

#### 77.4. Adolescent Relationship Violence and Mental Health

Elizabeth Miller, *University of California at Davis* (emiller1@partners.org)

Adolescent intimate partner violence (IPV) is associated with suicidality, depressive symptoms, substance use, and sexual risk behaviors, but mechanisms for this association are unclear. This paper describes a mixed-methods study of adolescent IPV. 61 adolescent girls and 25 boys identified by programs and counselors as having experienced abusive relationships completed a survey and open-ended narrative interview about their relationships, probing for multiple contextual factors including sexual health, mental health, education, family violence, and substance use. The quantitative component examined the prevalence of IPV experiences and associated risk behaviors among 700 adolescent boys and girls ages 14-20 attending urban adolescent clinics, who completed an automated computer-assisted survey instrument (ACASI). Participants reported their experiences of physical and sexual violence victimization and perpetration as well as sexual health behaviors, mental health symptoms, substance use, peer influences, education, family structure and dynamics, and community levels of violence. IPV among a clinic-based sample of adolescent boys and girls is common and associated with substance use by both partners, mental health symptoms, and significant family violence. These results underscore the importance of training clinical providers to identify and support adolescent patients experiencing IPV and to address the associated mental health and substance use disorders.

#### 77.5. Heightened Vulnerability to Intimate Partner Violence among US Immigrant Women: The Case of South Asian Immigrants

Anita Raj, *Boston University* (anitaraj@bu.edu)

This presentation will present an examination of US immigrant vulnerabilities to intimate partner violence (IPV) based on research with South Asian immigrant women. The study was comprised of a) cross-sectional surveys with women in relationships with males (n=208) and b) in-depth interviews with women with a history of IPV (n=23). Participants were interviewed to assess their demographics, immigration status, IPV history, health, and IPV help-seeking behaviors. Quantitative data were assessed by logistic regression, qualitative data by a grounded theory approach. Study findings document both poorer mental and physical health among IPV victims compared with non-victims. Among victims, formal IPV help-seeking was uncommon and only occurred after severely escalating abuse and the decision to leave the partner. Fears related to immigration standing and deportation were commonly reported as a primary reason for not seeking help for IPV; abusive male partners often had threatened deportation and/or withheld victims' immigration papers to maintain the relationship (i.e., immigration-related abuse). Women on H-4B (spousal-dependent) visas, were most likely to report physical and sexual IPV and immigration-related abuse. Overall, these findings document similar IPV-related health outcomes for this population as compared to those seen with others, but heightened vulnerability among those with more vulnerable visa status.

## 78. General Human Rights, War and Sequels to Persecution

### 78.1. Efficiency of a Short Group Psychotherapy for Female Victims of War and Sexual Torture in Bosnia and Herzegovina

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Abdulah Kučukalić, *University of Sarajevo* (ctvmost1@bih.net.ba)

*Aim* To show the efficiency of short group psychotherapy of female victims of war and sexual torture suffering from chronic consequences of torture

*Method* 15 female victims of war sexual torture were included in this study, all of them suffering from chronic consequences of torture. Before inclusion all were interviewed by a psychiatrist. Initial testing was done before beginning of group psychotherapy with the General Health Questionnaire (CTV Sarajevo), Manchester Quality of Life-MANSA (Priebe et al., 1999) and the Multidimensional Instrument for Assessment of Psychological Symptoms (SCL R-53). Short group psychotherapy lasted three months. Sessions were organized weekly and lasted 90 min. The group was lead by two co-therapists, both female. The modality was supportive-expressive psychotherapy. During the group psychotherapy cycle clients received general medical treatment, physiotherapy, gynaecological treatment and dental treatment. When indicated, they were treated with medication. After three months of therapy they were retested with MANSA and SCL-53 questionnaires.

*Results* Retest results after three months of treatment on the MANSA Questionnaire show significant improvement of quality of life. In the SCL-53 Questionnaire there is a reduction in all psychopathological symptoms, except on the scale for obsessive compulsive symptoms. Reduction of the Subscale of paranoid ideation is statistically significant with  $p < 0,05$ , and reduction of the Subscale of anxiety is on the border of significance  $p = 0,054$ .

*Conclusions* 1. Short group psychotherapy has shown efficiency in treatment of chronic psychological consequences with female victims of war and sexual torture, 2. Chronic psychological consequences of torture are reduced after three months of treatment, and 3. The group experience helped war related sexual torture survivors to achieve a better quality of life.

## 78.2. The Cognitive Revolution in the Law

Emmanuel Didier, *Barrister, Ottawa, Canada* (didier3437@rogers.com)

The progress achieved by cognitive sciences during the last 3 decades is revolutionizing the of evidence and procedure, with importance consequences in judicial organization, refugee law and international criminal law .In a nutshell, we are realizing that, contrary to an age-old paradigm reinforced by Charter-consecrated equality, there is no such thing as an ordinary witness. Some reasons are individual-based; others are socially-based. Here are five examples. First, the mental abilities of any witness change like more or less flat  $\cap$  curve according to individual circumstances such as age and sex, with profound influence on the ability to testify and the content of the evidence offered. Second, large numbers of individuals with socially inflicted mental and/or physical handicaps, such as refugees and victims of sexual abuse, are unable to speak about their experience, either because they are stored in the brain as non-declarative memories - emotions, - or because of social and cultural obstacles. Third, entire populations are affected profoundly –

socially, mentally and physically - by the consequences of war or dictatorship and need much more than advice about how to rebuild their shattered communities. Fourth, it has become urgent to question the catastrophic mental and social consequences of the tsunami of hate propaganda and hate-based education everywhere. Fifth, a huge segment of our own populations - in Canada, 48% of people 16 years old and over - is functionally illiterate and thus unable to understand legal procedures to which they are parties. The consequences of this situation are a profound shift from the model of the omniscient and lonely judge, in favour of more nimble and specialized models of conflict resolution, such as arbitration, mediation and administrative tribunals with panels of experts.

### 78.3. Impact Assessment in Rehabilitation of Torture Survivors – theoretical considerations

Stine Amris, *Frederiksberg Hospital, Copenhagen, Denmark*  
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In spite of a long history of rehabilitation of torture survivors, very few questions within service provision are answered. The implications of this shortcoming of knowledge are: 1) that effectiveness information on rehabilitation of torture survivors is not available, and 2) that no clear and scientifically valid recommendations on the organisation and functioning of rehabilitation services, and the intervention they offer in different socio-cultural contexts can be put forward. Since systematic knowledge and scientific evidence is lacking in most areas, it has not been possible to recommend or reach consensus on “best practise guidelines” within rehabilitation of torture victims or within the individual health professional disciplines that contribute in the rehabilitation process. Over the years many intervention approaches have been applied, varying from centre to centre and from health professional to health professional and without concordance in problem understanding, and priority and goal setting in treatment. There is therefore an urgent need for the advancement of an evidence-based approach in both theory and practice and for outcome measures based on an evidence-based theoretical formulation of torture trauma and multidisciplinary rehabilitation. Research qualified of producing such knowledge will demand a shift from the traditional discipline-centred mode of knowledge production towards a broader conception of knowledge production, where knowledge is generated in a context of application and addresses problems identified through continual negotiation between actors from a variety of settings.

### 78.4. Impact Assessment Study – Phase I: An Exploratory Study

Julio G. Arenas, *University of Copenhagen* (julio.arenas@psy.ku.dk)

Phase I of the Impact Assessment Study *The Outcome of Torture Rehabilitation at Specialised Centres seen from the Clients' and the Health Professional' Perspective* has been conducted as collaboration between the IRCT in Copenhagen and IRCT affiliated rehabilitation centres in Indonesia, Bosnia, Kenya and Guatemala in the year 2002-2003. The first phase had two main purposes: to identify and to describe – based on a phenomenological approach – the perceived outcome of torture rehabilitation as provided at specialised centres and in different socio-cultural contexts seen from the clients' and the health professionals' perspective; to use the obtained knowledge in generating hypotheses to be elucidated by subsequent qualitative and quantitative research projects, and to apply the knowledge in the design of such studies. Significant findings were related to: the objective of rehabilitation (problem identification and problem understanding); the theoretical knowledge and practical experience available at centres; the spectrum of theories, methods and treatment approaches applied at centres; the professional tasks, competencies and qualifications of the staff; physical and psychological problems presented by clients; expectations to outcome of treatment; the health professionals possibilities and limitations related to the work field. Implication of these findings for the subsequent phases of the Impact Assessment Study will be presented focusing on: the need to increase knowledge about the torture survivors interpretations and perceptions of their position in life in the context and value systems in which they live - phenomena which are closely related to *processes of change* and *impact of rehabilitation*; an interdisciplinary problem/thematic oriented rather than discipline oriented approach, including researchers from the field of medical science, social psychology, and anthropology; and the use of a combined qualitative-quantitative research methodology and data collection from several complementary data sources.

## 79. Guardianship: Human Rights Protection or Violation?

### 79.1. Research Findings of Guardianship and Human Rights in Eight Countries

Oliver Lewis, *Mental Disability Advocacy Center, Budapest, Hungary*  
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The author will present findings of research conducted by the Mental Disability Advocacy Center, an international NGO which advances the human rights of adults and

children with actual or perceived intellectual or psycho-social (mental health) disabilities. Focusing on Europe and central Asia, it uses a combination of law and advocacy to promote equality and social integration. The paper will examine whether guardianship systems in eight countries – Bulgaria, Croatia, Czech Republic, Georgia, Hungary, Kyrgyzstan, Russia and Serbia – comply with international human rights law and standards. Although the laws in these countries are all different they share some similarities. All countries rely on plenary (all-encompassing) guardianship, an all-or-nothing approach which fails to take into account the adult’s functional capacity and in which procedural irregularities are common. There are few alternatives to guardianship, resulting in large numbers of people being deprived or restricted of legal capacity. An all-too intimate link exists between guardianship and the automatic deprivation of the right to vote, work, choose place of residence, manage property and assets, marry and respect for family life. Governments must commit to the paradigm shift towards autonomy and non-discrimination called for by the newly-adopted UN Convention on the Rights of Persons with Disabilities.

## 79.2. Representing a Client who Lacks Standing to Litigate in Russia

Dmitri G Bartenev, *Mental Disability Advocacy Center, St. Petersburg, Russia*  
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The guardianship system in Russia is based on the plenary (all encompassing) approach to restriction of the adult’s rights subject to deprivation of his/her legal capacity. This implies that adults under guardianship are legally prohibited from hiring a lawyer themselves, and may only be legally represented if the guardian agrees. Thus, the paper considers procedural safeguards available to the incapable individuals in Russia with major emphasis on legal representation and related human rights limitations. Such limitations are examined from the perspective of international human rights law, its doctrine and jurisprudence of international bodies. Based on real scenarios and using legal representation as one of the indicators, the paper alerts the policymakers to profound defects in the existing guardianship system in Russia. Recommendations are presented to guide the lawmakers on how to bring the measures of protection for incapable adults in Russia into conformity with international human rights standards.

## 79.3. Guardianship and the Deprivation of Property in the Czech Republic

David Zahumensky, *University of Virginia* (jiw@virginia.edu)

Fundamental Principle 1 of the Recommendation of Council of Europe's Committee of Ministers on the Legal Protection of Incapable Adults underlines that "[t]he laws, procedures and practices relating to the protection of incapable adults shall be based on respect for their human rights and fundamental freedoms, taking into account any qualifications on those rights contained in the relevant international legal instruments". However, because of the lack of qualified public guardians, the insufficient control over guardians' (non-)performance and due to the fragmentary legal regulation, guardianship in reality often results more in the violation of human rights than in their respect. The presentation will show on the example of the Czech Republic how the limitation of legal capacity results not only in the restriction of access to court or interference with the right to private and family life, but also in the violation of the right to property protected inter alia by Art. 1 of the Protocol No. 1 of the European Convention on Human Rights.

#### 79.4. The Dutch Approach to Guardianship and the Preference for Volunteers

Kees Blankman, *Free University of Amsterdam* (k.blankman@rechten.vu.nl)

Dutch legislation emphasizes informed consent as a basic and crucial requirement to start supporting adults in their legal and daily life activities or treating their illnesses. If the person himself is incapable of giving informed consent, a representative is needed. Important laws in health care have a four level system of representation: the judge appointed guardian (curator or mentor), the self-appointed representative, the partner, and on the fourth level, one of the nearest relatives of the incapable person. The main problem to tackle in the Netherlands at the moment is the growing lack of actual and potential representatives. A national infrastructure for representatives does not exist, nor are there committees or other organisations that can act as representative or provide for persons to be appointed as such. Recently an initiative has started to realise regional pools of volunteers to be appointed as a mentor. While developing this project we come across important questions e.g. what level of education and which skills are required, what are the limits of the authority to represent an incapable adult, how to organise proper legal safeguards such as supervision, in which cases should the representative be a professional and what is a proper award. While looking for good practises abroad, we would like to uphold the preference for – qualified - volunteers.

## 80. Happiness: The Role of Public Institutions in Promoting Subjective Well-Being

### 80.1. Happiness: The Role of Public Institutions in Promoting Subjective Well-being

Grant Duncan, *Massey University* (l.g.duncan@massey.ac.nz)

Research has emerged from psychology and economics that attempts to determine under what conditions humans are most likely to report being ‘happy’. Authors in this field conclude from their findings that, not only are there things that the individual can do to become happier, but also that there are things that governments can – indeed, should – do to maximize the happiness of whole populations. This paper asks how much law-makers should pay heed to these research findings. The overall consensus in the field of happiness research, and its social and economic-policy implications, are summarized. These conclusions are compared with some logical and practical problems associated with the use of happiness as a political goal. Happiness as a goal of good government is not as self-evident a notion as it may initially appear. There is no value-free ‘science’ of happiness that evades the public deliberative – and ideological – basis of law and policy-making.

### 80.2. New Utilitarianism: Towards an Evidence-based Advancement of Human Happiness

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Jan Ott, *Erasmus University* (ott@fsw.eur.nl)

Rule-utilitarianism holds that governments should aim at greater happiness for a greater number of citizens. This classic political philosophy gains appeal among the general public in modern nations, but is typically rejected by professional philosophers. This paper reviews the philosophical arguments against rule-utilitarianism in the light of modern empirical research on happiness. Pragmatic as well as ethical objections are considered. The pragmatic objections are rejected: If conceived as life-satisfaction, happiness can be measured and using these measures its determinants can be established inductively. The determinants that have been identified so far are open to policy intervention. The findings also rebut several ethical objections: the promotion of

happiness does not necessarily occur at the expense of other valued matters and that happiness tends to bring out the best in people.

### 80.3. Formal Institutions and Subjective Wellbeing: Revisiting the Cross-Country Evidence

Christian Bjørnskov, *University of Aarhus* (ChBj@asb.dk)

A long tradition in economics explores the association between the quality of formal institutions and economic performance. The literature on this topic in relation to happiness is, however, rather limited. In this paper, we revisit the findings from recent cross-country studies on the institutions-happiness association. Our preliminary findings suggest that the conclusions reached by previous studies are fairly sensitive to the specific ‘happiness’ measure used and the inclusion of particularly poor countries. Unfortunately for the specific purpose of finding happiness-increasing policies, the results indicate that such policies may differ across phases of development. What seems to work in the full sample of countries may not work in subsamples and can even have opposing effects. We conclude the paper by offering some tentative policy implications of our findings.

### 80.4. The Impact of Political Institutions on Suicide in American U.S. States

Justine AV Fischer, *University of St. Gallen* (justina.fischer@unisg.ch)

Suicidal behavior is often viewed as the flip side of the happiness coin, as self-killings are observed for those at the bottom of the personal well-being scale (Helliwell 2004). The question to what extent government structure and political institutions determine people’s happiness has recently gained new attention; however, many questions remain unanswered. More specifically, previous research has been inconclusive on the contribution of the democratic institutions to well-being, although for stronger direct legislative rights there is a tendency towards being beneficial (Fischer and Rodríguez Andrés, 2007), at least for the Swiss case. Equally, there is a research void on the effects of decentralization that is claimed to produce outcomes closer to local voter preferences. In order to fill this gap, this paper explores the partial impact of direct legislation (initiative) and governance structure (decentralization) at the state level on suicide rates in a panel of 48 US states. Based on the results for Swiss cantons, we expect stronger popular rights and fiscal decentralization to be beneficial. Going beyond previous analyses, we investigate the different transmission channels by gender or ethnic groups.

We believe that understanding gender and ethnic differences might be important to suggesting appropriate policies.

## 81. Health Law and Prevention: Professionals Working Together

### 81.1. Shaping Environments in an Individualistic Society: Slaying the Heroes?

Thomas D. Barton, *California Western School of Law* (tbarton@cwsl.edu)

Should legal systems facilitate the making of personal apologies as a device of dispute resolution? The author, like many, says yes. An apology is sometimes what an injured party wants most. Furthermore, an apology can underscore the need for the injuring party to reform his or her behaviors, thus helping to prevent recurrence of the problem. Finally, an apology can sometimes permit the disputants to emerge from the episode with a stronger personal relationship than existed prior to the injury. Yet the more formal and widespread the practice of “legal apology” becomes, the higher the likelihood that such apologies will be insincere. Should the prospect of attorneys and others coaching the delivery of hypocritical apologies temper our enthusiasm for formalizing the role of apology in the legal system? The author says no, although obviously a sincere apology is preferable to an insincere one. The outward behaviors of making apologies, together with the development of a richer vocabulary about apology, forgiveness, empathy, loyalty, and betrayal are more important than inner authenticity. Our cultural values as well as individual imaginations are strongly shaped by language and modeling. Developing a language of apology under the imprimatur of the law will further a culture of respectfulness and concern for the strength of human relationships.

### 81.2. Health Law and Prevention Systems Design: The Therapeutic Value of Apology

Bruce Winick, *University of Miami* (bwinick@law.miami.edu)

This paper will address the question of whether apologies, either full apologies or partial ones, have therapeutic value for both the maker of the apology and its recipient. Legal disputes, particularly if they end up in highly contested litigation, can be extremely antitherapeutic for both parties. Settlement, either through negotiation or some form of alternative dispute resolution such as mediation, can allow both parties to avoid the stress and continued anger that litigation imposes, and can allow them to get past the dispute and to experience a measure of healing. Yet, clients sometimes are unwilling to apologize for their wrongdoing and victims sometimes are reluctant to accept apologies. Counseling clients about apology therefore raises interesting psychological as well as legal challenges. This paper will present a therapeutic jurisprudence analysis of the value of apology, and will offer suggestions about counseling clients in the apology context.

### 81.3. Mental Health Care in Prisons: Beyond Litigation to Effective Solutions

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Virtually every state prison system in the U.S. is, or has been, under court order to create humane conditions. As public funds for mental health care have plummeted, a massive wave of seriously mentally disordered individuals has been seen to go from state hospitals to the street to prisons. In fact, prisons are now the largest provider of mental health services and many of the federal court orders are aimed at setting up mental health systems inside prison walls. Getting prisons' attention through litigation, though, isn't even half the battle. The real challenge comes in implementing the systems to actually deliver the needed care. The Special Master's team in *Coleman v. Schwarzenegger* – tasked with overseeing the implementation of California's prison mental health system -- takes a distinctive approach: the team emphasizes conflict prevention, mediation, and interest-based negotiation. The team works with security staff, clinical staff, and prisoners and their lawyers to blend their missions and create systems they are willing to carry out collaboratively. This approach prevents a range of conflict—operations disputes that stop delivery of care, union and management disagreements as to responsibility for requirements, litigation over implementation issues, and extreme remedies such as contempt and receivership seen in other prison systems.

### 81.4. Prevention and the Cost of Health Care: The Public Health Model

Susan A. Channick, *California Western School of Law* (schannick@cwsl.edu)

In the United States, more money is spent on treating disease and its complications than preventing it. Prevention is undervalued and underfunded. The U.S. spends more absolute dollars, a larger share of its GDP, and more per capita than any other country in the world on health care. Notwithstanding, it is ranked 37th overall in health system efficiencies primarily for two reasons. First, in 2005, 48 million Americans under the age of 65 were uninsured and therefore lacked access to coordinated health services. Second, only 2% of health care expenditures support population-based prevention programs with 90% of expenditures going to the treatment of illness.

## 82. Homicide and Psychotropic Drugs

### 82.1. Homicide and Psychotropic Drugs: Discovery Issues

Karen Barth Menzies, *Attorney, Los Angeles, USA* (kbmenzies@baumhedlundlaw.com)

Contrary to the mantra that it is untreated mental illness that causes violence and homicide, more often than not, we observe these events occurring in individuals who are receiving mental health “treatment,” almost always in the form of psychotropic drugs. In criminal cases where psychotropic drugs are involved, we often find people with no history of violent behavior committing crimes. Adverse drug reactions in the criminal context normally include an agitated state or “akathisia,” as well as “depersonalization” where the individual becomes disconnected from reality and everything seems unreal, as if they were watching a movie. Often times, there is a state of disinhibition, where normal inhibitions are no longer present. For over a decade, antidepressant manufacturers have monitored the criminal courts for suspects who became violent while taking an antidepressant. They then secretly help prosecutors fight the antidepressant defense, in case one is brought. We are continually contacted by criminal defense attorneys and/or prisoners who became violent while taking these drugs. Unfortunately, the cost of an involuntary intoxication defense can be extraordinary, especially because the state is backed by drug company resources. Nevertheless, there are certain actions criminal defense lawyers can take to gather evidence to help their client in drug-induced homicide and violence cases.

## 82.2. Antidepressants and Violence: Problems and Violence at the Interface of Medicine and Law

David Menkes, *University of Auckland* (menkesd@waikatodhb.govt.nz)

David Healy, *Cardiff University* (healy\_hergest@compuserve.com)

Recent regulatory warnings about adverse behavioural effects of antidepressants in susceptible individuals have raised the profile of these issues with clinicians, patients, and the public. This paper reviews available clinical trial data on paroxetine and sertraline, pharmacovigilance studies of paroxetine and fluoxetine, and outline a series of medico-legal cases involving antidepressants and violence. Both clinical trial and pharmacovigilance data point to possible links between these drugs and violent behaviours. The legal cases outlined returned a variety of verdicts that may in part have stemmed from different judicial processes. Many jurisdictions appear not to have considered the possibility that a prescription drug may induce violence. The association of antidepressant treatment, aggression and violence reported here calls for more clinical trial and epidemiological data to be made available and for good clinical descriptions of the adverse outcomes of treatment. Legal systems are likely to continue to be faced with cases of violence associated with the use of psychotropic drugs and it may fall to the courts to demand access to currently unavailable data. The problem is international and calls for an international response.

## 82.3. Violence and SSRIs – Legal Dilemmas

Tania Evers, *Barrister, Sydney, Australia* (tania.evers@fjc.net.au)

With the emerging body of evidence from some psychiatrists showing an apparent causal connection in some cases between the ingestion of SSRIs and violence, a dilemma arises for criminal defence lawyers as to what legal defence is available in cases where the violence results in a death or other serious criminal behaviour. Can our legal system address these issues in ways that properly reflect considerations of justice and culpability? This paper will address how a number of courts have dealt with these issues and whether our law and lawyers are sufficiently resourced or informed to protect our clients.

## 82.4. Coercive Mental Health Treatment of Young Persons

George Tomossy, *Macquarie University* (georget@law.usyd.edu.au)

Attempts to expand diagnostic criteria for a range of mental health conditions in recent years to account for variations in mood and behaviour have thrown up a host of ethical and legal questions. These are especially poignant in the case of young persons. The diagnosis and treatment of juvenile bipolar disorder offers an important case-study in contemporary healthcare in which to examine the intersection of legal, ethical and community health issues. Compulsory treatment of persons with mental illness raises difficult issues about the rights of individuals to non-interference, including through the forced application of pharmacological substances. This topic has been explored extensively in mental health law scholarship, but presents new and special challenges in the context of child and adolescent mental health, especially when it is considered against the changes to the manner in which bipolar disorder is being diagnosed in recent years.

## 83. Human Rights and Criminal Law

### 83.1. Rethinking Mental Incapacity Defences in Criminal Law

Arlie Loughnan, *University of Sydney* (a.e.loughnan@lse.ac.uk)

Mental incapacity defences are those defences which refer to the defendant's mental state at the time of the offence or the time of the trial. Together, the defences represent the way in which criminal law deals with mental abnormality. This paper offers a rethinking of the development of mental incapacity defences that focuses on developments in the concept of criminal fault, and on the role of lay understandings of mental illness in the criminal courtroom. Decentering the 'famous' cases which mark this history of these defences, this paper draws on a range of cases included in the Old Bailey Sessions Papers, which cover the eighteenth and nineteenth centuries. The author argues that these cases indicate mental incapacity defences formalised via a doctrine of incapacity. It is also argued that the cases show the importance of lay attitudes to and beliefs about mental illness in the construction of the defences, and attendant laws of evidence, that developed over this period.

### 83.2. Human Rights in Reviews of Detention under Ireland's Criminal Law (Insanity) Act 2006

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Ireland has recently enacted the Criminal Law (Insanity) Act 2006, which deals with acquittals due to mental disorder, unfitness for trial, diminished responsibility and transfers from prisons to psychiatric units. A new Mental Health (Criminal Law) Review Board has been established to review such detentions on a periodic basis. This paper will consider the human rights aspects of this review process. Under the European Convention on Human Rights, relevant rights include the right to liberty, the right to a fair hearing, the right to life and the prohibition of inhuman or degrading treatment. Irish constitutional law protects similar rights, such as the right to liberty, constitutional justice, the right to life and bodily integrity. Case-law from the Irish courts and the European Court of Human Rights will be considered. While the Irish courts have a poor record in protecting patients' rights in mental health law, matters may improve as the European Convention on Human Rights was indirectly incorporated into domestic law in 2003.

### 83.3. Unfitness to Plead in England: A Five Year Study of Cases from 1997-2001

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The Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 introduced flexibility of disposal in cases of unfitness to plead together with a new procedure, known as "a trial of the facts", which applies to all cases where the jury has decided that the accused is unfit to plead and requires the prosecution to prove that the accused "did the act or made the omission charged". This paper contains a study of the impact of the second five year period of the 1991 Act in order to assess the continued effects of these changes. The paper also considers whether the current law is in need of reform in the light of the implications of the Human Rights Act 1998.

### 83.4. Race Hate and the Criminal Law - An Irish Perspective

Jennifer Schweppe, *University of Limerick* (Jennifer.schweppe@ul.ie)

Most people would agree that crimes committed with a racist or biased motivation should not be tolerated due to the detriment they cause to the fabric of society. However, the question of whether ‘racism’, ‘bias’ or ‘hate’ should be criminalised is more contentious. There are two elements to what are commonly called race crimes: the crime itself, which without any racist element is generally an offence and punishable; and the racist motivation to the crime. Generally speaking, racially motivated crimes will have higher penalties, and be considered as more abhorrent by society than ‘ordinary’ crimes. This paper will ask whether the criminal law should punish both the criminal act and the motivation, or whether the emotion of hatred, or bias should be removed from our statutebooks as having no place in the language of criminal law. As the Irish government is currently re-assessing its response to race hatred, the paper will examine the area of race crimes generally, and the Irish situation in particular.

## 84. Human Rights and Mental Disability

### 84.1. Legal Discrimination of Persons with Mental Disorders in Austria

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The attitudes of the public as well as of the political authorities towards mentally disordered persons, their needs and issues of integration are still influenced by myths and misconceptions. This is reflected in legal provisions as well as in the interpretation and administration of rules. Therefore, as part of the Austrian anti-stigma campaign an investigation about potential discriminating sections of the relevant laws (social security system, civil commitment, penal and civil code, etc.) was initiated with the aim of identifying rules that contribute to discrimination and disadvantages and to test the consumer orientation of access and assertion of claims. Overall, a wealth of laws regulates all kinds of issues concerning mentally disordered persons, which additionally may differ between federal countries. There exist rules directly and overtly discriminating against mentally disordered persons as well as laws which do not fundamentally differentiate between mentally disordered and somatically ill persons, but where rules are differently and - in most cases - adversely applied. Also, legal provisions basically enacted to protect the rights of mentally disordered persons include some sections resulting in discrimination. Certain provisions such as the claim on sufficient and needs-orientated community care and rehabilitation facilities and on the legally warranted support of relatives are even entirely lacking. Some examples of legal stigmatisation and discrimination in Austria will be presented and discussed.

## 84.2. The International Influence of the American with Disabilities Act and the Right to Community Integration

Henry Dlugacz, *New York Law School* (hd@dlugacz.com)

*Background* Although imperfectly realized, fundamental principles of US constitutional law influence international human rights law. In 1990 the US congress passed the American with Disabilities Act (ADA) prohibiting discrimination against people with disabilities. In 1999 the US Supreme Court decided *Olmstead v. L.C.* vindicating the right of people with mental disabilities to community integration. The court revived a long-standing principle: the right to treatment in the least restrictive environment. There are sources of international law which could be interpreted to support such a right. The lecture will explore the decision, the pertinent international laws, standards and treaties, and describe the ways in which they are consistent with one another.

*Aims* Identify the relevant portions of the ADA and understand the significance of the how the US Supreme Court interpreted it in the *Olmstead* case, as well as have a basic understanding of the sources of international law which are pertinent to the issue of community integration for the mentally disabled, and outline ways in which the principles underpinning *Olmstead* could be utilized in asserting similar interpretations of the right to community integration internationally.

*Method* Didactic but interactive lecture aided by PowerPoint slides.

*Results* A greater understanding of the development of the ADA, the *Olmstead* case, potentially applicable international laws and standards and the ways in which US law might constructively influence interpretations of international standards.

*Conclusion* The ADA as interpreted by the US Supreme Court in the *Olmstead* case, supports the right of people with mental disabilities to community integration. Using this interpretation of the ADA to guide the interpretation of international laws and standards could have a beneficial influence internationally in the rights of the mentally disabled to treatment and integration in the community.

## 84.3. When Laws Collide: Issues Arising when Domestic Mental Health and Occupational Health and Safety Legislation Appears Inconsistent with Patients' and Carers' Best Interests

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This paper will explore the human rights issues arising from differing pieces of domestic legislation relevant to mental health in New South Wales, where both the Mental Health Act 1990 (NSW) and the Occupational Health and Safety Act 2000 (NSW) have provisions relating to the physical safety of mentally ill persons. In certain ways these provisions are inconsistent and arguably contrary to the best interests of both clients and carers. How are human rights protected when mandatory legislation is potentially inconsistent with both patients' and carers' well being? This paper will explore these inconsistencies and will argue that a duty of care must first be exercised for a client's best interests and not solely for the interests of an organization.

#### 84.4. The Mental Health Act in the Netherlands: A Special Act for Persons with an Intellectual Disability

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The legal status of persons with an intellectual disability is not well protected in the Netherlands, especially when it concerns the application of freedom restriction. Their legal status is still protected by The Psychiatric Hospitals Act (1994) which allows care providers to limit the right to self-determination of clients. This Act creates a legal framework for applying freedom restriction not only in a psychiatric setting but in the care for people with an intellectual disability as well. The emphasis is on the right to self-determination: freedom restriction is only allowed if a client constitutes a danger to himself or to his environment. Research shows that the Psychiatric Hospitals Act does not benefit clients with an intellectual disability. Next year a new Act will come into force for these people. The question is: will this new Act improve the legal status of clients with an intellectual disability?

#### 84.5. Access for Some, Justice for any? How Mental Health Services are Rationed to People with Mental Illness Leaving Jail

Amy Blank Wilson, *University of Pennsylvania* (amyblank@comcast.net)

The notion that mental health systems can selectively “target” resources has become so commonplace that activities surrounding the allocation of these resources go unexamined. For those with mental illness leaving jail, the targeting of resources can

build a complex interplay between policy and outcomes. Using multi-sited ethnographic research techniques, this study identified the contextual dynamics; social processes, and structural conditions that shape access negotiations for people with mental illness leaving jail. Access negotiations require clients to navigate service contexts that purposefully place obstacles in the way of access. Many of these obstacles emanate from system level practices that are designed to allocate a scarce resource through rationing. In theory these rationing devices leave everyone equally vulnerable to exclusion. But in practice, the rationing technologies of the mental health system leave especially marginalized client populations vulnerable to exclusion because they don't have the skills, resources, and endurance that are needed to negotiate the processing mechanisms involved. Rationing practices need to be reviewed carefully because they are built on questionable assumptions about the value of the services being allocated, which leads the mental health system to assign a price for the services that some clients are unwilling to pay.

## 85. Human Rights in Mental Health: Forensic Implications in Institutions

### 85.1. Alcohol and Drugs in a Brazilian Forensic Facility

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Several studies mark the association of alcohol and psychoactive substance use disorders with violence and/or crime. A transversal (cross-sectional?) and descriptive investigation was conducted with a defendant sample subjected to Penal Responsibility Evaluation, for different crimes, at the Maurício Cardoso Forensic Psychiatric Institute, Rio Grande do Sul State, Brazil. The prevalence of alcohol and psychoactive substance use disorders diagnosis as well sociodemographic and criminal variables of this population are examined. Peculiarities of Brazilian Penal Legislation regarding the use of and dependence on these substances will also be described.

### 85.2. A Forensic Psychiatric System in Brazil

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Rogério Alves da Paz, *Forensic Psychiatrist, Sao Paolo, Brazil* (rogerpaz@uol.com.br)

In Brazil, violence is one of the main social problems and has taken on an epidemic proportion. In the World Report on Violence and Health (WHO 2002), violence is seen as a “World Public Health” problem. The highest incidence has been among adolescents and young adults aged 15 to 39, but the critical point is the age between 20 and 24. Consequently, a decrease in the young male population pyramid has been seen, which is typical of countries at war. The data indicate the urgent need for measures in order to avoid, minimize and alleviate the extensive suffering of individuals, families, and communities. A project involving care in Forensic Psychiatry, Mental Health and Law was devised. The project is centered on a specific community of around 100,000 inhabitants located in the Sanitary District of the Extreme South of the SMS (Municipal Health Secretariat), City Hall of Porto Alegre, Brazil. The multidisciplinary work that the project foresees will use the network of nine PSFs (Family Health Centers) located in the region, and the network of the Participatory Budget, Community Associations (lay and religious), Recreational and Carnival Associations, agencies of the Regional Administrative Center (Sub-City Hall), the Police and Judiciary Centers, and NGOs, among others. Assistance will favor the main victims of violence, i.e., children, adolescents, and families at risk, when in crisis or in need. The aim of the project is to reduce the present tragic social indicators and to promote better quality of life in this Community. Finally, this project will be made feasible through the integration of Teaching and Research, assured by its link with the University. The success of the project is also dependent upon the policies and resources of the Municipality, State, Federation, Civil Society Agencies, and NGOs.

### 85.3. Mental Illness and Disability in the Work Place

Heather Stuart, *Queen's University* (hh11@post.queensu.ca)

Epidemiologic studies have consistently shown that a high proportion of people (20-25%) will meet the criteria for a mental disorder in any given year. The majority of these will be in the workplace. Mental disability in the workplace is costing billions in direct and indirect costs, through worker absenteeism, reduced productivity, and rising disability payments. To overcome treatment barriers and reduce workplace disability, organizations must become proactive in managing mental health disability among their workers. Yet, workplace responses to mental disability are typically disorganized and ineffectual. Companies inadvertently compound the problems of mental disability when they fail to develop mental health policies and programs, when they fail to make

reasonable accommodations for workers with mental disabilities, and when they promote workplace environments that perpetuate stigma and discrimination. This presentation will discuss the scope and magnitude of this problem and review approaches that can be used to promote a mentally healthy workforce.

#### 85.4. Procedural Reform and New System of Forensic Psychiatry of the Puteando Psychiatrist Hospital

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*Purpose* To describe the origin, legal context, and the functioning of a forensic psychiatry system within a state hospital.

*Background and Significance* The current HPPP was a sanatorium for respiratory illnesses and tuberculosis until 1968. Starting that year, it became a psychiatric hospital staffed by non psychiatric physicians and professionals without psychiatric training. In 1976, a multidisciplinary mental health team began to work and, in 1996, a service for psychiatric emergencies. Between the years 2000-04, the Penal Proceedings Reform (PPR) was implemented in Chile. It entails an adversarial system with oral proceedings, featuring state Prosecutors and Defense Attorneys from the Public Ministry litigating in Courts of Guarantee or Criminal Oral Trial Courts. The PPR replaced the inquisitorial and written old system, which operated since the beginning of the 20th century. The new system mandates that the mentally ill defendants be kept in institutions for their social rehabilitation, which resulted in a surge in the demand for forensic psychiatry services at the HPPP.

*Methods* the Ministries of Health and Justice created a national system to administer and provide forensic psychiatry services. Based on the Canadian experience the HPPP leadership successively created in 2000, 2002, and 2006, the Units of Medium Complexity (20 beds), of High Complexity (20 beds with external support from correctional officers), and of Low Complexity (30 beds), respectively. Starting in 2007, a Unit of Indicted Patients will begin operations. The implementation of this system has transformed the HPPP into the main forensic psychiatry hub in the country. Eventually it will have 90 beds (22% of the total beds in the hospital, or 415).

*Results* Information on demographics, diagnostic, and outcomes of 137 patients will be provided. As a qualitative complement to the data, the authors will present a summary and testimonies of the results that the Penal Proceedings Reform has had, and of the implementation of this new forensic psychiatry program at the HPPP.

## 85.5. How Community Services Send People to Jail; Leverage as the New Coercion

Jeffrey Draine, *University of Pennsylvania* (jdraine@ssw.upenn.edu)

There is a growing interest in the use and effectiveness of legally leveraged services for people with mental illness in both civil and criminal settings. Three studies will be reviewed that demonstrate the possible interaction of such leveraged services with criminal justice supervision in increasing the risk of reincarceration for people with mental illness. Lessons learned from the more general research on prisoner reentry programming indicate that mental health service providers need to carefully consider the stance they take in their interaction with the justice system. Closer alliances with criminal justice agents may pose specific threats to the effectiveness of mental health services. To understand these limits to service effectiveness, new research needs to include more concepts specifically operationalized from the perspective of the consumer receiving services. These include the extent to which the service is considered a continuation of “doing time,” the extent to which the service is assessed by the consumer as credible or effective, and the extent to which the service addresses immediate subsistence needs as well as treatment needs. Consumer perceptions of service effectiveness and relevance may contribute substantially to treatment adherence, even under formally coerced conditions.

## 86. Human Rights in Mental Health: Forensic Implications on an International Level

### 86.1. Prison Psychiatry - Consensus about International Standards

Norbert Konrad, *Free University of Berlin* (norbert.konrad@charite.de)

Whether or not mentally disordered persons “belong” in prison is primarily a legal philosophical and political problem. The presentation aims to discuss a consensus paper on prison psychiatry. International resolutions and publications from important medical and psychiatric associations are searched for guidelines on prison psychiatry. The United Nations International Resolutions, the Council of Europe, the World Medical Association, the World Psychiatric Association as well as the Oath of Athens

(International Council of Prison Medical Services) have addressed prison psychiatry but lack more detailed guidelines in dealing with mentally disordered prisoners. A special consensus paper on prison psychiatry should be drafted.

## 86.2. Domestic Violence and Psychoactive Drugs

Vivian Peres Day, *Maurício Cardoso Forensic Psychiatric Institute, Sao Paulo, Brazil*  
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The correlation between psychoactive substances and violence is well known. The authors describe, in broad and varied perspective, the neurobiological, psychodynamic and other new points-of-view concerning the use of alcohol and other drugs and their relationship with the occurrence of domestic violence. Comparative data obtained from two different Brazilian institutions, a psychiatric forensic facility and a legal-medical department are presented.

## 86.3. Competency Hearings before War Crimes Tribunals

Phillip Weiner, *Boston College Law School* (phillip\_weiner@yahoo.com)

The issue of competency/ fitness to stand trial has recently been raised by defendants charged with serious violations of the laws of war. This matter which was first considered at Nuremberg in the so-called “Trial of German Major War Criminals” is now being raised before the various international war crimes tribunals. This program will address the various competency/fitness to stand trial decisions of the past and present international war crimes tribunals. The seminal decision on competency is found in the case of *Prosecutor v. Pavle Strugar*, Case No. IT-01-42-T. As a matter of background, in the Spring of 2004, the International Criminal Tribunal for the Former Yugoslavia (ICTY) held the first competency hearing before an international war crimes tribunal since Nuremberg. After an evidentiary hearing and arguments, the Trial Chamber established the definition, standards and burdens for determining mental or physical fitness to stand trial. This decision protects the rights of the Accused and establishes a process for determining fitness. It has been followed or adopted by other trial chambers at the ICTY as well as by The Special Panels for Serious Crimes located in East Timor.

## 86.4. Forensic Psychiatry in Chile: Basic Legislation, Reform in the Penal Process, and Operational Aspects

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The Criminal Chilean Code was enacted in 1874 and Public Health Act in 1928. In the last years there was a movement to reform these codes. In regard to the Penal Code, reform to the penal process began in two Regions in 2001, and in Santiago, in 2005. This reform changed the former inquisitorial system of justice to an adversarial system with oral trials in front of three Judges before whom prosecutors and defenders argue their cases and hear the testimony of expert witnesses. Oral trials are under the supervision of a Chief Judge in charge of making sure that “due process” be respected. Despite this modernization on penal process, the old Code remains with archaic terms that interfere with oral trials. The importance of a written expert legal report in the old system has been superseded by oral testimony of the expert. Experts cannot read materials during the process unless authorized by the Court and they must answer questions in direct and in cross-examination. Questions posed to experts cover the range of qualifications, knowledge of concepts about psychopathology, and of advanced notions of mental illness and criminality. The expert should be able to define clinical concepts in short and clear language. Yet, the psychiatric language of the Code that sustains legal concepts of mental illness is over 100 years old. This imposes on the forensic psychiatrist new duties including the role of “decodifier” in charge of linking ancient language with today legal and psychiatric knowledge. Terms like “mad, demented, alienated, insane” have to be “translated” into “psychotic, consciousness disturbance, personality disorder, psychopath, dementia.” Success of the penal reform may be linked to proper changes to this historical language dissonance. A new common language between Psychiatry and the Law needs to be developed.

## 87. Identifying Organisations at Risk and Developing Prevention of Mental Health Problems in the Workforce

### 87.1. Evaluation of an Intervention to Prevent Mental Health Problems in an Acute Care Hospital: What Worked and what did not Work

Renée Bourbonnais, *Laval University* (renee.bourbonnais@rea.ulaval.ca)

A participatory intervention was designed to optimize the psychosocial work environment to ward off mental health problems in an acute care hospital. A quasi-experimental design was used with an experimental and a control hospital and before-after measurements. A self administered questionnaire was filled before intervention (T0), two years (T1) and four years (T2) after the intervention. It measured the psychosocial work environment and caregivers' state of health. Most scales used have good metric qualities. An intervention group (IG) was set up in the experimental hospitals to identify psychosocial constraints on which interventions should focus and to seek solutions. The IG was composed of various workplace representatives: caregivers, management and local unions. Using Karasek's Demand-Control-Support model and Siegrist's Effort-Reward Imbalance model, the IG identified changes needed in work organization. Results at T1 and T2 showed many significant beneficial changes in psychosocial constraints and health of caregivers in the experimental group. The discussion will focus on 1) pitfalls in the implementation of interventions; 2) pitfalls in quantitative evaluation of at risk situations; and 3) success conditions of preventive interventions aimed at reducing adverse psychosocial factors: context variables; process variables; and appropriation of the process and of changes by the organization.

## 87.2. Precarious Employment and Workers' Compensation Claims for Disability Attributed to Work-Related Mental Health Problems

Katherine Lippel, *University of Ottawa* (klippel@uottawa.ca)

In Québec, workers' compensation covers disability arising from mental health problems attributable to chronic workplace stress factors. This paper examines appeal decisions rendered between 1998 and 2006 involving such claims, focussing on those filed by workers in precarious employment relationships. These include atypical work arrangements (part-time, on call, temporary work, multiple job holders) and other forms of precariousness such as down-sizing, work reorganisation, restructuring and sub-contracting. The presentation will describe the types of cases brought by precariously employed workers, the attitude of the appeal tribunal to different stressors alleged by these workers as set down in the decisions, and the outcomes of the claims. The results will be presented in light of previous findings that confirmed that claims for compensation involving stressful working conditions judged to be 'normal' consistently fail before the appeal tribunal. Results will allow us to distinguish between the types of precariousness that are deemed to be normal and those that are judged to go beyond normal working conditions. They will also provide illustrations of health consequences of different types of precarious employment and allow a better understanding of pathways between precarious employment relationships and negative mental health outcomes.

### 87.3. Organizational Restructuring/Downsizing, OHS regulation and Worker Wellbeing

Michael Quinlan, *University of New South Wales* (m.quinlan@unsw.edu.au)

Over the past two decades there has been a significant refashioning of work arrangements in developed countries. Outsourcing and repeated rounds of downsizing/restructuring by larger private and public sector employers have both facilitated the growth of more flexible/precarious employment arrangements and contributed to increased perceived job insecurity even amongst those workers who have ‘survived’ restructuring. There is now an extensive body of international research indicating that job insecurity and contingent work arrangements are associated with significant adverse effects on worker safety, health and mental-well being. There is also evidence that these work arrangements are associated with considerable problems in terms of compliance with occupational health and safety (OHS) legislation and workers’ compensation/social security systems. In Europe, Canada and Australia government agencies responsible for administering OHS and workers’ compensation laws have begun to respond to these challenges. As yet however regulatory initiatives have been patchy, both in terms of their coverage and effectiveness. One serious area of neglect has been the failure to focus on the legislative obligations of employers to safeguard the health and well being of their workers when undergoing restructuring or downsizing. This paper will investigate this issue, making reference to developments Australia and other countries.

### 87.4. Psychological Distress in Canada: The Role of Occupations and Economic Sectors

Alain Marchand, *University of Montreal* (alain.marchand@umontreal.ca)

This study examined the role of occupations and economic sectors in explaining differences in the experience of psychological distress in the Canadian workforce. It used data from the Canadian Community Health Survey conducted in 2003 over a large representative sample 130 000 individuals. A sub-sample containing more than 23501 workers nested in 80 occupations and 99 economic sectors was available for analysis. Multilevel logistic regression models were used to estimate the portion of log-odds variance psychological distress between occupations and economic sector. Further logistic regression models were used to identify differences in the odds of reporting psychological distress, adjusting for gender, age, education, marital status, family income

and survey design effect. Results allowed the identification of several risky occupations and economic sectors. They also highlighted the implications for policy and policymakers as they pointed to specific targets for intervention.

## 88. The Importance of Childhood Onset: Neurodevelopmental Problems in Forensic Psychiatry

### 88.1. Collateral Interviews with Parents

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*Background* In spite of methodological problems, parents often remain the sole available external source of information on childhood development. Adult forensic psychiatric work-ups pose specific problems in approach, interviews and interpretation.

*Aims* To describe the validation of a parent telephone interview on Autism – Tics, AD/HD and other Comorbidities (A-TAC), and its use in a forensic context.

*Method* Psychometric statistics from various clinical settings, including systematic interviews with parents of forensic psychiatric investigatees and treatment patients.

*Results* Telephone interviews are a promising source of information. Specific problems are encountered in forensic settings, such as marginalised families, poor language comprehension and parents with mental disorders. Very high prevalences of developmental problems with a considerable overlap across diagnostic categories are consistently reported in forensic groups.

*Conclusion* Forensic psychiatric work should consider childhood development and try to approach this from various sources of information.

### 88.2. Neuropsychiatric Disorders and Personality Development in Institutionalized Adolescents

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Henrik Anckarsäter, *Lund University* (henrik.anckarsater@skane.se)

*Background & Aims* Adolescents institutionalized due to behavioural problems are consecutively assessed for neurodevelopmental problems, psychiatric disorders, adjustment, cognitive skills and personality traits, aimed at describing how these factors are related to the development of disorders of empathy and personality.

*Subjects & Methods* Clinical data and Wechsler scales, Junior-Temperament and Character Inventory, Beck Youth Inventories, Youth Self Report and PCL-YV have been assessed in 60 adolescents aged between 12 – 19 years, and another 40 will hopefully be included before Summer 2007.

*Results* Preliminary results indicate: high rates of neurodevelopmental diagnosis (ADHD, Autism Spectrum Disorders and Conduct Disorder), a predominance of uneven cognitive test profiles indicating specific neuropsychological dysfunctions rather than global retardation, personality traits (especially temperament traits) significantly differing from normal controls, and discrepancies between personal function and self-representation.

*Conclusion* The relationship among early-onset neurodevelopmental problems, deficiencies in cognitive capacity, and empathy will be discussed in relation to deviating personality traits.

### 88.3. Character Development in Neuropsychiatric Disorders and Personality Disorders

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*Background* Cloninger's personality model describes interpersonal variations in temperament and character. Temperaments are defined as reaction patterns to stimuli (harm avoidance, novelty seeking, reward dependence and persistence), while character describes conceptual maturity regarding self direction, cooperation and transcendence of ego boundaries.

*Aims* To disentangle neurodevelopmental and conceptual problems in the severe personality disorders of forensic psychiatry.

*Method* Statistical analyses of developmental problem constellations and personality measures from forensic psychiatric patients, other patient groups and the general population. Item-by-item content analyses of instruments were used.

*Results* Severe personality disorders may be described as the combination of childhood-onset behavioural disorders, defined as reaction patterns (e.g ADHD and/or autism spectrum disorders), forming extreme temperament configurations and giving rise to character immaturity. Poor executive function and mentalizing abilities are hallmarks of character immaturity.

*Conclusion* Forensic psychiatric work should consider both basic behavioural disorders and personality maturation.

## 88.4. Attribution of Autonomy and Accountability across Psychiatric Diagnostic Categories

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Henrik Anckarsäter, *Lund University* (henrik.anckarsater@skane.se)

*Background* Various mental disorders are thought to diminish responsibility and autonomy.

*Aims* To describe different criteria sets for attributing responsibility and autonomy in subjects with cognitive and mental disorders.

*Method* Interviews with clinicians, patients and other people involved in mental health work, assessing critical issues concerning the double-edged sword of autonomy and responsibility in subjects with different types of problems.

*Results* A number of important differences in judgement on the possible diminution of autonomy-responsibility across situations and problems involved in autism, schizophrenia, ADHD, personality disorders, mental retardation and other diagnostic categories will be described.

*Conclusion* Objective criteria for the attribution or subtracting of autonomy and responsibility are not easily defined, but pose a core problem for moral philosophers, decision-makers and clinicians alike.

## 88.5. Longitudinal Risk Factors in Forensic Psychiatry

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*Background* Various risk factors and prediction instruments have been proposed in forensic psychiatry, but rarely validated in clinical prospective, longitudinal study designs.

*Aims* To identify positive and negative prognostic factors and to assess whether such factors can be used for predictions.

*Method* Psychiatric diagnostic work-up (based on SCID-1 and special child neuropsychiatric inventories such as the ASDI), personality descriptions (according to SCID-2, PCL-R, TCI and KSP), forensic risk instruments (HCR-20) and biological markers (MAO-B, CSF monoamine metabolites, hormones) were collected from 100 offenders 1998-2001, with a file-based follow-up of violent recidivism in 2005.

*Results* Childhood behavioural disorders, psychopathic traits, aggression and previous criminality correlated with violent recidivism. ROC analyses of prediction yielded AUCs varying around 0.6, indicating overall poor prognostic values for individual assessments in spite of group correlations.

*Conclusion* It is not possible to predict long-term human behaviour by psychiatric tools even if vague risk relationships may be described.

## 89. Individual and Community Stress: Forensic Implications

### 89.1. Profiling the at-risk Gambler in Canada: An Exploration of Physical, Mental and Psychosocial Health Status

Ken Fowler, *Memorial University of Newfoundland* (kfowler@play.psych.mun.ca)

An exploratory analysis was carried out to examine demographic, health and social determinants of an “at risk” gambling population in Canada. Low risk (n = 1017), medium risk (n = 542) and problem gamblers (n = 200) were compared to determine which factors were dependent on the type of gambler. It was observed that sex and age were independent of the type of gambler. Differences however were found in the

frequency of playing various games of chance with problem gamblers reporting VLT machine use more frequently than lower risk gamblers. In terms of health status, problem gamblers perceived their health to be poorer, and thought about, and attempted suicide more often than their lower risk counterparts. In terms of associated problem behaviours, problem gamblers had a higher occurrence of alcohol and/or drug use while gambling. Differences in social environment revealed problem gamblers were more likely to have had another family member with a gambling problem. Implications for these findings are discussed.

## 89.2. Children Recounting Stressful Injuries: The More Distressed, the Less Recalled

Carole Peterson, *Memorial University of Newfoundland* (carole@mun.ca)

*Background:* Children often testify about events that were stressful at the time of occurrence. How stress affects children's memory is unclear.

*Aims:* To see if and how recall of a naturally-occurring distressing event was affected, depending upon children's degree of distress.

*Method:* Children's (2-13 years old) self-descriptions of how much they had cried when they were injured and then treated at a hospital emergency room were compared to the completeness and accuracy of their recall of those events when interviewed a week later.

*Results:* Partial correlations and stepwise regressions showed the following: (a) although age was the most powerful predictor, both children's self-descriptions and parental ratings of child stress were predictive of recall completeness about hospital treatment; (b) as stress increased, recall completeness about hospital treatment decreased; and (c) accuracy was unrelated to measures of stress.

*Conclusion:* Higher stress is associated with poorer recall for children. Forensic implications are discussed.

## 89.3. Trends in Crime Rates Following Community Economic Challenge: The 1992 Newfoundland Fishery Moratorium

Ken Fowler, *Memorial University of Newfoundland* (kfowler@play.psych.mun.ca)

Evidence regarding the impact of community economic challenge on crime rates is variable. The aim of this study was to investigate the changes in crime rate following a

sudden deterioration in a community's economic viability – in this case, the closure of the Newfoundland groundfish industry. Crime statistics for the period 1991-1996 were obtained from the two main police forces in the province. The provincial crime rates for this period were compared with the rates in a group of communities which had been highly dependent on the fishing industry. While the overall crime rate in the fishing communities was lower than the provincial crime rates, there was a substantial increase in crimes against property and a lesser increase in crimes against persons in the communities immediately following the closure of the fishery. This increase was lower in those communities where there was a higher rate of out-migration. This would suggest that while community economic challenge can lead to increases in crime rate, this depends upon whether the population remains stable. The implications of population change with respect to community health and social wellness are discussed.

#### 89.4. Stress, Attachment, and the Elaboration of Narrative Accounts: Forensic Implications

Allyssa McCabe, *University of Massachusetts at Lowell* (mccabeak@aol.com)

Carole Peterson, *Memorial University of Newfoundland* (carole@mun.ca)

*Background:* Telling a coherent personal narrative is the key means of making sense of experience and this ability is affected by many things, including a person's quality of attachment to significant others and the specific emotion someone experienced during the event narrated, but the interactions of attachment pattern, emotions recalled (including stress), and narrative elaboration have not been explored.

*Aims:* The current research is an effort to bring these separate lines of inquiry together.

*Method:* Written narratives of earliest childhood and adolescent memories were collected from 260 undergraduate men and women enrolled in a university in the United States. These narratives were scored for the amount of stress involved in experiences narrated, as well as the extent to which subjects elaborated these accounts. Participants also completed the Multi-item measure of adult romantic attachment (Brennan, Clark, & Shaver, 1998), from which scores on two higher-order attachment scales—*anxiety* and *avoidance*—were derived.

*Results:* Stress scores and narrative elaboration were compared to attachment scales. Gender differences were also addressed, along with implications for therapy.

## 90. Individual, Familial, and Governmental Faces of Trauma

### 90.1. Certification in Traumatology: Now is the Time

Lee Norton, *Consulting Psychologist, Nashville, USA* (leenorton@earthlink.net)

The formal study of trauma dates back over one hundred years and has evolved from the taxonomy of symptoms to effective methods of treatment. A critical question stand before us: Is now the time for "certification" in traumatology and, if so, what should the criteria be? Several groups are now offering certification, perhaps most prominent among them the Traumatology Academy headed by Charles Figley, Ph.D, and based in Tallahassee, Florida, US. Is this step premature? Some say it is essential that certification be offered -- indeed mandated -- in order to provide a minimum degree of uniformity of knowledge and skills among practitioners treatin those suffering from acute and chronic trauma. Others assert that we still lack a solid empiral foundation from which to design certification criteria and adequate curricula. This discussion will focus on the benefits and drawbacks of certification. The audience will be encouraged to engage in lively discourse in this timely and important topic.

### 90.2. Mental Health Problems of War Trauma in Eastern Africa

Seggane Musisi, *Makerere University* (segganemusisi@yahoo.ca)

Introduction: Wars cause massive health problems and lead to significant mental health disability in communities. The latter is often ignored and has not been adequately studied in Africa. Aim: This paper presents the findings of a study investigating mental health problems in three African countries of Uganda, Rwanda and Ethiopia that faced prolonged warfare. Method: Quantitatively, Uganda was taken as a case study for a cross-sectional description of the prevalence and types of Mental disorders in an Internally Displaced People's camp, a Refugee camp and a war-ravaged rural district. Qualitatively Focus Group Discussions and Key Informant Interviews were held in selected individuals in the three countries to investigate the impact of war on the mental and Public Health indices of their populations and the interventions being taken. Results: The war-traumatised survivors were mostly uneducated, poor, women, children and the elderly. The commonest mental disorders were Post-traumatic Stress Disorder, (40%); Depression

(50%); anxiety (45%); substance abuse (40% and somatisation (55%). Traditional and Faith healers provided 80% of the treatment. Qualitatively, all three countries faced massive mental health problems and epidemics which their health systems could not handle. The spread and persistence of these problems seemed to be related to war disruptions of their respective communities and health delivery systems. There were no attempts at mass medico-legal, rehabilitative or restorative justice interventions. Conclusion: Wars in Africa were associated with significant mental and public health problems including epidemics. No country alone had effective interventional nor preventive measures to effectively deal with the mental and public health sequelae of warfare; thus calling for concerted international assistance, research and efforts to end and prevent wars in Africa and for reparations with justice to ensure persistence peace.

### 90.3. Men's Violent Crime Against Women in Uganda: An Affirmation of Patriarchy's Masculinity?

Lillian Tibatemwa-Ekirikubinza, *Makerere University* (ltibatemwa@admin.mak.ac.ug)

The paper is based on in-depth interviews with 50 imprisoned men in November-December 2005 and August 2006. The research aimed at answering the question: what provocations are likely to induce a man in Uganda's patriarchal society, to kill or physically injure his wife? A wife's adultery was the most common reason cited for the men's violence. This pattern is probably a consequence of the fact that in Uganda's patriarchal society, sexual prowess is central to the concept of masculinity. A woman who commits adultery is challenging her husband's sexual power – a challenge that goes to the core of manhood. The research further reveals that through their interpretation of the defence of provocation, the courts have given legitimacy to the myth that a real man would lose the power of self control to the extent of killing his wife if caught in an act of adultery. The courts treat such a man with leniency. Men's violence also occurred in circumstances where wives were attempting to end the marriage. In yet other cases, women were assaulted while attempting to assert their property rights. In some cases women were assaulted as a consequence of "blatant questioning of a husband's authority". I conclude that men's violence against wives is rooted in power and gender. Thus most of the explanations given by husbands can be interpreted as attempts by the men to reassert their societal given authority over their wives.

### 90.4. Mediation of Domestic Relations Cases: Experiences and Lessons from Africa

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The paper describes certain aspects of two case settlement projects in Ghana and Kenya between 2002 and 2005, using mediation techniques, as part of a project on alternative dispute resolution(adr) in Africa. By ADR, we mean a range of options available for resolution of disputes both within and outside the formal justice system(s). Drawing from over 200 case mediations, certain disputing variables on satisfaction, cost, and access to justice, as well as the challenges of case selection, judicial attitude, and disputant participation will be examined. Further, the paper will highlight key lessons for cross-cultural program planning, system design, and the role of "ventilation" in mediation and conflict resolution. The ventilation process allows people to feel validated while the mediator remains neutral and does not necessarily agree with either party. People will say things they otherwise would not. When parties are extremely angry and freely ventilate, they often speak in blank verses, or a sort of "mellodic speech." Three aspects of mediation are key when basic belief systems are perceived as being threatened and/or emotions are high: 1. Ventilation of anger/or emotion; 2. Acknowledgment; 3/ Validation.

## 91. Innovative Treatment Approaches for Criminal Offenders and Forensic Patients

### 91.1. Developing a Treatment Program for Stalking Offenders

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Mental health interventions for criminal offenders have increasingly shifted away from diagnostically-driven approaches and towards a more behavioral focus. With the growing awareness of the frequency and impact of stalking and harassment behaviors, the need for problem-focused interventions to target these individuals has become apparent. Particularly because of the diagnostic heterogeneity of stalking offenders, a problem-focused model is particularly salient. But to date, there have been no validated or even

systematic approaches to target this potentially dangerous offender population. Given the lack of any empirically-supported (or even systematic) interventions specifically designed to target stalking behaviors, the authors developed and implemented a DBT-based treatment program to target this problematic offender population. Participants were seen weekly, for a total of 6 months, using a modified version of both individual intervention and DBT group skills training. This paper describes the development of this model and uses data and experiences from the first three years to address a number of important programmatic issues. Specifically, the paper addresses a wide range of legal, ethical and pragmatic issues that arise whenever novel interventions are developed for criminal justice settings. Issues of risk assessment, confidentiality and the duty to warn are common and create confusion among clinicians and offenders. In addition, the inevitable risk of violence and stalking targeting the clinicians raise issues of safety planning that, while present in many offender treatment settings, are even more pronounced among offenders who have a known history of harassment. Finally, the importance and methods of developing collaborative relationships within the criminal justice system, without misrepresenting the efficacy of novel treatments, isare discussed.

## 91.2. Effect of Treatment Engagement on Violence and Arrests among People with Severe Mental Illness

Eric B. Elbogen, *Duke University* (eric.elbogen@duke.edu)

One clinical strategy for managing risk of arrest and violence among people with severe mental illness involves targeting potentially treatable factors related to these risks. The current study explores the link between community violence, criminal arrests, and patients' beliefs about treatment benefit. N=907 adults meeting DSM-IV criteria for psychotic and affective disorders receiving public mental health services in four U.S. states were interviewed. A quarter of the sample reported being arrested or violent in the past year. Participants in this group were more likely to deny needing psychiatric treatment. Multivariate analyses confirmed this pattern for participants arrested and violent, controlling for clinical and demographic covariates. As a result, clinical interventions that address a patient's level of treatment engagement, such as compliance therapy and motivational interviewing, may hold promise as risk management strategies for clinicians providing services for individuals with severe mental illness.

## 91.3. The Multi-Systemic Demands of Outpatient Sex Offender Treatment

Lori Butts, *Clinical & Forensic Institute, Davie, USA* (Loributts@hotmail.com)

The primary goals for court ordered outpatient sex offender treatment are to deliver cost-effective treatment services that 1) will protect the community by reducing the recidivism rate of the clients and 2) will provide an empirically-derived, state of the science treatment modality to address the many and diverse clinical needs of community-based adult sexual offenders. The mental health treatment professionals who provide direct services specialize in a comprehensive array of assessment, consultation, and treatment services for offenders. The direct service of treatment must be complemented with ongoing collaboration among federal, state, and community stakeholders. While treatment service delivery is the primary task for outpatient sex offender treatment providers, various government agencies legislate ongoing changes and increased responsibilities for community based treatment providers. The varying transitions of legislative bodies and regulatory agencies require sex offender treatment service providers to adjust services and internal treatment protocols on an ongoing basis. Additionally, the legislative demands on the clients evolve and change as well. This presentation will focus on several elements of sex offender treatment that are particularly relevant given the present climate of legislative oversight. Issues that will be discussed include the limits of confidentiality given the limits imposed by court mandated treatment, the necessity for ongoing risk assessment in offender populations, and the maintenance of relationships with court officials and law enforcement officers. Other issues to be discussed include the need for ongoing assessment of treatment efficacy and the evolving parameters of community monitoring of offenders.

#### 91.4. Are they Mad, Bad or Sad? Managing Complexity in a Fragmented Environment

Margaret Hamilton, *Multiple & Complex Needs Panel, Melbourne, Australia*  
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With convictions including 2 murders, 2 manslaughters, 3 rapes, numerous assaults and with histories including suicide attempts, a combined history of more than 50 mental health orders and many early childhood protective orders, the first 20 clients of the Multiple and Complex Needs Panel represent the most difficult end of those people requiring 'care' in our community. This paper will describe the effort to establish an initiative directed at managing complexity and risk through administrative and legal interventions designed to respond to fragmentation of service provision. It will discuss issues that arise through case examples and a description of the profile and experience of these people where 92% have mental disorders, 60% are substance dependent and many have been assessed as intellectually impaired and/or have an acquired brain injury. Coordination is necessary but not sufficient!

## 91.5. Reentry: The Health Challenges of Those That Return Home after Incarceration

Natasha H. Williams, *Morehouse School of Medicine* (nawilliams@msm.edu)

Nearly 2.2 million men and women are incarcerated in prisons and jails in the United States and a growing body of evidence points to levels of ill health and inadequate treatment while incarcerated. Many inmates are African American men and women. It is estimated that over 650,000 individuals will be released each year from correctional institutions and return to their communities. Many of the individuals will return ill-prepared to re-integrate back into their communities. Many of these individuals suffer from chronic diseases, substance abuse, mental illness, HIV/AIDS, and infectious diseases. Once released, many former prisoners have no access to health insurance and, thus, no entrée to health services. Additionally, ex-offenders often return to the communities with the fewest resources – cities, towns, and neighborhoods that are already poor, overburdened, and with limited health resources. The effect is to exacerbate health disparities already present. Many more are denied the opportunity to successfully reintegrate into society due to restrictive laws and policies impacting housing, medical care, employment, education and the right to vote. This presentation proposes recommendations and strategies to assist those that return to their communities through collaborations between criminal justice, public health, and governmental entities as well as community organizations.

## 91.6. Group Shiatsu Massage with Persons Diagnosed with Schizophrenia

J Bar-El, *Mazrah Mental Health Clinic*

Brenda Geiger, *Bar Ilan University at Western Galilee* (geigerb@netvision.net.il)

The goal of this study was to evaluate effects of group shiatsu massage on the well-being of 15 persons diagnosed with schizophrenia of which 8 were females. Shiatsu is one of the many forms of structured massage or therapeutic touch applied on the body to encourage relaxation, restore energy, and well-being. The paradox is that people with schizophrenia have often been characterized as tensed and uncomfortable with physical contact even when such contact is appropriate. Based on unobtrusive observations of group shiatsu and interviews with 15 persons engaging in groups shiatsu findings indicate that the positive climate allowed the participants to become aware of themselves and surrounding, become relaxed enough to being touched when massaged. They learned

external structure and societal rules such as waiting for their turn and reciprocity in exchanging massage. Furthermore, coaching and feedback by shiatsu therapist allowed the participants to touch others and give in return the same feeling of wellness

## 92. Institutionalized Delinquent Youth: Prevalence and Outcomes

### 92.1. Prevalence of Psychiatric Disorders in Detained Male Adolescents in Flanders (Belgium)

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Robert Vermeiren, *University of Leiden/ Curium* (r.r.j.m.vermeiren@curium.nl)

Prevalence rates are presented of psychiatric disorders in 229 detained male adolescents by type of life-time index offense using the DISC-IV. Also investigated is whether subgroups of non-violent offenders reveal the same significant differences in rates of disorders when compared to violent offenders. High rates for Conduct disorder and Substance use disorders were found. Specific non-violent offending subgroups differed from violent offenders with regard to specific disorders which could not differentiate any other subgroup of non-violent offenders from violent offenders. The negative association between substance use disorders and violent offending reported in two recent samples of juvenile offenders is confirmed by present findings.

### 92.2. Re-incarceration, Psychopathology and Gender

Belinda Plattner, *Medical University of Vienna* (belinda.plattner@meduniwien.ac.at)

Steve S.L. The, *VU University Medical Centre, Amsterdam, The Netherlands* (ssl.the@gmail.com)

Hans Steiner, *Stanford University* (steiner@stanford.edu)

Re-incarceration rates in delinquent juveniles are high. There are a number of studies showing high prevalence rates of psychopathology in delinquent samples. Interestingly, most studies found differences in prevalence of psychopathologies in delinquent girls and

boys. Although consensus has found delinquents to be a population with high prevalence of psychopathology, there are few studies on the impact of psychopathology on criminal outcome. In order to conceptualize prevention we need to understand the predictive role of psychopathology in re-incarceration: Do psychopathology in general or prevalence of specific diagnoses contribute to chronic delinquent behaviour? Does gender play a role and are there gender specific psychopathological profiles in chronic delinquent juveniles that predict for re-incarceration? This longitudinal study was designed to look at psychopathological diagnoses predictive of time to re-incarceration. We looked at both genders separately. Participants of this study were 328 juvenile delinquents from an Austrian pretrial detention center (mean age 16.7). They completed the Mini-International Neuropsychiatric Interview for children and adolescents (Mini-Kid). Information on re-incarceration was gained from the general incarceration information database (integrierte Vollzugsverwaltung). In this lecture results will be discussed and subsequently, the implications for prevention of re-incarceration and suggestions for further research will be discussed if possible.

### 92.3. Recidivism and Risk Factors in Dutch Juvenile Delinquents

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The first results of a large study concerning risk factors and recidivism in institutionalized juvenile delinquents (PIJ-maatregel) in the Netherlands will be presented. The FPJ (Forensic Profile Youth-)list was developed to register a large number of static and dynamic risk factors from files. Its psychometric qualities found to be adequate. The files of serious juvenile delinquents in the Netherlands, institutionalized between 1996 and 2003, were analyzed. These files contained at least a psychological and psychiatric evaluation, the court verdict, and the treatment evaluation concerning the first eight months of treatment. As has been found in international studies, the results show that several risk factors correlate with recidivism and that a sum score of a number of these factors appears to predict recidivism. Among these factors several dynamic risk factors predict recidivism, which is a hopeful indication for the treatment of serious juvenile delinquents. From the results several recommendations for treatment will be given.

### 92.4. Psychopathology of Adolescent Girls in Detention Compared to Girls in Inpatient Mental Healthcare

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Several studies have shown high rates of psychopathology among adolescents in detention. Besides externalizing disorders, internalizing disorders were also often found in female detained samples. As detention centers are not the optimal place to meet psychiatric needs, it may be relevant to investigate what characteristics are related to placement of girls in detention or in closed psychiatric wards. A sample of 256 detained females (mean age  $15.4 \pm 1.3$ ) was compared to a sample of 45 females in closed psychiatric wards (mean age  $15.8 \pm 1.4$ ). Socio-demographic characteristics, mental health history and psychiatric problems were investigated using file-information, self-report questionnaires and a semi-structured psychiatric interview. Girls in closed psychiatric wards significantly more often suffered from internalizing disorders and dissociation, whereas externalizing problems were more frequently seen in girls in detention centers. Ethnic minorities were more frequently found in detention centers, while girls in closed psychiatric wards were more often previously involved in mental healthcare and their parents were more often higher on the employment scale. The results of this study suggest that type of psychopathology as well as socio-economic status may play an important role in placement in either service sector. Possible clinical and societal implications of the findings will be discussed.

## 92.5. A Proposal for Follow-up of Seriously Delinquent Male Adolescents with Mental Disorders

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In 1999, mental disorders were examined in a Dutch representative sample (N=204) of seriously delinquent incarcerated male adolescents convicted to coercive treatment in a juvenile justice institution or youth detention. Interviewed with the Diagnostic Interview

Schedule for Children (DISC), ninety percent reported at least one psychiatric disorder, 34% were DISC psychosis screen positive. In this presentation the relevance of a follow up (FU) study will be discussed and a FU design will be presented. As far as we know, the relationship between psychiatric disorders and criminal recidivism has not been studied prospectively. If there is a positive relationship, successful treatment possibly will reduce future delinquency. Furthermore, the course of psychotic symptoms among seriously delinquent youngsters is unknown. However, compared to the normal population, psychotic disorders among detained adults seem to be ten times more frequent. It is useful to study whether psychotic symptoms among detained juveniles are predictors of serious psychotic disorders. If so, early diagnosis and early intervention possibly will lead to a better prognosis. Finally, in a FU design the results of treatment measures compared to detention will be examined.

## 93. Intercultural Issues in Forensic Child and Adolescent Psychology and Psychiatry

### 93.1. Moroccan Offenders under the Age of Twelve

*Carmen Paalman, VU University Medical Centre, Amsterdam, The Netherlands*  
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Recent empirical findings and expert consensus have identified criminal behavior, psychopathology, cultural factors, socio-demographic and ethnic background to make independent contributions to future adjustment in delinquent youths (Teplin 2002, Vermeiren & Ruchkin 2006, Loeber & Farrington 2001). Early onset of antisocial behavior increases the risk on delinquent behavior and has negative effect on future psychological functioning (Moffit & Caspi 2001). Social demographic factors, cultural factors and ethnic background are associated with delinquent behavior (Loeber & Farrington 2001). Although delinquent behavior is highly prevalent among Moroccan youths in the Netherlands, little is known in the Netherlands about such correlates with delinquent behavior within this population group with first police contact below the age of 12. Therefore assessing the relative contribution of variables to future outcome of delinquent behavior in this highly compromised subgroup of Moroccan offenders is

important. Assessment will involve self-report measures and semi-structured interviews with 50 Moroccan offenders under the age of 12 after first police contact (and their parents / teachers) and with 50 peer controls without police contact. This paper will present the preliminary results of the study and give an outline for future policy.

### 93.2. Development of a CD-ROM for use Within the Youth Justice System on Attitudes towards Health Issues and Services

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Nathan Whittle, *Bolton, Salford and Trafford Mental Health Trust, Manchester, UK* (nathan.whittle@gardener.bstmht.nhs.uk)

Sue Bailey, *University of Central Lancashire* (njwhittle@gardener.bstmht.nhs.uk)

The high level of unmet health needs in young offenders was highlighted by a recent study of 300 young offenders (Chitsabesan et al., 2006) which found that 48% of young offenders had needs with peer and family relationships, 36% educational or work needs, 35% had needs in relation to violence to people and property, 31% had mental health needs, 29% had needs because of risky behaviour, 20% had an IQ below 70 and 30% were assessed as borderline learning disability. There is a lack of research examining the views of young offenders on health issues and the services that are available to them. This presentation summarises a qualitative study conducted in 4 youth offending institutions with young people addressing their attitudes towards aspects of health and the provision of healthcare services. While there were some gaps in their knowledge, the young people were quite well informed of the services they could access. They also identified barriers to accessing these services and the effect that being in custody could have on their health. Community based services were also discussed by the young people. Many thought that the services provided in custody addressed their health needs more successfully. The findings from this study informed the development of a DVD and the second half of the presentation will show the DVD.

### 93.3. Moroccan Juvenile Delinquents in the Netherlands

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Wilma Vollebergh, *Leiden University* (w.a.m.vollebergh@fss.uu.nl)

Previous research has shown that Moroccan immigrant children in the Netherlands are at high risk of developing emotional and behavioral problems. For instance, police records show that Moroccan immigrant children are over-represented in the population of juvenile delinquents and in judicial youth care. This leads to the question of why Moroccan immigrant youth in the Netherlands is at high risk of severe problem and delinquent behavior. In the present study data were gathered for 300 12-18-year-old young male delinquents in Dutch detention centres, concerning emotional and behavioral problems and personality characteristics (e.g. psychopathic traits). Parent and self-reports were collected, using the Child Behavior Checklist, Youth Self Report and Youth Psychopathy Inventory. Moroccan immigrant children were compared to Dutch native juvenile delinquents and Moroccan immigrant children in the general population. Currently data are being analyzed and results will be presented at the conference.

#### 93.4. Applications of Functional Family Therapy in Diverse Cultural Settings

Thomas Sexton, *Indiana University* (thsexton@indiana.edu)

Evidence based family therapy approaches for severe delinquent youth have become the treatment of choice. Evidence suggests that EBP like Functional Family Therapy have the potential to, when applied with fidelity, improve family functioning, youth functioning, and reduce future criminal involvement. Outcomes of evidence-based models and the cultural variation needed to successfully apply the model are only now being studied. This is critical as treatment programs in one country are being applied in other countries with different cultural and ethnical populations. Among the many issues to be understood, two initial questions emerge as most critical: (1) Are evidence-based treatment models effective in other cultures and with ethnically diverse clients? In other words, does the therapy produce similar outcomes in a culture and with ethnic groups other than the one in which it was developed?, and (2) What cultural variations are necessary in order to apply the model successfully? This paper will focus on the emerging evidence regarding the application of one such evidence-based family intervention model, FFT and its application in diverse cultural settings both within the United States and in international replications. The data suggest that FFT is applicable across cultural groups and across diverse international settings when applied with fidelity. The reason seems to be the structured and yet client responsive focus of FFT's clinical model.

### 93.5. Diagnostic Considerations in Children/Adolescents entering the New York City Child Welfare system

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Raul Silva, *New York University* (raul.silva@med.nyu.edu)

It is estimated that up to eighty percent of children entering the child welfare system in the United States have psychiatric needs that go largely unmet and that approximately sixty five percent of these children are prescribed psychotropic medications. Notably, many of these children are disproportionately from minority backgrounds with histories of poverty. Children in the United States child welfare system are also frequently diagnosed with externalizing behaviors, and are more likely to receive atypical antipsychotics regardless of their psychiatric disorder. This study examines the interplay between ethnicity and diagnostic classification, as well as types of medications prescribed. We hypothesize that ethnicity influences the diagnostic classification of behavioral disorders, so that anxiety, depressive and trauma related disorders are under-diagnosed in this population. Children who present with externalizing behaviors, regardless of etiology and other concurrent comorbid symptomatology are more likely to be diagnosed with disruptive behavior disorders and receive antipsychotic medications targeting aggression as opposed to receiving SSRI's for underlying trauma, anxiety and depressive disorders. The presence of externalizing behaviors in an inner city sample inadvertently shifts the clinical focus from diagnosing comorbid anxiety and depressive disorders and therefore affects the clinical management of these disorders with the principally indicated evidenced based agents.

## 94. International Human Rights and Mental Disability: Developments in International Law

### 94.1. Human Rights Law for Persons with Mental and Intellectual Disabilities

Lance Gable, *Wayne State University* (lancegable@wayne.edu)

The evolution of international human rights law has substantially changed the legal landscape for protecting the rights of persons with mental and intellectual disabilities.

For example, the development of *General Comment 14* to the International Covenant on Economic, Social, and Cultural Rights has created a thorough and persuasive explication of the scope of the right to health. The drafting of the *UN Convention on the Rights of Persons with Disabilities* provides new opportunities to establish stronger human rights protections to persons with physical, mental, and intellectual disabilities. Regional human rights systems in Europe, the Americas, and Africa, increasingly have enforced human rights provisions in the context of health. National governments and courts have applied human rights principles to protect persons with mental disabilities. This paper will highlight some of the ways that structural and substantive developments in human rights law can and should protect, respect, and fulfill the human rights of persons with mental and intellectual disabilities. In addition, the ongoing shortcomings of human rights law in this area will be evaluated. Finally, the impact of human rights law on public mental health initiatives will be examined.

## 94.2. UN Convention on the Rights of Persons with Disabilities: Is it a paradigm shift?

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The recently adopted comprehensive international human rights instrument, CRPD contains several articles that are particularly relevant for persons with psychosocial and/or with intellectual disabilities. The presumption of legal capacity and the preference of the supported decision-making paradigm over traditional guardianship regimes under article 12 ; the right to liberty construed as a non-discrimination clause in article 14; the right to live independently and be included in the community (article 19) are just a few examples. Arguably the most important feature of the negotiation process was the unprecedented participation from civil society, including organisations of persons with psychosocial and/or intellectual disabilities. Many of the negotiating parties emphasised the need for a paradigm shift in this new instrument. The presentation, focusing on articles 12, 14 and 19 will address the question of whether this paradigm shift has been reached in CRPD for persons with psychosocial and intellectual disabilities. The author will argue that while article 19 is certainly a new paradigm internationally, much will depend on the interpretation of article 12 and 14. Further advocacy and legislative changes in domestic mental health related laws are needed to make sure that the envisioned paradigm shift is completed.

### 94.3. Deus ex Medicus? Harmonizing Individual and Collective Health Rights for Mental Health Promotion

Benjamin Mason Meier, *Columbia University* (bmm2102@columbia.edu)

The promotion of human rights and mental health should be mutually reinforcing, with human rights creating positive state obligations for the fulfillment of mental health care and mental health leading to autonomy, fulfillment, and dignity. Public health discourses in mental health have evolved from an institutional to a social model, emphasizing the collective societal determinants of mental illness. In that time, however, language surrounding the individual human right to health, corresponding historically with the rise of psychiatric medicine in international discourse, has remained focused on individual medical treatments, epitomized by the World Health Organization's inclusion of psychotherapeutic medicines among state-mandated "essential medicines." This research finds that the right to health, pressing for the "highest attainable standard" of mental health for each individual, has been ineffective in compelling states to address collective inequalities in underlying determinants of mental health, focusing on individual medical treatments at the expense of public health systems. Rather than a medicalized, services-based vision of health rights for the mentally ill, the author develops a collective rights framework to analyze the underlying societal determinants of vulnerability to mental illness and equity in mental health care, concluding with a call for multilateral development and codification of this new framework.

### 94.4. Asserting the Rights of Older People with a Mental Incapacity through International Human Rights Law

Paula Scully, *Barrister, Brisbane, Australia* (paulascu@yahoo.com)

The United Nations *Convention on the Rights of Persons with Disabilities*, though it only briefly refers to older people (except for Article 16.4 concerning age specific needs when considering measures against abuse and exploitation, Article 25 on health and Article 28 on social protection), has implications for human rights legal practitioners, policy and legislative makers in protecting the rights of older people with mental incapacity living in nursing homes. The European Court of Human Rights has lacked assertiveness in protecting the freedom of movement and liberties of older people, as illustrated in the majority judgment in *HM v Switzerland* [2002] ECHR 157. However, *Storck v Germany* [2005] ECHR 406 could be used in future challenges on deprivation of liberty of older people. The English Family Court decision in *JE v DE and Surrey County Council* [2006] EWHC 3459 lends support to this approach as it held that an older person had

been deprived of their liberty because they would not be allowed to leave the nursing home. The *Hague Convention on the Protection of Adults* 2000 is not yet in force, and has only been signed by France, Germany, Netherlands and ratified by the United Kingdom for Scotland, pending the coming into effect of all parts of the *Mental Capacity Act*. This Convention, once it is in force domestically, allied with the United Nations Convention earlier referred to, gives impetus to human rights practitioners to assert the rights of older people with mental incapacity.

#### 94.5. The concept of diminished responsibility in the supranational criminal law (psychiatric approach)

Miroslav Goreta

The paper presents the critical analysis of the actual concept of diminished responsibility applied at the International Criminal Tribunal for the Former Yugoslavia (ICTY). The concept has been taken over from the English criminal law (The English Homicide Act 1957). It also points to the insufficiency of the Rome Statute in the part referring to the defense by mental element at the permanent International Criminal Court (ICC), where now exists only a decree on non-responsibility, while diminished responsibility is not mentioned at all. The author's theoretical standpoints are illustrated on the basis of a concrete The Hague case of E.L., in which five psychiatric expertises have been done to confirm or eliminate the defendant's diminished responsibility. In the conclusion are given suggestions for tailoring the new concept of diminished responsibility, which should, along with the already existing regulation of responsibility, be integrated into procedural norms at the permanent International Criminal Court (ICC). Having in mind the progressing internationalization of psychiatric law, the author particularly pledges for implementing supranational norms regarding responsibility and other forensic-psychiatric estimations into national legislations of all the countries that accept the authority of the ICC. The practical meaning of this proposal is additionally argued by the actual situation which has occurred following the decision of The Hague Tribunal to transfer a larger number of "its own" cases to national courts in Croatia, Bosnia and Herzegovina and Serbia.

#### 95. International Human Rights and Mental Disability: Issues in Implementation

## 95.1. Fusion of Mental Health and Incapacity Legislation

George Szmukler, *King's College London* (g.szmukler@iop.kcl.ac.uk)

John Dawson, *University of Otago* (John.dawson@stonebow.otago.ac.nz)

Single legislation covering the treatment of both 'physical' and 'mental illness', based on general incapacity principles, has been suggested by a number of participants in recent UK law reform debates. In this paper the authors propose a legal framework for comprehensive legislation of this type and consider in some detail the legal provisions it should contain. First the distinct functions and characteristics are examined of the common forms of (i) incapacity legislation and (ii) civil commitment (or mental health) legislation. Principles are then proposed for their 'fusion' into a single scheme. We show that legislation combining the particular and complementary strengths of both incapacity and civil commitment schemes can be readily constructed, based, for example, on the incapacity criteria found in the Mental Capacity Act 2005 for England and Wales. Such legislation would be an important step in reducing unjustified legal discrimination against mentally disordered persons. Consistent ethical principles would then be applied across all medical law.

## 95.2. The Limits of Law: Why Users Always Lose

Peter Bartlett, *University of Nottingham* (peter.bartlett@nottingham.ac.uk)

The optimism of users of mental health services following the passage of the UN Disabilities Convention is running high. Certainly, there is much to be excited about, as will be clear from the other presentations in this stream. At the same time, it is appropriate to acknowledge the limits of what the Convention is likely to accomplish. The view from Britain suggests minimal interest from the government in substantive change to reflect the approach of the convention. Rights and non-discrimination barely entered the government's vocabulary in its now eight-year campaign to reform the Mental Health Act 1983. Judicial fora are similarly disappointing. Even when international conventions become directly enforceable under domestic law, as is the case in the UK with the European Convention on Human Rights, English courts routinely fail to have the courage of the Convention's convictions. Users of psychiatric services are stigmatised here, as much as anywhere else in society. International courts, such as the European Court of Human Rights, have similarly proved disappointing in their protection of fundamental rights of people defined as mentally disabled. This paper examines how and why law fails in these contexts. And it asks, if law fails, how much hope should we have for the new UN Convention?

### 95.3. Mental Health in New Zealand: Sanism but with Good Intentions

Tony Ellis, *Barrister, Wellington, New Zealand* (ellist@ihug.co.nz)

The Roulet judgment of the California Supreme Court records: History is haunted by the accusing cries of those locked away “for their own good.” It would be small solace to a person wrongly judged mentally incompetent that his road to commitment was paved with good intentions. The NZ Mental Health system is infected with good intentions, and sanism, (Identifying prejudice toward the mentally ill among “well-meaning citizens” as the same “quality and character of other prevailing prejudices such as racism, sexism, heterosexism and ethnic bigotry.”) Neither the ICCPR, nor the UN Convention Against Torture ratified in 1979, and 1990 respectively, are enacted into domestic law. Substantial inconsistencies between the New Zealand Bill of Rights Act 1990 (“NZBORA”), and the Mental Health (Compulsory Assessment and Treatment) Act 1992 (“MHCAT”), arise particularly in practice. The NZBORA is neither entrenched, nor has any superior place in domestic law. It can be displaced by ordinary legislation, and has been. This paper explores fundamental human rights for mental health patients of non-discrimination and inherent dignity. A wholesale systemic failure to accord fundamental human rights to the mentally disordered occurs in New Zealand, not assisted by inadequate training of judges and officials (including medical staff and lawyers either defending or “prosecuting” detainment) on our international and domestic obligations. Initial compulsory detainment, (with compulsory assessment and treatment for at least 5 days) by one psychiatrist has no appeal right. A totally ineffective s16 MHCAT review, which as currently interpreted ousts the NZBORA, and combined with the absence of meaningful rights reduces mental patients to a type of second class citizenry, on par with early (1933) Nazi discriminatory laws. This is not justified in a free and democratic society.

### 95.4. Weeds in the Bouquet

Ruth Harrison, *Mental Health Commission of New Zealand, Wellington, New Zealand* (rharrison@mhc.govt.nz)

New Zealand introduced a local Bill of Rights (the NZBORA) in 1990 and like most countries also has mental health legislation – our current MH Act was passed in 1992 after the NZBORA. New Zealand was very actively involved in the development of the new UN Convention on the Rights of Persons with Disabilities. New Zealand legislation

is already compliant with the new UN convention. New Zealand can be expected to receive a good bouquet in the areas of legislative compliance and putting human rights into practice in mental health. New Zealand does want to 'measure up' to the new convention. As for all rights, the willingness of systems and people to uphold and effect those rights is fundamental to the enjoyment of them. This paper looks across the bouquet and notes some weeds that need attention. In practice it is expected that New Zealand will have to work much harder to be able to give real effect to the new UN Convention and in some cases the NZBORA. There will be a number of areas within the world view of the mental health sector that will need changes as the way the Mental Health Act is currently operated can prevent some rights from being realised. There is little view currently within mental health services that a failure to understand fundamental rights can lead to serious consequences such as arbitrary detention.

### 95.5. Participation, Involvement and the Rights of People with Mental Health Needs

Nell Munro, *University of Nottingham* (llxpmm@nottingham.ac.uk)

Participation is a key word in the lexicon of campaigners for the rights of disabled people. This is recognised in Articles 29 and 30 of the UN Convention on the rights of Persons with Disabilities. The convention not only acknowledges that disabled people may be hindered in their freedom to participate in the political and social communities to which they belong, but importantly places a duty on states to facilitate the participation of disabled people in all areas of life, recognising that for many people participation may rely on physical adaptations and interventions as well as changing attitudes. However, the Convention does not define what would constitute adequate interventions to promote the participation of people with mental health needs in the community. People with mental health needs may not need their physical environment to ensure their physical or sensory access to the community, but they are nonetheless widely socially excluded. They may feel discouraged from participating in community life by fear of suffering the consequences of stigma, including physical or verbal abuse; they may have difficulty participating on full and equal terms because their views and opinions can be easily discredited, and their right to participation may be legally compromised if and when they are subjected to compulsory detention or treatment. This paper will take as its example recent debates in England and Wales over the inclusion of a right to participation in clinical decision making in amendments to mental health legislation, to examine some of the ways in which a poorly expressed or enforced right to participation might fail to address the specific interests of people with mental health. It will also examine how a right to participation could, if the will to implement it existed, radically empower people with mental health needs, and in the process promote their dignity and social inclusion.

## 96. International Innovation in Mental Health Legislation: What Works?

### 96.1. Scotland's New Mental Health Act - The Introduction of Radical Changes to Civil Law

James G. Strachan, *University of Edinburgh* (james.strachan@lpct.scot.nhs.uk)

*Background:* The Mental Health (Care and Treatment) (Scotland) Act 2003 came into operation in Oct.2005. It introduced major changes to Scottish Mental Health Law including the controversial ability to treat in the community on compulsory basis.

*Aims:* This presentation focuses on the consultation process preceding introduction of this legislation, outlines some of the new measures brought about as a result and briefly looks at initial practical experience of the new law from a clinicians' perspective.

*Method:* The perceived need for these changes, and the processes undertaken by the "Millan" committee will be described. The constitution of the new Tribunal System and the replacement of "relative" by "named person" in respect of the legislations' operation will be outlined.

*Results:* This newly introduced legislation should act as stimulus and focus for discussion for other legal systems considering revision and change.

*Conclusion:* As the new legislation is extremely complex and its practical implementation relatively recent this paper inevitably provides a selective summary and is intended primarily to inform by means of introduction to this topic and to stimulate further exploration of the issues raised.

### 96.2. Effectiveness of the Victoria Mental Health Act 1986 from the Review Perspective

John Lesser, *Mental Health Review Board of Victoria, Melbourne, Australia*  
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The author reflects on the strengths and weaknesses, and overall effectiveness, of the Victorian legislation that, among other important provisions, established the Board, which has operated since October 1987. He explores how, and how effectively, this

legislation has responded over the years to significant changes in the Victorian community's mental health needs and clinical practice, particularly the effects of deinstitutionalization and increasing emphasis on treatment in the community. The author links these developments with an evaluation of the changing role of the Board as the quasi-judicial tribunal charged with the responsibility of conducting independent external reviews of involuntary treatment, and hearing appeals from involuntary patients. Possible future directions will also be touched upon.

### 96.3. Community Treatment Orders - Who Benefits?

Ruth Vine, *Department of Human Services, Barton, Australia* (ruth.vine@dhs.vic.gov.au)

Community Treatment Orders (CTOs) have been in place in mental health legislation in Victoria, Australia for 20 years. During this time there has been significant change in how mental health services are delivered, with greater emphasis on community as opposed to bed based care. But has this shift led to improved patient or community outcomes? In Victoria, use of CTOs is generally considered in the early phase of an illness when engagement, compliance and the development of insight is being fostered, or for longer periods in those with established chronic illness and persistent lack of insight. CTOs currently mandate treatment; however, in order for the patient and the community to benefit from this approach, other services may be required including stable housing, and non-clinical support in daily activities, employment and occupation. Should compliance with community supports also be a CTO requirement? This paper will document Victorian experience in use of CTO's, in the context of the overall mental health and psychosocial support service. The role of non-clinical services in maintaining stability in the community will be considered, and the use of clinical and outcome measures to monitor CTO effectiveness will also be discussed.

### 96.4. Evaluating the Dutch Mental Health Legislation

Johan Legemaate, *Free University of Amsterdam* (johanlegemaate@hotmail.com)

In 2006 the Dutch Act on Formal Admissions to Mental Hospitals is evaluated for the third time. Previous evaluations (1996, 2002) have resulted in several amendments of the Act. Recently the present Act was criticized for being outdated. Therefore, the third evaluation was based on a more fundamental question: can the present Act be made future-proof or is it necessary to replace the Act by a completely new one? In order to answer this question the Dutch government decided to add an international survey to the

third evaluation. This survey is meant to analyze recent developments in mental health legislation in several countries. It is to be expected that the outcome of this survey will influence the political debate concerning the future of the Dutch mental health legislation. The results of the third evaluation will be published in March 2007. This presentation I will be an overview of these results. Furthermore I will discuss, as well as a discussion of the political and societal consequences.

## 96.5. Legislation & CTOs: What Works?

J. R. (Remmers) van Veldhuizen, *Mental Health Services, North Holland, The Netherlands* (remmersvv@hotmail.com)

Outpatient commitment in the Netherlands has a complicated history. According to the new Mental Health Act of 1994 only conditional leave was permitted. After 1998 an increasing number of patients stayed out of hospital for several years on conditional leave, without having been re-admitted in the past few years. Psychiatrists and lawyers called this an ‘umbrella authorization’. The Dutch Supreme Court was critical of this situation and asked for formal legislation regarding outpatient commitment. In 2002 a new bill was presented. The Dutch Psychiatric Association and others were very sceptical, because this bill required the patient’s formal consent to the treatment plan before a community treatment order could be imposed. Nevertheless, the new legislation came into force in 2004. During the first year many psychiatrists continued to use the umbrella authorization, but the Supreme Court insisted that the new law should be used and the umbrella authorization was cancelled. As foreseen, the new law led to considerable problems: patients who had stayed in the community under the ‘umbrella authorization’ for quite long periods now refused to consent to the new treatment plan. This resulted in deterioration of patients in the community and in readmissions. Under public pressure, in 2005 the government changed their minds and now an amended law has been presented which no longer requires the patient’s consent in cases of outpatient commitment. But - again contrary to the recommendations of psychiatrists and lawyers - some aspects of this amended law are still very rigid: the steps required to readmit a patient in the event of danger or if he or she is failing to comply with the treatment plan are too complicated. Moreover, if a patient is readmitted the formal outpatient commitment is cancelled and replaced by a hospital order.

With this Dutch situation in mind, the author explored the international literature in search of best practices with regard to community treatment orders and will present some main points in answer to the question: what makes CTOs work?

## 97. Interpersonal Violence

### 97.1. Differential Risk Hypothesis: A Test of Two Models of Intimate Partner Violence

Chitra Raghavan, *John Jay College of Criminal Justice* (craghavan@jjay.cuny.edu)

Straus and Ramirez (2003) in proposing the differential risk hypothesis suggest that the etiologies for minor and severe violence differ such that risks for minor violence tend to reflect environmental characteristics (e.g., neighborhood disorder, peer affiliation, witnessing violence in the neighborhood), whereas severe violence tends to reflect psychological and psychopathological characteristics (e.g., jealousy and emotional dysregulation). This conceptualization may be particularly useful in explaining the higher than usual rates of IPV noted in disenfranchised populations who often live in disorderly neighborhoods. Accordingly, we tested the differential risk hypothesis in a sample of 504 male college students. We ran two regression analyses with severe and mild violence as the dependent variables. Results indicated that only community-level variables predicted minor violence, ( $R^2 = 30.6\%$ ) whereas, only psychological variables predicted severe violence ( $R^2 = 36.3\%$ ). In addition, an interaction between neighborhood disorder and jealousy indicated that men were most likely to perpetrate any type of violence when they reported both high levels of jealousy and living in high levels of disorder. Results support that the notion the minor and severe violence may have different causes but overlapping contexts. Implications for the taxonomy of violence and applications in forensic settings will be discussed.

### 97.2. Structural Factors Associated with Intimate Partner Violence: Preliminary Findings of a Meta-analysis

Laurie DeSimone, *John Jay College of Criminal Justice* (ljdesimone@yahoo.com)

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Chitra Raghavan, *John Jay College of Criminal Justice* (craghavan@jjay.cuny.edu)

Though individual-level correlates of intimate partner violence have been of popular interest, recent research focusing on macro-level predictors of IPV provides support for the view that poverty and associated disadvantaged living conditions increase risk of IPV (Benson, Fox, DeMaris, & Van Wyck, 2003; DeKeseredy et al., 1999; Miles-Doan, 1998;

Renzetti & Maier, 2002). Neighborhood disadvantage encompasses characteristics such as high rates of poverty, joblessness, and residential mobility. Such characteristics are associated with a host of social and physical ills including higher rates of violent crime (e.g., Krivo & Peterson, 1996), mental disorder (e.g., Silver, Mulvey & Swanson, 2002), and, more recently, IPV (e.g., DeKeseredy, Alvi, Schwartz & Perry, 1999; Miles-Doan, 1998; Renzetti & Maier, 2002). We sought to empirically examine the contributions of macro-level variables in the etiology of intimate partner violence. Sixty-one studies conducted between 1979 and 2006 were selected, based on criteria relevant to sample size, variables measured, and physical violence in intimate relationships. Preliminary results of the meta-analysis provide descriptive data on structural contributions to intimate partner violence across demographically heterogeneous populations such as community efficacy, male peer support, social support networks, status incompatibility, and gender role ideology. Implications for theory building in IPV will be presented.

### 97.3. New Directions in Social Science Contributions to Legal Responses to Violence against Women

Sharon G. Portwood, *University of North Carolina at Charlotte* (sgportwo@uncc.edu)

Violence against women represents a serious problem in Western societies. By its very nature, intimate partner or domestic violence may be approached as either a legal or a social problem. However, there is a shortage of legal approaches that have been informed by sound social science research. One promising framework for developing such integrated responses to intimate partner violence is therapeutic jurisprudence, which encourages legal professionals to work closely with social scientists to develop system responses based on empirical data. Such an approach contrasts sharply with the current practice of developing law based on assumptions, which frequently reflect traditional paternalistic and sexist attitudes toward women. This presentation will begin by examining the current theories and scientific knowledge on domestic violence with particular emphasis on the supporting data and its implications for informing more effective legal responses. A theoretical framework for conceptualizing domestic violence characterized as patriarchal terrorism as distinct from common couple violence will be examined and offered as a means of explaining inconsistencies in research findings. Alternative strategies and recommendations for future efforts that are supported by current theory and research will be outlined.

### 97.4. Women, Intimate Partner Violence, Mental Health and Social Support – Are we Undertaking the Right Research?

Lyn Francis, *University of Newcastle* (lyn.francis@newcastle.edu.au)

Current research demonstrates some links between women who have experienced intimate partner violence with resulting poor health outcomes including long term mental health problems such as depression, anxiety and post traumatic stress disorder. Do women who experience intimate partner violence, but who have adequate social supports in place, have better mental health outcomes than those women who do not? What do women perceive to be social support and is that social support always positive or helpful? Is social support defined by health care workers and professionals or by the women who have lived through the experience of intimate partner violence? What helps some women to live through the experience without long term mental health problems while other women remain affected with long term mental health concerns? Can further research with women who have experienced domestic violence determine the social supports that could be put into place within communities to decrease the incidence of mental health disorders? This paper looks at current research, particularly in Australia but also at an international level to determine some of the gaps, some of the questions and possible future research directions.

## 97.5. Divorce, Domestic Violence and Legal Decision-making

Kelly Browe Olson, *University of Arkansas at Little Rock* (kbolson@ualr.edu)

This panel will focus on how advocates can assist divorcing families to choose the right decision making process for their divorce based on what is happening in the particular family and perhaps based on different types of domestic violence. One of the multiple dispute resolution processes that are increasingly offered to families around the world is mediation. Professor Nancy Ver Steegh has written extensively on what process works best for particular types of family situations. Some domestic violence advocates would prefer to never mediate such cases. Some mediators feel all cases are eligible for mediation. The research shows that victims of domestic violence should have the opportunity to make an informed choice about which divorce process – mediated or adversarial – will best meet the needs of their families. Social science research tells us that families experience different types of violence and consequently differ from each other in ways that are significant for choosing a divorce process. The adversarial and mediated divorce processes differ from each other in terms of effectiveness, satisfaction rates and importantly, compliance with agreements or court orders. Within each category of process, significant differences in quality exist. One size does not fit all.

## 98. Involuntary Commitment: An International Perspective on Epidemiology, Commitment Criteria and Effectiveness

### 98.1. Involuntary Admission and Treatment of Mentally Disordered Patients in the UK: Epidemiology, Legal Frameworks and Recent Trends

Birgit Völlm, *University of Manchester* (birgit.vollm@manchester.ac.uk)

Legal frameworks on involuntary measures vary widely even across Europe. Moreover, basic legal frameworks are only one factor in the variation of compulsory mental health interventions. In addition to these laws, each country has a range of secondary regulations like policy and guidance documents. Furthermore, interpretation of legal documents is influenced by socio-cultural factors including attitudes towards mentally ill people. This presentation will examine involuntary interventions for mentally disordered patients in the UK. UK legislation shows some unique characteristics, e.g. the role of the approved social worker and nearest relative, special regulations for personality disordered patients, exclusion of patients with substance abuse disorders, etc. Safeguards for patients are of high standard. However, some shortfalls have also been identified, e.g. the lack of provision for advance directives. There are currently changes underway in UK mental health legislation with a trend towards more emphasis on the interest of public safety. Current legislation and planned changes will be discussed in relation to nationally accepted human rights standards, namely the “Council of Europe recommendation No. Rec (2004) 10 concerning the protection of the human rights and dignity of persons with mental disorder” which has been signed by all countries except the UK.

### 98.2. Committal Criteria: Physical Danger or Broader Harm? Trends in the Netherlands

Niels C.L. Mulder, *Erasmus University* (niels.cmulder@wxs.nl)

*Background:* Increases in the rates of involuntary admissions of subgroups of patients have been reported in England. It is unknown whether this is true for other European countries.

*Aims:* To establish whether the increase in emergency commitments was uniform across subgroups of patients and dangerousness criteria in The Netherlands.

*Method:* National data on all commitments in the period 2000 – 2004.

*Results:* The number of commitments increased from 40,2 to 46,5 (15.7%) per 100,000 inhabitants. Significant increases in the following subgroups of patients were found: elderly patients, patients with dementia, substance abuse, psychotic disorders, depression and personality disorders. There was a significant increase in the application of dangerousness criteria over the period to suicide risk, arousing aggression, danger to general safety of persons or materials, and severe self neglect.

*Conclusion:* There is a trend towards a broadening of committal criteria beyond physical danger. Commitments in The Netherlands and in England showed similar changes. These changes may indicate a wider European shift in diagnoses and reasons for admission in committed patients.

### 98.3. Cultural Teams Working alongside Mainstream Mental Health Teams may Modify Restrictive Care Practices

Shailesh Kumar, *Waikato District Health Board, Hamilton, New Zealand*  
(kumarsh@waikatodhb.govt.nz)

*Objective:* To ascertain the presence, and describe the pattern and extent, of restrictive care practices in the treatment of Maori mental health inpatients. *Method:* Retrospective data were anonymously extracted from patient records at Rotorua Hospital (Rotorua, New Zealand). Data sets were compiled from 300 consecutive patient admissions between January 2000 and December 2001. The demographic and diagnostic characteristics studied were gender, age, ethnicity (Maori or non-Maori classification only), primary diagnosis, length of hospital stay, seclusion, medication on discharge, dosage of antipsychotic medication if given, referral to psychotherapy, voluntary/involuntary status on admission, prescription of ECT, and readmission rates. *Results:* After controlling for other clinical variables ethnicity was not associated with specific diagnoses, shorter lengths of hospital stay, use of seclusion, involuntary status on admission or higher readmission rates. Maori patients were more likely to receive antipsychotic medication and were more likely to be on higher doses of medication than non-Maori but less likely to be referred to psychotherapy services. *Conclusion:* There was no evidence of widespread restrictive care practices against Maori, although the disparities in antipsychotic prescription and psychotherapy referral suggest some restrictive care practices do exist. The use of specialist cultural teams in general mental health services may prevent restrictive care practices.

#### 98.4. Epidemiology of Involuntary Admission in the USA

Patricia White, *Forensic Psychiatrist, Stockton, USA* (marcrost@inreach.com)

The author proposes, as a member of the panel, to present a history of involuntary commitment in the state of California over the past 50 years and in the process describe the various changes in the commitment criteria that have occurred over this period of time. Discussed next will be the present status of outpatient involuntary commitment in California and the problems encountered in involuntary hospitalization that led to the extension of involuntary commitment for mentally ill outpatients. The author will then discuss the present status of involuntary psychiatric treatment within the criminal justice system for both the mentally disordered offender and the violent sexual predator offender. The author has practiced in San Joaquin County for some 40 years and considers this area to be representative of other areas of California with regard to the epidemiology of mental illness within the many ethnic and racial sub-cultures of this state. The paper will conclude with comments regarding some of the successful interventions that have been designed to improve access to treatment for these widely divergent population groups.

#### 98.5. Treatment during Transition from Involuntary Institutional Care to Community

Marianne Lindahl, *Lund University* (marianne.kronberg@med.lu.se)

The study “ESS” examined the effects of postrelease treatment by case management on drug use, housing and employment of people with substance abuse in the Swedish involuntary institutional care system. A comparison group received standard postrelease supervision by social workers in the community. Interviews with the committed person, relatives and social workers were performed at intake, at the end of the post-release intervention and finally, 6 months after the intervention. The study will be completed in October 2006.

#### 99. Issues and Challenges in Managing the Nunavut Court of Justice/Nunavut Review Board

## 99.1. Issues and Challenges in Managing the Nunavut Court of Justice/Nunavut Review Board

Beverly Browne, *Nunavut Court of Justice, Iqaluit, Canada* (bbrowne@gov.nu.ca)

The author will discuss the challenges of managing a Court and a Review Board in Nunavut, a territory located in Canada's high Arctic. Nunavut is a vast territory comprising 1/5 of Canada's land mass. The small population of 30,000 – 35,000 is scattered in 26 small communities most of which are located on the coast of Canada. The population of Nunavut is 85% Inuit (Eskimo). The Court and the Review Board are based in Iqaluit, Nunavut's capital city, but both travel to the communities or the Regional centre that is most appropriate for the determination of cases. The communities range in size from a population of 150 – 6500. Court has been held in every community regardless of the size. Since the creation of Nunavut Inuit are gradually moving into senior positions within the health and justice systems. That progression will have an ongoing impact on health services and legislation. The Court and the Review Board are regularly dealing with cross-cultural challenges and issues. The focus of the paper will be on geographic, social and population – cultural issues, the impact of residential schools and recovery. Finally, the Inuit traditional methods of social control are based on survival of the collective. The rights of the individual are enshrined in the mental health legislation. The contradictory philosophies create challenges for Inuit communities as they deal with members of the community who may be suffering from mental illness.

## 99.2. Distance Management of the NCR Aquittee of Nunavut

Alberto Choy, *Alberta Hospital, Edmonton, Canada* (albertochoy@cha.ab.ca)

The province of Alberta spans 1200 kilometers between its northern and southern borders and 600 kilometers between its eastern and western boundaries. With a number of agricultural and resource based economic regions, Alberta's population is spread widely throughout the province. This presents significant challenges in the delivery of forensic mental health services. Real time audio-visual contact with mental health professionals has been established to address the needs of distant regions. This presentation highlights the benefits and challenges involved in providing services for remote areas via advanced technology.

### 99.3. The Sleeping Rape Victim

Robert Dickey, *University of Toronto* (robert\_dickey@camh.net)

Forensic psychiatrists are frequently called upon to assess persons who have engaged in non-consenting sexual behaviour. Conventional models of understanding non-consenting sexual behaviour typically focus on paraphilic and characterological underpinnings. Non-consenting paraphilias may involve some or all of telephone scatologia, exhibitionism, voyeurism, toucherism, frotterism, paraphilic coercion, and sexual sadism. Non-paraphilic coercive behaviour most typically occurs in the context of considerable antisociality or psychopathy; in more serious non-consenting behaviour not infrequently both paraphilic and psychopathic etiologies are identified. Assessment of such individuals typically includes clinical and phallometric evaluation. Non-consenting sexual behaviour in Inuit communities, with peer-age females, tends to present differently. Non-consenting spectrum paraphilias tend to be relatively absent; one does not typically see telephone scatologia, exhibitionism, voyeurism, toucherism, frotterism, or even frank sadism. Rather, one of the most frequent presentations is sexual assault of a sleeping female, in her own dwelling, by a perpetrator who may or may not be known to the victim. This type of sexual assault may be significantly culturally derived; the sleeping rape victim often does not recognize that her assailant is in fact not her partner until she is fully roused. Serious antisociality, or psychopathy, is typically absent, particularly Factor I variables. Inuit persons engaged in such offending behaviour generally will not use gratuitous violence or paraphernalia in the commission of the sexual offence; the perpetrator does not generally present as significantly paraphilic, rather the perpetrator frequently is an individual who is marginalized in the community and functioning from the fringes of the collective. Substance intoxication is often a live variable. Victim impact issues also appear to be different in these types of offenses, again suggesting that this form of offending may in some respects be a culture bound syndrome; while one does see rape of a sleeping victim in southern communities, in those offenses, the victim is more frequently intoxicated, is generally known to the perpetrator, and victim impact issues are typically more significant. Parenthetically, phallometric testing is rejected by many Inuit accused, perhaps as this culture has no tradition of disrobing at all.

### 99.4. Forensic Assessment of the Inuit in Nunavut

Philip E. Klassen, *Law and Mental Health Program, Toronto, Canada*  
(Phil\_Klassen@camh.net)

Accurate assessment of mental disorder, or sexological issues in an Inuit accused has a learning curve; there are significant differences in understanding mental disorder and sexual behaviour disorders in these persons in comparison with persons from southern Canada. Many Inuit accused sent for assessment may suffer from a psychotic illness. An understanding of possible positive symptoms of psychosis is enhanced by knowledge of cultural variables affecting belief systems, and perception in the Inuit; some of these can be misconstrued to be psychotic symptoms by southern evaluators not familiar with Inuit culture. Inuit persons' response styles also tend to be different; given the Inuit person's sense of the collective, they often present as quite deferential and their answers tend to be qualified; this could be misinterpreted as vagueness, perplexity, or negative symptoms of schizophrenia by evaluators not familiar with the Inuit. Patterns of substance use, also significant variables in the assessment of accused persons, are also different; an evaluator of the Inuit accused needs to be familiar with the effects of, and presentations of persons with a history of inhalant or solvent abuse. The evaluator should also be cognizant of the fact that psychometric testing needs to be tailored to the Inuit accused. Culture fair tests of intelligence or ability are required. Ominous measures of personality and psychopathology have not typically been normed on Inuit samples. Risk assessment tools such as the PCL-R, the VRAG/SORAG, the STATIC-99 and others also have not been normed on exclusively Inuit samples, albeit research with other Aboriginal groups in Canada suggests that actuarial tools that measure standard or typical criminogenic variables appear to be roughly equally applicable to Aboriginal accused. There are also unique issues with respect to treatment and supervision of the Inuit accused. Inpatient treatment and supervision issues will be discussed in another paper in this panel. A particular difficulty arises in trying to reintegrate these persons into their home, often small, communities; treatment resources there are often limited, particularly when Inuit accused present with complex co-morbid disorders such as fetal alcohol spectrum disorder. Often an elegant assessment identifying a variety of criminogenic variables does not or cannot result in targeted treatment in their home community. Assurance of medication compliance in Inuit communities is also more complex; family members may be less inclined to be aggressive in monitoring antipsychotic medication intake in an ill family member, as the level of confrontation that this may entail is unusual in the Inuit.

### 99.5. Diversity Operationalized: Issues in Accommodating the Inuit NCR Aqitte in a Southern Hospital

Jim McNamee, *University of Toronto* (jim\_mcnamee@camh.net)

Even for southern hospitals accustomed to dealing with patients from diverse ethnic and cultural groups, meeting the needs of Inuit persons in a southern setting poses unique challenges. These patients often arrive at hospital at unusual hours, having been flown in from a considerable distance, and inpatient units need to be prepared to assess and

manage potentially behaviorally disturbed persons on shifts other than the dayshift. Availability of interpreters for these patients is also often limited, in southern settings. While these patients typically suffer from psychosis, and while the management of psychosis and its behavioral consequences is not in and of itself markedly different from that in non-Inuit persons, personality, cultural, and behavioural issues that appear once psychosis has been treated are unique. As a group, Inuit offenders, in the context of the PCL-R, tended to present with Factor II as opposed to Factor I traits; they often present as predisposed to risk taking and impulsive behaviour, which may include aggressive problem solving on the unit, and/or elopement. For persons from a culture accustomed to operating in the service of the collective loss of community is significant for these patients. These patients are often not particularly verbal; traditional Inuit methods of social control tend to flow from environmental circumstances (the need to work together in the face of a harsh environment) and tend to be task based (activities out on the land); the Inuit are not as accustomed to verbal interventions and programming based on “talk therapy” often feels alien. These patients often do not participate significantly in conventional programming, and indeed may have difficulty understanding why they have been sent to a southern facility. They often see their time in a southern hospital as essentially “dead time”, and do not truly see their rehabilitation as beginning until such time as they are returned to a northern community. This mindset is in contradistinction to conventional rehabilitative approaches which focus on skills acquisition and gradual transition to the community with concomitant evaluation of how the patient tolerates their privileges. It is often difficult to titrate community access for Inuit patients in rehabilitation, given their disinclination to participate in talk therapy, and their difficulty tolerating privileges in a large southern community. Inuit patients have also often had little exposure to the social and cultural heterogeneity found on an inpatient unit in southern Canada. Finally, meeting these patients’ dietary needs is often a challenge; Inuit patients are typically used to consuming a high caloric volume of food, often as animal fat and often raw; health regulations make this difficult to provide in a southern hospital.

## 100. Issues in Elder Law

### 100.1. The HL v United Kingdom (Bournewood) Precedent and the Mental Health Act 2001: Implications for De Facto Detained Patients in Ireland

Edel Quirke, *Trinity College Dublin* (quirkee@tcd.ie)

The area of mental health law is in a state of flux in Ireland. The reforms of the Mental Health Act 2001, which will revitalise many stagnant areas of the law pertaining to mental health service provision, are being gradually phased in. The full impact of the 2001 Act is not likely to be felt until 2007 at the earliest. As such, hopes are high for improvements in the legal protections afforded to mental health service users. However, in the field of admissions to mental hospitals it is arguable whether reforms have been sufficient for the protection of the vulnerable. There remain concerns over the appropriateness of some admissions (particularly of older people) and it has been suggested that the requirements for admission may not be strict enough to safeguard against the possibility of abusive utilisation of the compulsory detention provisions. An instructive case in this regard is the European Court of Human Rights decision in *HL v United Kingdom* 45508/99 [2004] ECHR 471 (5 October 2004). The new Irish mental health legislation would appear to replicate in Irish law the now overturned House of Lords precedent in *HL (R v Bournewood Community and Mental Health NHS Trust ex parte L (Secretary of State for Health and others intervening))* [1998] 3 All ER 289). The effect is that a ‘de facto detained’ patient (a patient incapable of consenting, but compliant with treatment) may be classified as a voluntary patient, and as such is excluded from the protective reach of the Mental Health Commission. This paper examines the similarities between the new Irish legislation and the House of Lords ruling in *Bournewood*, and analyses the implications for ECHR compliance of treating de facto detentions as voluntary admissions.

## 100.2. As Safe as Houses? The Rising Risks of Repossession for Elderly Home-Owners

Lorna Fox, *University of Durham* (lorna.fox@durham.ac.uk)

The elderly are not traditionally regarded as a high risk group for mortgage (re)possession proceedings. Until relatively recently, home buyers typically entered the owner-occupied sector in early to mid-adulthood, and expected to discharge their mortgages over a twenty- to thirty-year period. By retirement, most home buyers had paid off the debts secured against their homes, thus reducing both their living costs in old age, and the risk that default on repayments could lead to actions for possession and sale. However, several recent developments have heightened the risks of repossession for elderly home owners. This paper explores the issues surrounding the rise in indebtedness and the risk of repossession amongst elderly home-owners. Starting from a review of the economic policy context which has led to the increased exposure of older home owners to the risks of repossession, the paper will consider the meanings of home for elderly home-owners, with reference to the likely impact of losing their home on their mental and physical health. Finally, the paper will consider the (in-)adequacy of the law’s responses

to these issues, and identify hurdles which must be overcome for the law to achieve a meaningful understanding of the importance of older people's homes.

### 100.3. Advance Care Directives

Laura Donnellan, *University of Limerick* (laura.donnellan@ul.ie)

An Advance care directive entitles a person to request in advance either the refusal of or consent to certain medical treatment if that person is not competent to consent or refuse at the time such refusal or consent is required. The 2003 Law Reform Commission's Consultation Paper on Law and the Elderly briefly mentioned advance directives. However, the Paper decided to leave the issue to a future Paper that would give a more comprehensive analysis. There is no Irish legislation on the matter and consequently the legal position is unclear. The English Mental Capacity Act 2005 has given recognition to advance directives under section 24. It is interesting to note that only refusal is covered by the Act. The 2005 Law Reform Commission Consultation Paper on Vulnerable Adults discusses the issue of advance directives in more detail. The UN Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities gives cognisance to use of advance care directives as a mechanism for dealing with lack of competence. This Paper will examine the Irish position of advance directives. The British Mental Capacity Act and recent case law will provide a comparative analysis. The UN Convention will also be examined.

### 100.4. Self-Neglecting Elders: Is Intervention by Protective Services for Adults an Ethical Dilemma or Legal Obligation?

Susan B. Somers, *International Network for the Prevention of Elder Abuse, Nassau, USA* (susan.somers@ocfs.state.ny.us)

In 1996 2.2 million cases of elder abuse were estimated in the US, including 1.0 million cases of self-neglect (NCEA 1997). Some 20 separate types of self-neglecting are reported in Elder Abuse Literature. Behaviors ranging from direct suicide and covert suicide through various types of self destruction behavior to indirect life threatening and indirect self destructive behavior (ISDB) or self injurious behavior (SIB) "... that results in organ or tissue damage to the individual: (Sengstock, Thibault and Zaranek, JEAN Vol. 11 No 2, 1999; Pies & Polpi, 1995, p 580). Protective Services for Adults and Mental Health Professionals play integral roles in investigating and assessing level of risk and in identifying abuse to self-neglecting elders, to achieve protection through the least

restrictive intervention. The factors of capacity (self-determination) and risk in determining the appropriate nature and level of intervention for the protection of at-risk populations will be explored from the perspective of the individual's right to self-determination vs, the states Parents Patria power. Legal interventions such as the US Guardianship process designed to protect the interests and well being of vulnerable adults, and the effectiveness of laws such as the Assisted Outpatient Treatment Act (AOT) will be explored.

## 100.5. Old Age, Human Rights and Mental Health

Mary Keys, *University of Ireland at Galway* (mary.keys@nuigalway.ie)

The population of Europe is ageing and there is a need to address common problems that arise particularly with regard to the residential care of older people. Despite State involvement in various forms of standard setting and inspection systems there is growing concern about the continuing and widespread inability to ensure satisfactory safeguards in care. Human rights law, particularly the European Convention on Human Rights, and Council of Europe recommendations are underemployed in this area and are applicable to residential settings. The fundamental human right to dignity underpins all other human rights and embraces the right of autonomy and self determination. The practical application of these rights through the consent principle is not always adhered to and frequently, residential care centres, public and private nursing homes for the elderly are little more than mini institutions where individuality is subsumed and one size fits all. The right to privacy and confidentiality is difficult to assert, decision making power arbitrarily removed and often it is not clear whose best interests are being asserted. Human rights standards, such as the protection from inhuman and degrading treatment, the right to respect for private and family life should apply. While awareness of these standards is growing their enforcement is often neglected. The complete reliance on the State to address these issues is often futile. Therefore a reappraisal is needed whereby the moral authority of the community could be reasserted as the voluntary sector to partner the state in ensuring that these standards are being met. This paper will address the applicability of the human rights standards applicable to such residential care and the growing need for the community to move back in to involvement in residential settings.

## 101. Issues in Torture and Persecution

## 101.1. Torture - Implementation of Protocols

Bent Soerensen, *Rehabilitation and Research Centre for Torture Victims (RCT)*,  
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The prohibition against torture is anchored in a series of international conventions, either focusing on torture or mentioning torture. Both article 5 of the Universal Declaration of Human Rights and article 7 of the International Covenant on Civil and Political Rights, provide that no one may be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Further documents include the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly on 9 December 1975, the Convention against Torture (CAT, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment), that entered into force 26 June 1987, and more recent documents such as the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (Strasbourg, 26.XI.1987). The implementation of the declaration is a crucial issue that requires different instruments. Besides the specific committees set up by the United Nations and the European Union, teaching the conventions especially in countries where awareness is low, and to different target groups including health care, police, legal and prison personnel, is a major task to create impact. Strategies and experience in different settings will be discussed in the presentation.

## 101.2. Indicators of Sleep Disorders in the General Population in Kosovo

Gerhard Kloesch, *Medical University of Vienna* (brigitte.holzinger@chello.at)

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Brigitte Holzinger, *Medical University of Vienna* (brigitte.holzinger@chello.at)

Exposure to war and its consequences includes a broad range of often extreme stressors. The post-war situation, in the case of Kosovo characterised by unprocessed trauma, splitting of families, the insecure status of Kosovo, lack of health care resources to cope with the range of trauma, and experiences of displacement and exile, have been discussed

as contributing to a number of health care problems. Sleep disorders, that include a reduction in duration and quality of sleep, and specific problems such as nightmares, have been documented to be both very sensitive to earlier trauma and stress, and to adverse factors in the present environment. All forms can significantly impair the quality of life and both social and occupational functioning during day time. They must be seen as a highly relevant, but commonly neglected factor and are often recognised only if patients are treated for major depression, PTSD, or similar “major” disorders. In this paper, the authors analyse indicators provided by a recent representative survey conducted by the Kosovar Rehabilitation Center for Torture Survivors (KRCT), with 1200 participants, that included a range of instruments including the General Health Questionnaire, Harvard Trauma Questionnaire, MOS, and Hopkins Symptom Checklist. While no specific instruments to evaluate sleep are commonly included in such studies, and it would involve practical problems to do so, items in these common and well validated questionnaires, that are available in many languages, could be used as first indicators of sleep disorders independent from origin. The consistent rate of about 33 % between instruments, showing that sleep problems are present at a significant level in a subjective evaluation, indicate that sleep disorders with all potential sequels must be expected to be a highly common problem and should be attributed importance in future research.

### 101.3. Posttraumatic Nightmares in PTSD and Levels of Depression and Anxiety

Krzysztof Rutkowski, *Jagiellonian University* (agaturkot@op.pl)

Subjects were victims of persecution for political reasons in Poland between 1944 and 1956. They were examined with Hamilton’s Depression Scale and State and Trait Anxiety Inventory. The objective was to determine connections between nightmares and anxiety and/or depressive symptoms in the course of PTSD. From among 90 victims of torture recurrent dreams of content directly connected with the trauma were present in 68 persons (76%) (group I), in 22 persons (24%) the symptom was absent (group II). According to 24 item Hamilton Scale arithmetic mean for group I is 10,6 and is significantly lower than in group II (17,8) and the differences are statistically significant ( $t=4,96$ ,  $p<0,001$ ). Anxiety state and trait arithmetic means are similar; no statistically significant differences were present. Results obtained indicate a correlation between the presence of nightmares and high level of anxiety only, absence of nightmares is correlated with a significant high level of depression.

## 101.4. Cardiovascular Risk Factors in Patients with Posttraumatic Stress Disorders after Second World War Experiences

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*Objective* The aim of the study was to test the hypothesis that posttraumatic stress disorders (PTSD) may affect cardiovascular risk.

*Design and Methods* The study consisted of two groups of patients: I - 80 persons with PTSD as a consequence of deportation in childhood from Poland to Siberia (former Soviet Union) during Second World War and II - 70 age and gender matched subjects without PTSD. In groups, blood pressure (BP), weight and height used to calculation body mass index (BMI); lipids, fasting glucose were measured. The results were compared applying t-test and Chi2 test.

*Results* Age, frequency of hypertension, and BMI were similar in both groups. PTSD patients had worse control of hypertension, higher glucose and lipids values.

*Conclusions* PTSD has a negative impact on cardiovascular risk through more severe metabolic risk factors and uncontrolled hypertension.

## 101.5. A Unity of Voices - Confronting the Dark Age of Torture World-wide

Ken Agar-Newman, *ResCanNet, Victoria, Canada* (agarnew@shaw.ca)

There is a major erosion of the total ban on torture worldwide. This presentation includes ways for all of us to confront the problem of torture. A key vocation with efforts to stop torture is the health worker. The central tenet of medical, health, or nursing ethics is the duty to always act in the best interest of the patient. Unfortunately there is a regulatory gap globally in which countries are not protecting nor regulating their health workers comprehensively so that ethical behaviour is paramount. We all have a duty to confront the practice of torture on the health front. The author therefore proposes a universal response to human rights violations in which the whole health sector including us as individuals as well as our organizations tell the world to stop torture. This voice must be loud enough to be heard in all nations. Attached to this effort it is proposed that a

partnership between government and non-government organizations be elucidated to create a health regulatory agency. It would be comprised of the WHO and international NGO's such as ICN, WMA, the IRCT and others to uphold and protect health, medical, and nursing ethics.

## 102. Justice Health – from Doldrums to Dynamic

### 102.1. The Development of Forensic Psychiatric Services in NSW

Leila T. Osorio Kavanagh, *Justice Health New South Wales, North Sydney, Australia*  
(leila.kavanagh@justicehealth.nsw.gov.au)

Over the past 30-40 years, following the “Richmond Report” and the advent of de-institutionalization in Australia, there has been a rise in the mentally ill in prisons. There are >17,000 receptions into NSW prisons per year. At any one time 7,000-9,000 people are incarcerated - of which 75% have some form of mental disorder. Justice Health is a government organization that provides health care within the Criminal Justice System. Care is provided at Long Bay Hospital, the Ambulatory Care Service and a 24 hour “On-Call Service”. To address the influx of the mentally ill, Justice Health has implemented the following strategies and policies: 1. Revision of S33 of the Mental Health Act of 1990, 2. Court Liaison Program, 3. Drug Court Program, 4. Mental Health Screening Unit, 5. Community Forensic Mental Health Services, 6. Advanced Training in Forensic Psychiatry, 7. The Masters Program in Forensic Mental Health, and 8. New Forensic Hospital.

### 102.2. Neuro-Cognitive Deficits and Psychiatric Disorders in a Prison Population

Leila T. Osorio Kavanagh, *Justice Health, New South Wales Department of Health, North Sydney, Australia* (leila.kavanagh@justicehealth.nsw.gov.au)

*Background* In 2001, 75% of NSW inmates had a mental disorder, illustrating the need for comprehensive psychiatric assessment. However, scarce resources have forced the treatment of acute symptoms only.

*Objective* Can an automated computerized test battery aid in psychiatric assessment and management of our patients?

*Method* Thirty unwell male inmates were tested on BRC's (Brain Resource Company's) psychological and neuropsychological test battery called IntegNeuro. The inmate data was compared with BRC's normative database revealing individual profiles of personality type, psychiatric and neuropsychological dysfunction.

*Results* Neuropsychological tests revealed a profile of cognitive dysfunction consistent with that found in ADD (Attention Deficit Disorder), but not consistent with the inmates' other psychopathology.

*Conclusion* InteNeuro aids in the identification of psychopathological variants of our inmate population and revealed early childhood trauma, depression, anxiety, high levels of stress, maladaptive coping mechanisms and cognitive deficits suggesting comorbid ADD.

### 102.3. New South Wales Adult Drug Court Panel Presentation / Justice Health NSW

R. Paul Read, *New South Wales Department of Health, North Sydney, Australia*  
(paulread@bigpond.com)

The NSW Drug Court was established in 1999 to provide individualised treatment in the community setting for non-violent illicit drug -related offending that would otherwise result in imprisonment for the offender. The programme was established as a pilot programme catering to approximately 180 participants. It was initially structured as a prospective randomised controlled trial. The author will briefly outline the structure of the programme and comment on the BOSCAR study. This presentation will, however, focus mainly on a discussion of the construct of a court as a 'therapeutic frame', commenting on therapeutic jurisprudence and using several brief clinical case examples.

### 102.4. Community Forensic Mental Health Services - Justice Health New South Wales Australia

Stephen Allnutt, *New South Wales Department of Health, North Sydney, Australia*  
(stephenallnutt@mac.com)

In 2004 the NSW Community Forensic Psychiatric Service (CFMHS) was established. NSW in Australia covers a large area and sparsely populated. This presents as a challenge to providing forensic psychiatric services in such an area. Until the inception of the NSW Community Forensic Psychiatric Services (CFMHS) in NSW, forensic psychiatric patients released to the community were followed up by general mental health services without formal specialist forensic psychiatric involvement. After the inception of the service, over the course of about 18 months between 2004 and 2006, the NSW Community Forensic Psychiatric Services (CFMHS) in Australia undertook a comprehensive survey of forensic in the community. The purpose of the survey was to initiate comprehensive risk assessments and provide risk management plans for general forensic mental health services for all forensic patients in the NSW community. Another purpose of the survey was to collect objective data on the levels of risk, severity of illness and risk management needs of the complete population of forensic patients in order to inform service delivery and service development. The survey collected demographic data and utilized the HCR 20, BPRS, PCL-R and START. This paper will describe the complete population of forensic patients in NSW and discuss the risk profile and risk management needs of this population of patients.

### 102.5. Statewide Community Court Liaison, New South Wales, Australia

Robert Reznik, *New South Wales Department of Health, North Sydney, Australia*  
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The presentation will focus on the rationale, mechanisms and implementation of the Statewide Community Court Liaison Service. The Service offers mentally ill offenders with court diversion options from the criminal justice system. The legal framework for this practice will be described including the type of offences covered and not covered by such a diversion process. The assessors and the types of assessments that are performed will be explained as will the links between this service and other agencies that may then care for such offenders. The service screened 18,059 persons in 2004/2005 and the results of this diversion process will be given and discussed. The service also undertakes research into satisfaction with the service and recidivism of persons diverted. These results will be mentioned.

### 103. Juvenile Delinquent Girls

### 103.1. Gender Identity in Juvenile Delinquents

Ksenia Syrokvashina, *Moscow City Psychological-Pedagogical University*  
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The importance of gender identity as a factor of delinquent behaviour in juveniles was shown in a number of studies (Adler, 1975; Hardy, Howitt, 1998). Gender identity as a part of personality identity includes a person's self-awareness as a man or a woman, gender images, behavioural stereotypes and preferences. It was hypothesised that there are some peculiarities of gender identity in juvenile delinquents in comparison with socially well-adjusted adolescents. The samples consisted of 74 juveniles (51 girls and 23 boys), 14-17 years old, who committed criminal acts, and 51 non-delinquents (35 girls and 16 boys) of the same age. A special test was used to reveal self-concept (including "ideal self") and gender images ("a man must be...", "a woman must be..."). Multiple regression analysis showed that the ideal gender identity depends on the image of a man ( $p < 0.001$ ) in both delinquent boys and girls, whereas it was not observed in the comparison group. It is therefore concluded that preference of masculine stereotypical traits as a part of their own identity can result in the juveniles' real behaviour and facilitate deviant acts like aggression and delinquency.

### 103.2. Family Context of Delinquent Behavior in Girls

Svetlana Terekhina, *Moscow City Psychological-Pedagogical University*  
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One of the distinct tendencies of juvenile delinquency in various countries is growth of criminal activity in adolescent girls. Family circumstances are traditionally considered as an important factor of delinquent behaviour in juveniles (Ruchkin V., 2002; Haapasalo & Pokela, 1999). The subject of this study was parental family image in delinquent girls. It includes cognitive and emotional aspects of perceptions and attitudes concerning family structure, dynamics and relationships. The sample consisted of 40 delinquent and 30 non-delinquent girls, 14 - 17 years old. The parental family image was assessed on the basis of a semi-structured interview and an inventory describing parents' behaviour and attitudes in communications with their children and revealing certain educative strategies (ADOR, Vasserman L., Gorkovaya I., Romitsina E., 1995). Both reflected subjective girls' perception of their families. A significant difference in parental family images between the groups was found. Rejection, directedness and inconsistency in attitude towards the daughters were characteristic of the parents of delinquents. Qualitative

analyses of family dynamics described by the delinquent girls allowed singling out three variants of family system breaks leading to social deviations in children.

### 103.3. Social functioning of Adolescent Females after Placement in Juvenile Justice Institutions

E. van der Molen, *VU University Medical Centre, Amsterdam, The Netherlands*  
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*Background* Most girls placed in Juvenile Justice Institutions (JJI) are emotionally or behaviourally disordered. The main aim of placement is to give treatment in order to rehabilitate these girls so that they can successfully return to society. However, very little is known about the social functioning of female adolescents after placement in a JJI. Investigating these females after release from the JJI provides us with information about the success of rehabilitation and on what aspects future attention should be directed during detention and after-care.

*Methods* Participants of the present study participated in a study on behavioural problems and psychiatric co-morbidity of girls in JJI (N=218) in 2002-2004. They were followed up four years later to investigate social functioning using a semi-structured interview regarding social functioning, questioning domains of occupational, educational, and relational functioning after placement in a JJI. The follow-up of approximately the first 50-70 females is expected to be completed.

*Results* Preliminary results showed among others a high prevalence of teenage pregnancy, a low rate of employment and poor educational achievement. Further results will be presented.

### 103.4. Psychic Trauma Experiences in Delinquent Girls with Violent Crimes

Elena Dozortseva, *Moscow City University for Psychology and Education/Serbsky National Research Center for Social and Forensic Psychiatry* (edozortseva@rambler.ru)

Ksenia V. Syrokvashina, *Serbsky National Research Center for Social and Forensic Psychiatry, Moscow, Russia* (syrok@newmail.ru)

A high level of psychic trauma indices in delinquent youths, especially in girls, was found in a number of studies. Our goal was to explore relationships between aggressiveness and trauma experiences in adolescent girls incarcerated for committing

serious crimes. The sample included 49 girls from 15 to 19 years old. Twenty-seven of them committed severe violent crimes against persons (murder, severe bodily harm), 22 committed violent and non-violent property crimes (robbery, theft). Psychic trauma indices were assessed according to the PTSD criteria of ICD-10 on the basis of a special semi-structured interview. Beck's depression inventory, Spielberger's anxiety inventory, as well as Buss-Durkee's aggression inventory were used. The data comparison between the groups indicated that B, D, F criteria and the total score of PTSD were significantly higher in girls with severe violent crimes against persons. This means that they suffer from consequences of psychic trauma - re-experiencing traumatic events, post-traumatic arousal and impairment of social functioning - much more than their less violent female peers. Positive correlations between PTSD criteria scores and aggression indices from Buss-Durkee's inventory were discovered as well. This supports the hypothesis concerning relationships between psychic trauma experiences and violent behaviour in delinquent girls.

### 103.5. Development of Psychopathology in Female Adolescents Following Placement in a Juvenile Justice Institution

A.A. Krabbendam, *VU University Medical Center, Amsterdam, The Netherlands*  
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*Background* Over recent decades behavioural problems in girls are increasing, leading to more placements in Juvenile Justice Institutions (JJI). Many girls in a JJI have severe psychiatric disorders, externalising as well as internalising. Little is known about the development of this psychopathology after placement in a JJI.

*Method* In 2002-2004 a representative sample (N=218) of adolescent females placed in a JJI was studied with regard to psychopathology, behavioural problems and relevant socio-demographic characteristics (T0). This group is being followed up 4 years later. Outcome characteristics of psychopathology and social functioning were assessed by a combination of valid and reliable instruments (self-report and semi-structured), consisting of instruments used at T0, and new instruments fitting the specific objectives of this follow-up study and the increasing age of the participants.

*Results* Preliminary results of this study (based on follow-up of a pilot group of 20) suggest a shift from externalising problems toward internalising problems, as well as a high prevalence of personality disorders and an increase in substance abuse. Further preliminary results of the ongoing study will be presented (N will be approximately 50-70 at that time).

## 104. Law and Mental Health in Progressive America

### 104.1. World War I and the Lawyers' Perversion of Progressivism

William Nelson, *New York University* (william.nelson@nyu.edu)

In researching his book, *The Legalist Reformation*, the author came across a series of cases, some of which he could not use, reporting hardships that World War I had brought to family life in America. No social safety net existed for victims of these hardships. But Progressives had created mechanisms to help the mentally ill. The author proposes to discuss how lawyers expanded the application of those mechanisms and used them for purposes for which they had never been designed – the treatment of victims of war.

### 104.2. Confinement in the Progressive Era: Ideas, Practices, and Legacy

David Rothman, *Columbia University* (drj5@columbia.edu)

Sheila Rothman, *Columbia University* (smr4@columbia.edu)

The authors will explore Progressive ideas about caretaker and custodial institutions at a time when mental hospitals (and prisons) were supposed to approximate the community, not, as in the Jacksonian era, serve as a corrective to it. This paper analyzes what this Progressive ideology meant to the design and operation of mental hospitals, and equally important, institutions for the mental retarded. It was found that these Progressive ideas persisted into the 1940s and '50s before succumbing to a reaction against them in the 1960s, one which gave rise to the deinstitutionalization movement. The authors' case study of caretaker and custodial institutions sheds light on the broader issue of civic engagement (what we owe each other) and civic responsibility (what the community owes its fellow members). The Progressive era is a key moment in this story – it is the time when we expanded the definition of what we owe each other, both as individuals and as citizens.

### 104.3. Intellectual Disabilities and the Origins of the Special Class

Jeffrey Kahana, *Mount Saint Mary College* (kahana@msmc.edu)

This paper examines Progressive Era policies toward the disabled child through a study of the origins of the “special class.” It shows how a new concern for the individual child, and in particular children with intellectual disabilities, animated creation of the special class. Beliefs by psychologists that children with disabilities could be accommodated within the public school rested on “environmental” explanations for disabilities. The arguments for inclusion of these children were rebuffed by many school officials who expressed profound fears over “feeble-mindedness” and the effect these children would have on the school population. As a result of these concerns, the special class became populated with the “feeble-minded” and “delinquent” child. They were not expected to achieve academically and were taught through physical and mechanical activities. At the same time that the intellectually disabled child was separated from his peers within the public school, children with physical disabilities were taught to grade in separate classes or at home. The Progressive special classes represented a controversial “reform” that mixed humanitarian concerns with traditional assumptions about the meaning of physical and intellectual disabilities. They did much to extend the reach of the public school’s authority over the disabled, dependent and delinquent child while generating classifications that created a hierarchy among disabled children based on the nature of their disability.

#### 104.4. The Curse of the Feeble-minded: Law, Child Protection, and Mental Health Policy in America, 1870-1930

Michael Grossberg, *Indiana University* (grossber@indiana.edu)

This paper will examine the legal ordering of mental health policies by analyzing efforts to protect intellectually disabled children in the United States from the 1870s to the 1920s. Amid a broad European concern about all of those with disabilities, children with mental disorders were singled out as the most disabled and thus the most important targets of protection. An earlier mixed set of views was replaced by what came to be called the “menace of the feeble-minded.” Consequently, feeble-minded became a word that expressed a primal fear of the age and segregation became its fundamental policy result. The author will examine this segregationist impulse by talking about three of these policies: institutionalization, special education, and eugenics. An explanation will be given that law became a critical arena because it provided rules, institutions, and a language that dominated the construction of each new segregationist policy as well as the resistance to them. Turning to the law encouraged the formulation of clashes over the new mental health policies as conflicts over the rights of children, parents, and the state. These rights battles had significant consequences for the place of intellectually disabled children in America at the time and since that time.

## 105. Legal Aspects and Assessment of Refugees for Torture Sequels

### 105.1. Aspects of Assessment of Asylum Seekers

David Neel Jones, *Medical Foundation for the Care of Victims of Torture, London, UK*  
 Abigail Seltzer, *Medical Foundation for the Care of Victims of Torture, London, UK*

While not denying the specialist nature of immigration courts in the consideration and evaluation of medico-legal reports, this paper will seek to demonstrate (through an analysis of common law jurisprudence drawn chiefly from the UK but also Canada, USA and Australia) that a separation of the roles between the medical expert and the immigration judge is not only proper but essential in the determination of asylum claims and the maintenance of a regime which ensures international protection for torture survivors who require it. The paper will also touch on the importance of the Istanbul Protocol as a recognised international standard and moves within Europe towards a Common European Asylum System (CEAS) and the significance of medical evidence to such a proposal. The Istanbul protocol has been seen as an important possible factor in the asylum system, and its implications for the process necessitate careful consideration.

### 105.2. The Istanbul Protocol

Friedrich Fabian, *Medical University of Vienna* (fabian.friedrich@meduniwien.ac.at)  
 Alexandra Strnad, *Medical University of Vienna, Austria*  
 Thomas Wenzel, *University of Quebec at Montreal* (drthomaswenzel@web.de)  
 Marion Freidl, *Medical University of Vienna, Austria* (marion.freidl@meduniwien.ac.at)

The Istanbul Protocol (IP, Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment) is the new recommended training standard of the United Nations. The importance of the document can be seen in: 1) Provision of a consensus standard and quality assurance in documentation of torture sequels, 2) The creation of awareness in regard to torture, its

impact, and the need for justice, 3) Distribution of knowledge on torture, and 4) Creating awareness of the needs of survivors during the interview and important psychological aspects of the interview process. The mental health part of the interview is of crucial importance and reflects a differential and complex understanding of the impact of torture. The implications of the mental health part and strategies for teaching and implementation are presented in this study. A special aspect is the option of seeing the evaluation process as an option to integrate the memories of torture and contribute not only to personal and general justice, but to healing through testimony, a salutary effect that is also the aim of specific therapeutic strategies that had been developed to treat survivors of torture. Asylum procedures are a special case of the implementation of the protocol, and will be addressed as possible risk and opportunity for survivors.

### 105.3. Torture Victims, their Families and Asylum Law

Gerald Ressi, *OMEGA, Graz, Austria* (ressi@omega-graz.at)

OMEGA Health Care Center was founded in 1995. It is multi national and multi professional team working for and with victims of severe violence and human rights violations. This paper presents three case studies of practical work with survivors of torture. In 2006 among the clients Omega Health Care Centre, 105 survivors of torture coming from 11 countries and belonging to 17 different ethnic groups were identified. There was ongoing contact with 40 survivors of torture. Some information is presented on the history of three of the survivors and their current living conditions in Austria. It is shown how the psychological sequelae of torture and the consequences of asylum law affect their everyday life. Mental health problems like Posttraumatic Stress Disorder often change the pattern of behaviour and may occasionally lead to various violation of law like acts of violence or abuse of illegal substances. How families of the torture survivors are affected in various ways is demonstrated. In the case studies it is shown how practical work with the survivors focuses on their resources.

### 105.4. Social Ambivalences in the Face of Extreme Suffering:

Elise Bittenbinder, *Xenion, Berlin, Germany* (elise.bittenbinder@baff-zentren.org)

Few areas demonstrate a cross-professional, cross-national and cross-political approach more strongly than that of refugee and asylum policy. It is a meeting ground where many clear and distinctive voices are heard - international law in the form of human rights and refugee legal instruments; domestic law in the form of national aliens law; the voices

from the health care system, providing assistance in the context of multiple cultures to ameliorate the after-effects of loss and gross human rights violations; and the voices from politics, where domestic political agendas may be competing with expectations that the right conditions will be developed for the integration of those who come. And - not to be forgotten – the voices of the citizens. A description of the current situation will show that, when it comes to the issue of determining truth, the professional discourse on trauma is very ambivalent. The perspectives of trauma victims in general are seen as possessing a higher or special form of truth, but this does not seem to apply to victims of torture or human rights violations who seek asylum in Germany or Europe. And an additional problem: Not all refugees suffer the same kind of traumatisation—there is always a context and a history and, in the case of asylum seekers, cultural complexity. Attention is focused currently in Germany on the issue of medical or psychological reports or expert evidence given by professionals in court hearings. Practitioners (and recently also researchers) in the psychosocial and psychiatric fields, lawyers and judges all have an influence on the debate. But at the same time as knowledge about trauma is used to create awareness and to justify decision-making and political processes, the granting of asylum remains above all a political and social question and not a question of refined clinical diagnostics or treatment methods. Nevertheless, the role of health professionals and health issues in the decision making process must not be neglected. In order to make effective use of the information that comes from existing practice such as that offered by the treatment and rehabilitation centres which have been working in Germany and Europe for more than 20 years, the author calls for research that is based on experience and will bring together theory and practice in a new and effective way.

### 105.5. Ethnographic Evaluation of Torture and Its Effects on Communities, Families and Individuals - A Case Study from the United States

Ernest Duff, *Rocky Mountain Survivors Center (RMSC), Denver, USA*  
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Increasingly, efforts to work with refugees and others in post-conflict settings are accumulating a significant amount of new knowledge that is profoundly biopsychosocial, which takes seriously the adage that “torture rends the fabric of communities,” and which postulates interventions at the community, family and individual levels. Torture rehabilitation practitioners in the North and the West are learning through contact with collectivist cultures worldwide that the paradigm for engaging in interventions is changing, to include the full participation of communities impacted by torture. A particular case study from the United States – the work of torture rehabilitation in Denver, Colorado – will be scrutinized to examine the implication of engaging in evaluating the issue of torture at all levels, with ethnographic language as the measurement of success. The methodology of outreach needs assessment, quantitative

and qualitative measurement, and follow-up interventions will be reviewed. The interaction of community participants with attorneys, mental health professionals, para-professional case managers and others will be a focus of the discussion, and a literature review of pertinent articles and journals will be offered. A model of full participation and egalitarian power dynamics will be considered through the lens of human rights and health.

## 106. Legal Consciousness I

### 106.1. From Tracks to Trenches: Towards a Jurisprudence of Trauma

Ravit Pe'er-Lamo Reichman, *Brown University* (Ravit\_reichman@brown.edu)

This paper traces the relationship between traumatic injuries on railways and in the First World War in order to examine how-and why-British soldiers were prosecuted for malingering, rather than treated as plaintiffs or patients. Its focuses on the process through which railway accidents and war trauma became aligned in the juridical imagination as distinctly modern, industrially-related forms of harm. As a common language for documenting these injuries emerged, a discourse for war trauma came into existence over the scaffolding of an earlier rhetoric of nervous shock in railroad injuries. The argument emphasizes the relationship, and the tension, between these two forms of injury as it is initially articulated by Freud in “Thoughts for the Times on War and Death” and *Moses and Monotheism*. In *Moses and Monotheism*, Freud indicates that trauma takes root in unanticipated, accidental shock- – a position that underwrites the earliest legal discourse around traumatic neuroses. In “Thoughts for the Times,” however, he notes that death (and by extension the trauma it induces) is precisely not an accident: war’s odds make death a realistic likelihood rather than an unforeseeable calamity. Yet in spite of the differences between unintended injuries on railroads and the more predictable injuries of war, the discourse surrounding shell shock borrowed heavily from discussions of negligence, and in doing so, drew upon the propensity of earlier legal cases to see trauma as an outcome of accident. Moving from Freud to legal opinions on nervous shock, government documents on shell shock, and British War Office records on malingering, I propose that a misapplied rhetoric of negligence shaped official responses to shell shock, casting it as malingering or shirking. By invoking the language of negligence to soldiers, military responses cast wartime psychological trauma as itself a kind of negligence: as a deliberate or premeditated absence of care for one’s fellow soldiers or one’s country, rather than a genuine injury. In bringing together the discourses of railroad and wartime injuries under the rubric of modernity,

industrialization, and negligence, this paper thus aims to develop a thicker explanation for the role of blame and responsibility in World War I.

## 106.2. Death and the Political

Lior Barshack, *Radzyner School of Law* (barshack@idc.ac.il)

The article explores various implications of the idea that the authority of law is anchored in ancestral authority, the authority of the dead. The article is informed by psychoanalytic and anthropological accounts of ancestral authority generally, and of its manifestation through the law in particular. The process of the rise of the state, whose remote origins can be traced to the twelfth century, consists in the gradual impersonalization of political authority. This process, which culminated in modern ideas about the rule of law, consists in the projection of political power outside of the community of the living onto the realm of the ancestors. The more political power is severed from the living and deposited in the hands of an absent ancestral authority, the more legally regimented becomes the state. The pardoning power illustrates this process precisely by constituting an isolated pocket of personal authority – of power which is not given over to the dead and which violates the rule of law. The 'authority over life and death' attributed to the law since the earliest conceptualizations of sovereignty, expresses dogmatically the notion that the authority of law is that of the dead. I argue that despite the brutal uses of force often authorized by such a notion of sovereignty, the legal monopolization of the power over life – that is, the relegation of the power over life outside the community of the living – tempers the community's arbitrary control over individual fates, and thus asserts life.

## 106.3. Deuteronomic 'Captive Woman' Legislation: Rape as Criminal Apotheosis

James A. Diamond, *University of Waterloo* (jdiamond@uwaterloo.ca)

The “captive woman” legislation of Deuteronomy 21:10-14 regulates the treatment of foreign women who are objects of desire of Israelite fighters. It purports to deter rape on the battlefield which was an accepted aggressive expression of power in the ancient Near East. Rabbinic thought picks up where the Bible left off and interpreted the “captive woman” law to harness that aggression and redirect it morally and theologically. Classical and medieval rabbinic thought anticipated contemporary notions of rape as a violent assertion of power and domination rather than one of sexuality or eroticism.

Power is the key to the perception of the theological dangers of rape on the battlefield as the climax of an uncontrollable surge to become God rather than imitate Him. The biblical legislation radically subverts the escape provided by the madness of war where social restraints are not in force, by the requirement of socializing and domesticating the fighter's brutality. Memorializing the woman as a battlefield through rape is neutralized if, as a consequence of that rape, the woman must not only be afforded the asylum of the home, but become the wife – a status which would efface any trace of the battlefield.

#### 106.4. Whig History with a Russian Accent: Imagining Responsible Government in Revolutionary Russia, 1906

David McDonald, *University of Wisconsin at Madison* (dmmcdon1@wisc.edu)

Through an analysis of Boris Nolde's reading of Canadian constitutional history, this paper examines the challenges raised by practical politics during the revolution of 1905-1907 to liberal constitutional theorists in their pursuit of a "rule of law" political order. In doing so, this paper casts light on neglected debates between legal idealists and legal positivists in the context of revolutionary events. It also demonstrates the centrality of event-driven contexts to understanding the mechanisms governing processes often regarded as unproblematic influence or the transmission of ideas between cultures.

#### 106.5. Social Information Processing, Violent Subtypes, and a Liberal Construction of Mitigation and Punishment in Juvenile Justice

Reid Griffith Fontaine, *Duke University* (rgf2@duke.edu)

Principles that are common to liberal theories of punishment include humane treatment of offenders, respect for offender rights, parsimony, penal proportionality, and benefiting society via offender rehabilitation. Liberal theories of mitigation and excuses have sought to expand these doctrines such that culpability and, in turn, corresponding punishments, for certain offenses may be reduced. In this way, broadening doctrines of mitigation and excuses is useful to meeting multiple principles of liberal theories of punishment (e.g., parsimony, penal proportionality). One proposed expansion of doctrinal mitigation suggests that, due to aspects of developmental immaturity, juvenile offenders should not be deemed as punishable as are adults who commit the same crimes. A principal component of developmental immaturity is diminished decision-making capacity, though several issues remain unclear as to the development of adolescent decision making. One

unresolved issue regards adolescents' real-time decision making and subtypes of violent crime. Via an analysis of adolescent social cognition and antisocial subtypes, it is here argued that such research is critical to the liberal construction of mitigation and punishment in juvenile justice.

## 107. Legal Consciousness II

### 107.1. The Role of Emotions in the Creation of Law

Raymond H. Purdy, *Consulting Physician, Madison, USA* (rpurdy@tds.net)

In law, the concept of impartiality and fairness is often symbolized by "Justice" a blindfolded woman holding scales in one hand and a sword in the other. Implicit in this imagery is the triumph of reason and cognition over what might be considered the winds of emotion or primal drives. The idea of an animal (other than man) being blindfolded and holding scales would seem ludicrous to most human observers, pointing to the primacy of the neocortex in the creation of law. Yet, the neocortex, achieving its highest functioning in the human animal, rests on the substrate of the older mammalian and reptilian brain with all of their instinctual drives for survival, combined with all of the passions with which we as a species are so richly endowed. This presentation will explore some of the relationships of the three parts of the triune brain in the creation of law. Drawing on recent advances in brain imagery, the work of Damasio and others, it will question whether the supreme figure of "Justice" should stand as is or should have a rat resting on one pan of the scales with a lizard on the other.

### 107.2. Comparative Reasoning in Law

Oliver Brand, *University of Münster* (oliver.brand@uni-muenster.de)

This paper addresses four issues: What are the benefits of comparative reasoning in law and to what extent does comparative reasoning shape our thinking about the law? In which way and under which circumstances has comparative reasoning so far been used in law? What are the reasons for different approaches of different jurisdictions towards comparative legal reasoning? And: To what extent do different methodologies of comparative legal reasoning influence the knowledge derived from comparative studies.?

In answering these questions, the paper will pay due attention to the interaction of comparative reasoning and historical reasoning. It will address the issue of political agendas in comparative law and the conflict of comparative and dogmatic reasoning in law. In order to gain meaningful results, the actors on the comparative law scene will be examined, too; it shall be demonstrated that comparative reasoning of a judge obeys other laws than that of a civil servant or a researcher.

### 107.3. Pain and Suffering: Beyond the Torts' Mantra

Leonard V. Kaplan, *University of Wisconsin at Madison* (lvkaplan@wisc.edu)

Rosencrantz and Guildenstern, Guidenstern and Rosencrantz. Tom Stoppard made it clear that despite Hamlet's obsession or ambivalence, the two were separate and indeed worthy students of theology. Tort law in the United States and its related arenas, notably worker's compensation law elide pain and suffering into a Rosencrantz and Guildenstern mantra. Elaine Scarry is notable as one of the few who recently called forth many disciplines to say something about pain and its consequences separating pain from suffering. Jonathan Schofer, a student of Rabinics finds that the Rabbis had much to say about suffering but little about pain. The Greeks noted pain in several sources, including the Philoctates, the story of Prometheus, the exquisite descriptions of anatomical mayhem in the battle scenes in Homer's Iliad, et al. However the Greeks did not seem to make much out of pain as a separate issue for human existence. This paper is one of several that will consider the differentiation of pain from suffering and what such separation means for elaborating meanings of legal consciousness. The paper will look at three narratives, two classic and one from US popular media to interrogate the differences between a pain and suffering toward suggestion a genealogy of shifting meanings of the two and a changed technology that may indicate pain and not suffering is central to western understanding as amenable to technological modification. Suffering in this sense may be following pain in the pain suffering mantra. The texts that the paper will explore are the Book of Job, Nikos Kazantzakis' representation of Saint Francis and the current hero of a television character Dr. Gregory House on US television series a practicing doctor whose constant pain becomes expressed in his practice over his younger associates and with his patients. Job bears his significant suffering well but unravels in part at least from the boils with which the agency of God delivers. With Francis we have a very different meaning for the Saint's experience and struggle with pain that is tied to suffering categorically. With our television doctor we see the effects of pain separate from suffering and the move unsuccessful as yet of medical technology to mitigate and in fact to reduce suffering to a status similar to pain. We also see the move toward a medicalization of pain and a new pain industry that as medical practice and social metaphor could well replace suffering in cultural anthropology.

### 107.4. Blending Psychology and Law to Enhance Fact-Finding in Eye-Witness Cases”

Frank Tuerkheimer, *University of Wisconsin at Madison* (fmtuerk@facstaff.wisc.edu)

Psychological evidence as to the limitations of eye witness testimony has undergone a checkered history in litigation. Traditionally, the view was that a jury was capable of assessing credibility issues obviating the need for expert evidence. Over the past several years, this view has been eroded in three distinct areas: trans-racial identification, a certainty-accuracy correlation, and double blind identification techniques. In each instance, largely irrefutable psychological studies have resulted in the law moving away from the traditional concept that a jury needs no help. In instances of trans-racial identification, courts have accepted psychological studies which show that where the identifying witness has had no substantial contact with persons of the same race as the person being identified, such identifications have a high incidence of unreliability. Psychological studies have also shown that there is very little if any correlation between the professed certainty of an identification and its accuracy. Here, the traditional notion that the jury can decide credibility issues on its own is simply in error since the non-connection between certainty and accuracy is counter-intuitive. Psychological studies have also attacked the very basic mechanism by which identifications take place: a line-up in which the suspect is included, or a photographic spread containing the suspect. The double blind technique requires that the person handling the line-up not know who the suspect is. In addition, it requires that suspects not be shown in a spread but rather one at a time and that the suspect not necessarily be in those shown. The changes in the law on this subject reveal a dynamic and useful interplay between the disciplines of law and psychology.

### 107.5. Insufficiencies in Prisoner Pre-Release and Post-Release Strategies as Basis for the Resumption of Legal Personhood

Richard Ralston, *University of Wisconsin at Madison* (rralston@wisc.edu)

This continues an old debate: can we interdict the recycling of released prisoners back into prison? And if so what factors are most relevant. That this debate is an important one is reinforced by two unintended factors: the termination or absence of pre-release educational or “civics” programs for inmates, the inability of prisoners themselves to generate post-release social capital, and, particularly, by a free society preoccupation with security and ex-con animus. Identifying this discourse is easier than it is to account for the avoidance of its policy consequences: American prisons becoming what Foucault

predicted: – producers of a recycling criminal class. This dilemma is explored using case experiences of inmate degree-seekers in prison citizenship programs in the State and Federal prisons in the State of Wisconsin, reports of government grant experience, individual prisoner self-help attempts at amassing social capital before and after release, and selected private re-entry projects. Ironically, the structural insufficiencies and prisoner re-entry ill- preparation have been largely omitted from even such commendable reformist impulses as restorative justice and innocence projects. In fact, the successful re-entry or restoration of legal personhood of ex-offenders may be the last, best hope for de-criminalizing a made-in-America criminal class and de-victimization of society.

## 108. Legal Consciousness III

### 108.1. Pity in Athenian Law

Andrew Wolpert, *University of Florida* (wolpert@ufl.edu)

In the *Apology*, Socrates sets himself apart from other defendants by his refusal to bring forward his children so as to win an acquittal (Pl. Ap. 34D). The Attic orators show that litigants frequently appealed for pity, as Socrates suggests, but did the jury reach its verdict because of pity and not justice? Most Greek historians have taken his assessment at face value and conclude that appeals to pity conflicted with justice. Recently, Konstan (2001) has shown that litigants never claimed that they deserved the jury's pity regardless of their guilt or innocence; rather they insisted that pity was justifiable only when suffering was undeserved. Pity neither implied remorse on the part of the litigant nor forgiveness on the part of the jury and was, therefore, substantively different from the modern construct. Although no Athenian litigant ever claimed that he ought to win his case regardless of its legal merits, references in the orators suggest, as I will show, that the Athenians did, in fact, associate pity with forgiveness, but such a form of pity had no place in the courtroom. Litigants framed their own appeals for pity as justifiable while their opponents' appeals as conflicting with justice.

### 108.2. Poetic Lucidness and Licit Lunacy

Barbara E. Galli, *McGill University* (barbara.galli@mcgill.ca)

Recent scientific research has pinpointed the amygdala as the site of both creative productivity and emotional activity, including psychological distress or illness. Since its inception in Greek antiquity, Western thought has been debating the dangers or benefits regarding the creative mind, with particular regard to poetics. The coincidence of the opposites “healthful” and “harmful” is clearly a complex matter, scientifically and philosophically. Plato opted to shy away from poetics, but a parallel, smaller stream within the over 2000-year-old philosophical enterprise has regularly welcomed poetics into its purview. Recently, some scholars from both the scientific and/or legal worlds (e.g., Levitin, Nettle, Nussbaum, Tancredi) have been in consonance with a widening of lesser-stream philosophers (e.g., Biasin, Cixous, Heidegger, LeDoeuff, again Nussbaum, Rosenzweig, Santner) in their mutual attention to the relationship between poetic and/or sane/mad thinking. Among the arts, it is poetry whose element is thinking itself, as opposed, say, to space for the plastic arts. My paper will consider the clashing or coincidence of opposites, referring to several poetic thinkers and philosophers who understood (or experienced) the crossing of lines into unhealthy thinking, suicidal leanings, and even madness (e.g., Hölderlin, Kafka, Benjamin, Rosenzweig).

### 108.3. The Representation of Physical Pain in Classical Greek Literature

Gary Rosenshield, *University of Wisconsin at Madison* (grosensh@wisc.edu)

In the last few decades there has been an increasing focus on the management of physical pain. Clinics have been set up which focus on pain, and pain linked to suffering is at the heart of many dramatic jury decisions in US courts in which defendants have received multi-million dollar awards. We all know existentially what physical pain is. But once we begin thinking about the representation of pain, how pain is imagined and given a voice -- and it must be represented if we are going to deal with it at any level -- we enter a much more ambiguous realm; and no where is this realm more ambiguously represented than in imaginative literature. Since, as many have commented, there are few major works of imaginative literature that deal with disease and dying, not to speak of physical pain, it might be worth while, as a start, to take a closer look at the representation of pain in some of the earliest masterpieces of the Western literary tradition, works of Greek literature of the Classic period, the fifth century BC. Using as examples the Histories of Herodotus, Prometheus Bound of Aeschylus, and The Women of Trachis and Philoctetes of Sophocles, I will attempt to show the ways in which Greek literature integrated physical pain into the most important events of mythology and history, including the Trojan and Persian wars.

## 108.4. Plato and the Discovery of Mental Health

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

The concept of mental health derives from Plato. This paper examines the problems he tried to solve by introducing this concept. The situation he inherited included: (1) the claim that aggressive or immoral behavior is natural and that it is foolish to expect anything else, (2) the Socratic claim that immorality derives from a mental mistake, and (3) that moral judgments are nothing more than social conventions. The concept of mental health was invoked to show that all three of these claims are false. The reason we have difficulty appropriating Plato's understanding of mental health is that our concept is intended to do a different job. The differences between Plato's concept and ours are then explored.

## 109. Legal Consciousness IV

### 109.1. Why it is Easier to Blame than to Praise

Lawrence M. Solan, *Brooklyn Law School* (larry.solan@brooklaw.edu)

In a series of interesting and challenging studies, Joshua Knobe and other psychologists have demonstrated that we attribute intent more to those whose actions lead to bad results than to those whose actions lead to good results. In one version, an executive boasts that his new process will not only make money for the company, but help the environment. His boss approves the new venture, but makes it clear that he doesn't care about helping the environment; he's doing it for the money. When the new process does help the environment, we do not give the boss credit for intentionally having made the world a better place. In contrast, we blame the boss who approves a venture that will harm the environment. This asymmetry is potentially important. It suggests that we are somehow designed to lash out at wrongdoers, making us all moral actors at some level of how we react to the world. In this presentation, I suggest an explanation for this apparent asymmetry based upon insights from linguistic theory and cognitive psychology. The relative propensity to blame in Knobe's story results not from an asymmetry in moral attribution, but rather from an artifact of the stories themselves.

## 109.2. Consciousness in Life and Law

Enrique Alcaraz-Varó, *University of Alicante* (alcaraz@ua.es)

Our goal in this presentation is to discuss some aspects of the term 'consciousness' from a linguistic point of view. It has four sections. The first one (Consciousness as understood in other European languages) discusses the problems of translating Spanish conciencia (or its counterparts in Portuguese, Italian, etc.) into English. The second section (Consciousness and communication) examines the linguistic techniques, known under the general label of 'stream of consciousness', used to represent the three things that take place simultaneously when we communicate: we utter words, we say things and our mind is at work. The third section (Consciousness and civil law) examines the element of consciousness in cases of negligence, such as professional malpractice, as well as the meanings of the terms, 'liability', 'responsibility' and 'accountability', in connection with the duty of care. The fourth section (Consciousness and criminal law) discusses one of the components of a crime in the Anglo-American legal system is mens rea. When we use the term 'knowingly' as an element of a crime, are we using it in its moral or in its intellectual sense? This point discusses the borderline separating the moral and intellectual meanings of the word 'consciousness' in criminal proceedings.

## 109.3. Legal Concepts between Individual Cognition and Discourse Communities - Legal Consciousness seen from the Inside

Jan Engberg, *University of Aarhus* (je@asb.dk)

If legal consciousness is “the ways people understand and use law” (Merry 1990), then this concept is of major interest for studies interested in the development of legal concepts. This paper will concentrate on the perspective of the influences of lay concepts on the development of specific expert concepts and questions that may be deduced from this perspective. The point of departure is the assumption that expert legal concepts are developed in the interaction between individual experts in their particular context (constituted by all factors influencing the individual’s daily and professional life, among these the legal consciousness of ordinary lay citizens) and the discourse of the community of legal experts. This research is especially interested in the conceptual development process that this meeting of influences may give rise to and the cognitive linguistic background of these developments. In the framework of a cognitively oriented model of linguistic meaning it seeks to show an example of a concept undergoing a development process, viz. the concept of Mord in Swiss criminal law. Of special interest

will be the modelling of influences from the legal consciousness of non-experts as an important factor in bringing about change in legal concepts.

#### 109.4. Raising the Legal Consciousness of Unwary Non-Citizens

Krista M. Ralston, *University of Wisconsin at Madison* (kralston@wisc.edu)

United States Immigration laws and their enforcement have undergone dramatic changes over the past decade. These changes have created painful and often devastating consequences for under-served non-citizen populations. This is especially true for non-citizens who suddenly find themselves in federal custody facing deportation or removal proceedings. This paper focuses on the ways to instill “legal consciousness” in non-citizen populations about the potential roadblocks, hurdles and pitfalls they face because of their non-citizen status. As a sampling of individual stories will illustrate, without adequate understanding of the possible impact simple day to day decisions might have on their status in the U.S., non-citizens can face a myriad of unexpected problems which could adversely affect their ability to remain in the U.S., work or study in the U.S., return to the U.S. after departure, or attain permanent residency or citizenship. Because the laws affecting non-citizens are extremely complex and often counter-intuitive, it is virtually impossible to navigate successfully through the maze of laws without expert guidance. Unfortunately, expert guidance is not easy to find, especially for someone without significant financial resources. Law school clinics and “pro bono” immigration projects have sprung up to help fill this void, but much more is needed.

#### 109.5. Constitutional Interpretation of the Fundamental Right to Life

Guillermo Díaz Pintos, *Universidad de Castilla at La Mancha* (guillermo.diaz@uclm.es)

This presentation discusses the North American and European models of the Constitutional Interpretation of the Fundamental Right to Life. Unlike the American model, the European interpretation is based on “vitalism” as a conception of life still lacking a full philosophical justification. This interpretation is proposed as an alternative to a constitutional redefinition of the legal concept of the person. This address aims to establish this fundamental right in a “realistic” formulation of life which will guarantee living beings their right to control the destiny of their own organisms and thus to fulfil their whole natural life cycles. This conception of life avoids discriminating between living beings on the basis of the lives they lead.

## 110. Legal Consciousness V

### 110.1. Is There A Role for Consciousness at the Nexus of Legal and Ethical Issues in the Workplace?

Christian Posner, *Mercy Health System, Janesville, USA* (cposner@mhsjvl.org)

This paper concerns relationships in two contrasting professional workplaces. It considers the ethics and law in each where sexual affairs confound fiduciary obligation. It considers the limits of law even where an arguably fiduciary breach occurs. It therefore points out that the constraints of legal consciousness must be taken into account when setting regulatory policy pertinent to issues where public concerns impact private matters. One center of attention will be the relationship between a married physician and an associated nurse co-worker. The other will draw on the complex of law professor and student. Each case is real and in each case all parties were aware of law and arguably still performed in breach of ethics. Each illustrates how the law could be used to motivate concerns at the boundary of such relationships.

### 110.2. Lawyer Advertising-Is the Lesser Protection Given It Than Other Forms of Advertising Based on Reality or Perception? Forms of advertising

Gerald J. Thain, *University of Wisconsin at Madison* (gthain@wisc.edu)

Advertising by lawyers has been given less protection by the U.S. courts than have other forms of commercial speech, notwithstanding that the First Amendment to the U.S. Constitution has been held to provide some free speech rights to commercial speech (advertising). This paper reviews the major decisions and raises the question of whether the stricter treatment given lawyer advertising is based on sound legal theory or, instead, illustrates common perceptions (and misperceptions) of the judiciary as to the public's view of lawyers and lawyer advertising. The paper argues that many major court rulings concerning lawyer advertising reflect an inability of U.S. judges to view questions on this topic with dispassion and instead to issue pronouncements more grounded in an idealised view of legal practice that misreads reality and the public's perception of law.

Unfortunately, this frequently results in holdings that restrict access to legal recourse by the less affluent members of society.

### 110.3. Advice and Dissent: Reluctant Legal Consciousness in the Scientific Community

Stephanie Tai, *University of Wisconsin at Madison* (tai2@wisc.edu)

The scientific community is struggling for credibility, as debates on scientific issues such as climate change and evolution are portrayed in the media as mere “battles of experts” subject to politicization and easily swayed by normative biases. Accordingly, we see not only individual controversies over what “sound science” entails, but a broader dispute over whether science or scientific methods can resolve the individual controversies in the first place. While much of this conflict occurs in the extra-legal eye of the public, several recent high-profile skirmishes have occurred either in courts or in agencies, thereby introducing participating scientists to the boundaries of law. Unlike with some other litigants or regulated parties, however, the discourse from the scientific community often focuses less ostensibly on obtaining specific legal outcomes and more on delineating what they regard as appropriate boundaries of science. This essay will use several case studies to examine connections between the legal remedies and the epistemic recognition sought by scientific communities. In doing so, this essay will suggest that this growth in legal consciousness may act as a self-regulating force to constrain scientists’ more extreme claims to authority, yet in doing so may also ultimately add richness and perhaps even legitimacy to these claims. Finally, this essay will explore the extent to which developments in legal consciousness in the scientific community could be linked to developments in scientific consciousness in the legal community.

### 110.4. Real Threats, Simulated Threats and the Unsaid

Carole E. Chaski, *Institute of Linguistic Evidence, Georgetown, USA* (cchaski@aol.com)

Psychiatrists and psychologists often must judge whether a patient's threat is real or not, in order to abide by the duty to warn. Chaski, Howald and Parker (2005) have presented a method for distinguishing between real and simulated threats at over 90% accuracy. Chaski (2006) has shown that the method can be automated. This talk explores how trauma and informational entropy – the amount of information transmitted – are correlated in real threats, simulated threats and angry letters. Following Annie G. Rogers (2006), we ask: how much trauma can be spoken or must be left “unsayable” and coded

within threat and anger? Finally, we examine how the details of personhood correlate with the reality and dangerousness of threat and anger.

## 111. Legal Consciousness VI

### 111.1. The Human and the Natural Sciences: The Case of Autism

Francis Schrag, *University of Wisconsin at Madison* (fkschrag@wisc.edu)

In his 1967 *The Empty Fortress*, the psychoanalyst Bruno Bettelheim described the etiology of autism in terms of the child's retreat from an unbearable parental rejection. Not quite forty years later Jeremy Veenstra-VanderWeele (et al.), a psychiatrist at the University of Chicago, published an article whose title illustrates a contrasting perspective "Autism as Paradigmatic Complex Genetic Disorder." These articles illustrate the transformation of the dominant approach to understanding psychiatric disorders from one grounded in the humanities, to one grounded in the natural sciences. My contribution is aimed at addressing the following questions: 1. Does this transformation herald a reduction or an enlargement of the scope of human freedom and responsibility? 2. Can the case of autism be generalized to cover other pathological or undesirable psychological traits? 3. If Veenstra-VanderWeele is right, what role is left for psychologists?

### 111.2. Suicide by Execution

Susan Schmeiser, *University of Connecticut* (susan.schmeiser@law.uconn.edu)

Is intentional self-destruction an exercise of autonomy or the sign of a will so thoroughly compromised that it requires deposition? Acts of self-harm challenge even the most libertarian understandings of volition, choice and consent. Acquiescence in one's own demise implicates the ideals of personal sovereignty and liberty at the heart of our legal and political systems, and yet suicide provokes such universal discomfort that we relegate it to the margins of civilized life. What might in one view appear as the ultimate act of agency and self-determination becomes instead an instance of pathology, compulsion and confounding irrationality. This project considers suicide as a problem of legal subjectivity by examining the law's ambivalence toward death row inmates who invite execution.

Within the lexicon of deterrence and just deserts, death row “volunteers” who decide to waive their rightful appeals appear variously as narcissists who seek to use legal mechanisms to achieve selfish ends, as incompetents whose compromised mental health renders volition impossible, or as altruists who offer their own bodies in the name of expediency and closure for the victims. Only the latter succeed in their efforts. If the waiver of legal rights in this context derives not from reasoned choice but rather from solipsism or a suicidal despair that eviscerates rationality, then legal punishment promises to shade dangerously into state-assisted suicide. Yet in the jurisprudence of waiver, death that does not serve penological ends appears paradoxically to signal *both* a compromised will *and* a dangerous excess of will that threatens to usurp state authority.

### 111.3. The Futility of the War on Illicit Drugs in the US within the Context of Addiction and Inelastic Demand

John O. Ifediora, *University of Wisconsin at Platteville* (Ifediora@uwplatt.edu)

The paper seeks to show that the vast amount of resources devoted by the US to combat the importation of illicit drugs into the US will continue to go to waste, and the effort will not succeed until policy makers are willing to address the underlying causes of drug consumption, e.g. addiction, and other social and psychological abnormalities. The basic mechanisms of markets, and the principle of demand elasticities will be used to portray the futility of the preventive efforts so far. Furthermore, by concentrating on the demand side of the market the effort would be effective, e.g. legalization of illicit drugs.

### 111.4. The Emotional Lives of Intellectual Proprieties

Steven Wilf, *University of Connecticut* (Steven.Wilf@law.uconn.edu)

Intellectual Property is often thought of as a quasi-neutral marketplace of ideas. But, indeed, it is invested with a variety of ethical and psychological presumptions. This paper focuses upon two manifestations of this presumption in United States law. First, it examines how certain types of creators are said to be more connected to their work than others. Artists, for example, receive more protection than mathematicians. The work of historians is often seen as fact-based rather than creative. Visual artists, unlike musicians, are seen as possessing a strong attachment to the object created. Visual artists are granted special statutory protections for their work even after ownership has been transferred to a purchaser. Even various cultural groups are seen as having stronger emotional ties to material objects than others. Native Americans are protected with a

unique cultural property law. Such distinctions reflect implicit suppositions about the emotional status of creators. Secondly, United States law favors products of knowledge seen as moral. Certain forms of intellectual property historically have been barred from the broad umbrella provided to creators because they are antithetical to moral norms or do not comport with a sense of the common good. Patent law's moral requirement ensures inventions really serve the public. Gambling devices, for example, in the past did not receive patent protection. Even today, scandalous or immoral marks--those symbols with ribald imagery or disparaging religious groups--cannot be registered as trademarks under the Lanham Act. Copyright traditionally disfavored pornography. This paper maps the role of emotional attachment for United States intellectual property doctrine. Arguing for a robust definition of intellectual property as a psychologically-laden framework beyond economic incentives for the production of knowledge, the paper addresses current normative debates about the purposes of intellectual property law.

## 111.5. Psychology and Intellectual Property

Bratislav Stanković, *Attorney, Chicago, USA* (bstankovic@usebrinks.com)

The multi-dimensional nature of what is meant by invention influences the asymmetrical relationship between psychology and intellectual property. On one hand, intellectual property protection is readily available for subject matter relating to the behavioral characteristics of an individual or group. Patents have been issued on medications, devices for measuring the psychological condition of patients, methods of diagnosing dyslexia, autism, and other psychological problems, methods responsive to individual's psychological preferences, etc. Psychology has been put to a profitable use via intellectual property protection. On the other hand, psychology provides little insight into the inventive process. Unlike many phenomena in psychology, there is no authoritative psychological definition of what is meant by invention, nor is there a standardized measurement technique for the process of invention. In general, inventions seem to result from the encouragement of individuality, frequently spawned by exceptional social conditions.

## 112. Legitimacy and Anomaly in Scientific Discourse

### 112.1. Legitimacy in Scientific Discourse

Martien Brands, *University of Liverpool* (brands@liv.ac.uk)

Scientific discourse or ‘debate’ follows certain rules and principles. It deals with the *creation* of knowledge and the *application* of knowledge. What distinguishes science from other types of discourse is the ‘internal feedback’ that application through empirical evidence should exert on the creation of knowledge. Legitimate knowledge is considered to be supported by controllable and reproducible experiments. Only that can produce ‘true’ knowledge. However, the definition of ‘truth’ has been an argument in the philosophy of science; is truth universal or bound to the context it is created? The danger of contextualism is conceptual ambiguity (‘anything goes’), the pitfall of universalism is exclusivity: ‘this cannot be true so it is not science’. In this way many mainstream disciplines have excluded by virtue of their historical dominance other ‘heretic’ traditions. The reception by mainstream disciplines in medicine of homeopathy and Chinese medicine, respectively in psychology of psychoanalysis, are examples of the application of this ‘logic by exclusion’ (Elisabeth Badinter). The principal issue is: are ‘good values and rules’ universal or can they be considered *criteria* developed in several contexts, such as specific religions, cultures and scientific communities? *Bridging concepts* may facilitate application of knowledge originating from different traditions. The example in medicine is the application of *semiotics*, to demarcate rules of interpretation of illness which features *complexity*. Understanding medicine as an interpretative process may define context-sensitive rules for Good Clinical Practice within each tradition. This may help in a world where delivery of specific services (such as PTSD treatment in war-affected countries) may benefit from a multidisciplinary approach; each of these disciplines can be critically assessed in audit and research if its own rules of interpretation are clearly spelled out. From argument to dialogue, be it defined with specific rules.

## 112.2. Case Presentation of a Bosnian soldier with PTSD Treated (amongst others) with Homeopathy

Cees Dam, *Homeopaths without Borders, Leusden, The Netherlands*  
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Homeopathy can be a valuable tool in the treatment of post traumatic stress disorder. PTSD will be one of the world’s most prevalent psychiatric diagnoses for the coming decades with the upcoming of wars, terrorist attacks, natural disasters (tsunami, earthquakes, famines). Homeopathy is one of the safest, cheapest and most effective techniques to counteract these. Especially in developing countries and countries at war where health infrastructure and finances are lacking for regular therapeutic settings and psychiatric drug treatment, homeopathic treatment can be developed to become the

treatment of choice. The case presented here is an example of the process of a homeopathic treatment of PTSD. The case taking was done by a student of homeopathy who undertook a three-year training program in homeopathy by Homeopaths without Borders (HWB) Holland. The case was referred by a psychiatrist from the local psychiatric hospital in Tuzla, Bosnia. Homeopathic supervision by email was done by one of the homeopaths of HWB Holland. Over the last three years approximately 15 cases were treated in this way.

### 112.3. Scientizing Psychiatry by Conjuring Linguistic Fixes for Psychiatry's Magic Complex

James M. Wilce, *Northern Arizona University* (jim.wilce@nau.edu)

A “register” is a set of linguistic features associated with social practices and persons engaged in them. Psychiatric registers evolved in European countries while they were colonizing South Asia. This paper combines textual, historical, and ethnographic evidence to reveal features of psychiatric registers—focusing particular attention on the Bengali example—and the process of enregisterment, a process “through which a linguistic repertoire becomes differentiable within a language [and] socially recognized” (Agha 2003:231). In this case the process bears the particular burden of what may be called psychiatry’s ‘magic complex.’ This complex entails a conflict between two drives. On the one hand, psychiatry must convince a skeptical public that its perceived associations with magic (and religion) were finished, vanquished in part by “register work” focused on a scientizing drive and especially a drive toward increasingly clear mental illness classification modeled on natural types. On the other hand, it is still entangled with the magicoreligious sphere, especially through what language scholars call “performativity” (rituals formulae used, e.g., in ‘baptizing’ new labels). It is thus argued that this domain is like other facets of modernity—ever hybrid, despite attempts to be pure. Possible implications are suggested for psychiatry’s difficulties in maintaining respect at least in U.S. courts.

### 112.4. Actuarial Risk Assessment and the Politics of Risk: How Good Science can lead to Bad Policy

Eric Janus, *William Mitchell College of Law* (ejanus@wmitchell.edu)

The proliferation of “sex predator” laws in the United States has supported an accelerated development of actuarial risk assessment tools. These tools have the potential to make forensic risk assessment more transparent and accountable, both positive outcomes. But the architecture of actuarial risk assessment may push the law in unintended and unwise directions. This paper will explore those negative aspects of actuarial risk assessment.

## 113. Male and Female Offenders: Gender Differences

### 113.1. Gender Differences in the Prevalence of DSM-IV Diagnoses in Canadian inmates

Marc Daigle, *University of Québec at Trois-Rivières* (marc.daigle@uqtr.ca)

The prevalence of mental diseases in inmates is much higher than in the general population, especially for psychosis and major depression. Large differences exist between studies completed in the USA and in other parts of the world and few studies look at gender differences. A Canadian study looked at these differences, interviewing 342 prisoners with the Structured Clinical Interview for DSM-IV (SCID). Female inmates had more Axis I disorders and male inmates had more Axis II disorders. Suicide-related behavior was significantly more prevalent among female (40.8%) than among male inmates (28%), although suicide risk was higher among the latter. Suicide-related behavior was significantly more prevalent among female (40.8%) than among male inmates (28%), although suicide risk was higher among the latter.

### 113.2. Gender, Culture and Suicidal Behaviours

Silvia Sara Canetto, *Colorado State University* (scanetto@lamar.colostate.edu)

In industrialized countries females are more likely to engage in suicidal behaviors but are less likely to die of suicide than males, a trend which has been called the gender paradox of suicidal behavior. Within these countries there are however variations on the gender paradox of suicidal behavior, depending on factors such as age, sexual orientation, ethnicity, and community. There are also national exceptions to the gender paradox of suicidal behavior. This paper considers examples of the variability in gender patterns of

nonfatal and fatal suicidal behavior. It also discusses cultural factors that may play a role in the gender paradox of suicidal behavior and its exceptions.

### 113.3. Prison Rape Elimination Act (2003) - Risk Markers for Sexual Victimization and Violence in Male and Female Prisons

Janet I. Warren, *University of Virginia* (jiw@virginia.edu)

The paper will present on a national study of the personality, interpersonal, situational, and institutional factors that impact upon incidents of sexual coercion and rape in male and female prisons across the USA. The research funded by the National Institute of Justice in response to the Prison Rape Elimination Act of the USA Congress in 2003 is designed to create predictive risk models that will allow for interventions appropriate to different levels of security and type of prison environments.

### 113.4. Forensic Psychiatry in the Female Patient

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Henriette Walter, *Medical University of Vienna* (henriette.walter@meduniwien.ac.at)

Especially in forensic psychiatry the centre of interest has always been the male patient, more precisely the male offender as men are leading in committing crimes while females only contribute to about 5%- 20% of all committed offences. Recorded criminality is dependent on age, but irrespective of age there exists a marked gender gradient. In high-industrialised countries, only concerning shoplifting is a tendency towards bridging this gender gap observed. The pathways to delinquency also differ between men and women and the risk to relapse for any crime is on average twice as high in males than in females. Therefore, the conclusion that criminality is male seems to be admissible. Consequently, the majority of mainstream theories have focused on the male offender and causes leading to criminality were interpreted mainly through the eyes of male researchers. Much of the literature has neglected gender specific issues concerning gender and forensic psychiatry and has tried to explain female criminality by focusing on women's deviant behaviour, e.g. behaviour that does not conform to common stereotypes. Several examples such as the impact of victimization on the commitment of violent crimes by women and the impact of gender related stereotypes on forensic psychiatric assessment will be outlined and discussed.

## 114. Media Coverage of Science

### 114.1. Twenty Years of Hope, Hype and Hoopla: Science Policy and the Media

Timothy Caulfield, *University of Alberta* (tcaulfld@law.ualberta.ca)

The public gets most of its information about science and biotechnology from the popular media. As such, it has become a critically important element of science communication and knowledge translation process. This presentation will explore the manner in which genetic research, particularly the idea of personalized/individualized medicine, has been portrayed over the past twenty years. The nature and source of the “media hype,” and the associated policy ramifications, will be analyzed. It will be shown that over the past twenty years, similar products and advances have been promised and portrayed in the popular media – despite the fact that relatively few clinically relevant interventions have implemented.

### 114.2. Precaution or Paranoia? How the Media Perpetuates Distrust in Biotechnology Regulation

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Kanchana Fernando, *University of Alberta* (k.fernando@ualberta.ca)

A lack of confidence and trust in regulatory systems for agricultural and health biotechnology has the potential to negatively impact producer and consumer utilization of new genomic technologies. In the developed world, public opinion data demonstrate an overwhelming lack of trust in regulatory bodies and general dissatisfaction with the overall performance of government. This study explores public confidence and trust of publics in regulatory systems in Canada, UK and the US for agricultural and health biotechnology. It maps levels of public trust from survey data against major regulatory events in each country and the media coverage of those events, a major source of information for the public. A qualitative coding frame was developed to analyse the 550 newspaper articles on 47 regulatory agencies collected from the top-ten newspapers by readership in each country from 1995 to 2005 and those articles were assessed according to a standardized questionnaire and pre-determined codes assigned to sections of text for

qualitative analysis. Regulatory agencies are generally represented in relation to larger regulatory events such as labeling of genetically modified organisms, drug approval processes or conflict of interest scandals reflecting a general distrust of the power of the industry lobby and its involvement in research and development. Most articles call for stricter regulatory control and accountability. There is an overwhelming emphasis on risks and failings in the regulatory system and little discussion of the benefits or successes of regulators and there is little attempt to explain the workings of the regulatory system. Thus the public is being presented with an overwhelmingly negative picture of the current regulatory framework for health and agricultural biotechnology. Whether this influences or reflects public trust and confidence in biotechnology regulators, however, is unclear.

### 114.3.Hype and Skepticism about Nutritional Genomics

Nola M. Ries, *University of Victoria* (nmries@uvic.ca)

In July 2006, the United States government released an investigative report into direct-to-consumer nutritional genetic tests sold over the Internet. Companies marketing the tests claim to base nutrition and lifestyle counseling on a consumer's unique genetic make-up. However, the U.S. report, commissioned by the Senate Special Committee on Aging, expressed serious concern about the legitimacy of this assertion and concluded that the current regulatory regime provides inadequate oversight of new genetic tests. The chairperson of the Senate committee even likened nutrigenetic tests to "modern-day snake oil." The U.S. report garnered media attention, with many news articles suggesting there is no scientific basis to substantiate nutrigenetic tests. This presentation summarizes the methodology and key findings of the U.S. government report, examines media coverage of the report, and discusses how public opinion and regulatory responses to new genetic services may be influenced both by the findings of such reports and how their content is portrayed in the media.

## 115. Medico-legal Aspects of Damages for Mental Harm (Nervous Shock)

### 115.1.Damages for Pain and Suffering in Australian Tort Law

Danuta Mendelson, *Deakin University* (dmendel@deakin.edu.au)

Compensation for wrongfully inflicted injury often includes damages for non-economic loss awarded to console the claimant for emotional harm ('pain and suffering') occasioned by the wrongdoer. Apart from the requirement that they be 'fair and reasonable', there are no standards or principles to provide guidance for assessment of damages for pain and suffering at common law. The subjective nature of consolatory damages has meant that historically, similar claims tended to attract awards that were at great variance with one another. This paper will examine Australian statutory reforms of common law damages for pain and suffering occasioned by negligence (but not intentional torts). The reforms involved, on the one hand, imposition of thresholds that claimants have to meet before they can obtain damages for non-economic loss, and on the other, statutory caps on the maximum amount that the plaintiff can receive under this type of damages.

### 115.2. Damages for Psychiatric Injury in Australia: Unfortunate Compromises

Ian Freckelton, *University of Sydney* (i.freckelton@vicbar.com.au)

Recent reforms in Australia have gone some way toward liberalising the criteria for liability for civil recovery for "pure psychiatric injuries". However, in a number of superior court judgments, the quantum of damages awarded for significant psychiatric injuries, in particular, PTSD, has been troublingly small. The irony is emerging that some level of parity is being reached in terms of liability criteria between physical and psychiatric injuries but a major disjunction has emerged in terms of the bottom line, namely damages awards. The result is a return to discrimination against non-physical injuries under the Australian legal system.

### 115.3. Psychiatric Injury in England and Australia: Drawing Closer Together – or Not?

Peter Handford, *University of Western Australia* (phandfor@law.uwa.edu.au)

Over recent years a major gulf has opened up between the law relating to liability in negligence for psychiatric injury as determined by the highest courts in England and Australia. In England, the House of Lords, while adopting a more enlightened attitude to

the question of determining the relatives who are able to claim, limited recovery by reference to aftermath, direct perception and sudden shock. By contrast, the High Court of Australia adopted a more enlightened approach to the problem, relying chiefly on foreseeability of psychiatric injury, and specifically rejected direct perception and sudden shock. Over the last few years, it seems that the gap may be narrowing a little. In Australia, the Civil Liability Acts have attempted to codify the law on liability for “mental harm”. The drafting narrows the law in one or two respects. In England, however, some recent cases offer some signs that courts may now be prepared to move in the opposite direction, particularly in medical cases, by adopting more creative approaches to issues such as aftermath and the need for personal perception. The paper will focus on these developments and attempt to assess their significance.

#### 115.4. Nervous Shock Nonsense: Issues in Emotional Distress Recovery

Nicolas Terry, *Saint Louis University* (terry@slu.edu)

The language of “nervous shock” cases and the apparently bottomless supply of arcane doctrinal rules curtailing its recovery represent one of the most absurd disconnects between the legal and medical domains. In this paper the author address the legal system’s movement away from medically meaningless and value-laden terminology towards the recognition of more pragmatically limited recovery for diagnosed illness. The key legal issues that will dominate “emotional distress” cases are then highlighted. Specifically, the author outlines the role of distress damages in the case of quality lapses that rotate around interpersonal care, future approaches to recovery limitations at a time of doctrinal simplification, and the impact of statutory damage caps applying to non-economic damages.

#### 115.5. Why is there an Endemic Distrust of Medical Psychiatry in Law - Is it a Myth or an Illness?

Yega Muthu, *University of Technology* (ymuthu@law.uts.edu.au)

In psychiatric illness cases, the absence of an actual physical lesion has made the courts in England, Australia and elsewhere, wary of extending the liability of defendants to cover such alleged damage as nervous shock. Although clear jurisprudential principles and guidelines were established from the Coultas case in 1886 to the cases of Jaensch v. Coffey (1984) and in recent times Annetts v Australian Stations Pty Ltd [2002], much to the law’s scepticism and distrust of medical psychiatry, has caused judges to draw

illogical and arbitrary policy distinction in cases such as *White* (1999) and *Tame v Morgan* [2002]. Looking at the two, at law and psychiatry, it is not hard to find still other reasons to explain why they do not accommodate more harmoniously. The courts make the distinction between physical and psychiatric injury but do not form any scientific basis for their decision. This paper will explore evidence that neuropsychiatry is synonymous with illness. Yet the courts hold discretion in allowing the type of each psychiatrist's findings. It is suggested that brain mapping techniques may suggest a way forward.

## 116. Mental Health and Violence to Women within the Family

### 116.1. Migrating Mothers and the Violence of Separation

Barbara Stark, *Hofstra Law School* (lawbjs@hofstra.edu)

Growing numbers of women are leaving their children in Latin America for jobs as nannies and maids in the north. Leaving their families is often the only option for these women, as it is for many victims of domestic violence. Even if it is, however, it may not be optimal because they and their children still have to come to terms, just as many victims of incest have to come to terms, with the parents who have abused them. In each case, at some point the self-contained family bubble bursts – the mother or wife or daughter leaves or is rescued. Recent research indicates that the psychological costs may be very high for migrating mothers. The question then becomes how legal and mental health professionals can help.

### 116.2. The Impact of Child Abuse and Neglect on 12 Year Olds: Legal and Mental Health Implications

Desmond Runyan, *University of North Carolina* (drunyan@unc.edu)

The impacts of exposures to child abuse, neglect, and domestic violence have been documented in retrospective and cross-sectional studies. Prior work has been limited by information in official reports or adult recall. LONGSCAN, a consortium of studies

examining child abuse and neglect in the USA, has been following 1356 children in 5 US states from early adolescence to age 12. At age 12 the children are asked to provide their own accounts of abuse, neglect, and violence exposure. At the same age, the youth and their caregivers complete a battery of mental health instruments including the CBCL. Results reveal little correlation between official reports and child reports. Childhood experience, for all forms of maltreatment, is much more predictive of depression and externalizing behaviors at age 12. Exposure to domestic violence among younger children appears to be more damaging to child mental health, at ages 8 and 12 years, than exposure to either physical or sexual abuse. The consequences of exposure to domestic violence need to be more carefully addressed by mental health and social service policies. This observation has significant implications for how social service agencies intervene in a household where there is both domestic violence and child abuse or neglect.

### 116.3. Mental Health ‘Syndromization’ of Women’s Legal Harms within the Family: A Critique

Elizabeth M. Schneider, *Brooklyn Law School* (liz.schneider@brooklaw.edu)

Women’s legal harms within the family have historically been viewed within a mental health framework. This is particularly true with respect to intimate violence, where the focus has been on why women stay in abusive relationships and the “battered women syndrome”. The focus of the study of violence is rarely on the batterer or on the material circumstances of women’s subordination in general or women’s dependence within marriage. Women’s legal harms within the family should be understood as the product of gender-bias and women’s subordinate role within the family and material circumstances such as lack of wage-earning capacity, inferior education and gender socialization. The danger of a mental health focus is that it ignores these broader and more systemic problems. Women do suffer serious mental health problems as a result of these legal harms, but mental health should not be the primary lens within which these harms are viewed.

### 116.4. Child Sex Abuse by Family Members in Africa: Implications for Mental Health and Law

Cynthia Bowman, *Northwestern University* (cgbowman@law.northwestern.edu)

This paper reviews the limited information available about sexual abuse of female children within the family in Africa and offers some theories about its causes. It describes the links between child sex abuse and commercial sexual exploitation and disease, and discusses how any scheme to address these problems in a national, regional and international context must include such abuse as one of the underlying causes. The paper also describes the inadequacies of the legal and psychiatric systems and remedies available to victims of child sex abuse in this part of the world, and proposes changes which might help to improve the situation of the victims and reduce risk for future generations.

### 116.5. Psychological Paradigms of Domestic Violence in Latin America and the US: Explaining Dynamics versus Harm

Ann Shalleck, *American University* (shalleck@wcl.american.edu)

While psychological paradigms concerning domestic violence are prevalent throughout Latin America, they operate differently from those in the United States. Mental health frameworks in the United States place most emphasis on offering explanations for the nature and dynamics of the violence itself and less importance is given to conceptualizing the harm. Psychological paradigms have attained enormous explanatory power in the understanding of the nature and dynamics of domestic violence. Therefore, psychological explanations concerning women's remaining in relationships in which they experience violence or their behavior in response to violence predominate both within and outside the legal system. In contrast, in Latin America psychological frameworks are powerful in conceptualizing the harm that results from domestic violence. Because domestic violence is viewed as harming the mental health of a woman, the state is seen as having an obligation to provide mental health services to treat women who have been harmed.

## 117. Mental Health Assessments and Judgments I

### 117.1. Risk Assessment and Subsequently Imposed Preventive Detention

Eberhard Heering, *Institut of Forensic Psychiatry, Berlin, Germany*  
(eberhard.heering@charite.de)

According to German penal law, legal offenders who had been committed to a forensic hospital because they suffered from a psychiatric disorder, when committing a crime, must be released, when the diagnosis has to be revised afterwards. Since a legal change two years ago, those persons can be sent to prison for preventive detention when risk assessment states that the danger of further considerable offences persists. Consequently, these persons are held in prison without having committed a new crime. This legal change causes a series of problems for risk assessment. These problems will be discussed on the basis of seven case studies of legal offenders who had to be released from custody in a forensic hospital before the legal change, because their diagnosis had to be revised. Preliminary results of this ongoing study will be presented at the congress.

### 117.2. Mental Health Triage Assessment: Medico-legal Issues and other Challenges

Natisha Sands, *University of Melbourne* (nsands@unimelb.edu.au)

In many Western countries, the primary interface between the community and mental health services is the telephone. Mental health triage services provide psychiatric assessment to large population groups in both rural and metropolitan regions. This paper reports on doctoral research that involved a statewide investigation of mental health triage in Victoria, Australia. The aim of the study was to further understand the scope of mental health triage practice, and shed light on some of the issues and challenges facing the discipline. A 33 item survey was distributed to clinicians across each of the 21 Area Mental Health services in Victoria, Australia. The response rate to the survey was 70 percent (n=135). Follow up interviews were conducted on 15% of the sample. The results of the study indicate that mental health triage is still in its infancy in terms of defining and articulating practice. There are many aspects of MH triage that pose legal and ethical challenges, such as the practice of conducting Mental Status Examination via the telephone, and the difficulty of accurately predicting risk. As a new area of practice, mental health triage lacks clear theoretical and practical definition. Further research needs to be conducted to establish clear legal and practice parameters to ensure safe, equitable service delivery.

### 117.3. Pre-trial Forensic Mental Health Evaluation for the Juvenile Court in the Netherlands

Maaïke ten Berge, *Erasmus University* (m.ten.berge@dji.minjus.nl)

In pre-trial forensic mental health assessment (Pro Justitia reports) items such as moral development and risk assessment play an important role when advising the juvenile court. It is therefore important to consider the assessment methods and results more extensively, with respect to measurement and 'best-practice' as well as feasibility for the juvenile court, and subsequent (dis)concordance between advice and sentences. Recent developments and results will be discussed.

#### 117.4. Forensic Evaluation of Memory Complaints after Mild Traumatic Brain Injury (MTBI)

Alexander E. Obolsky, *Northwestern University* (a-obolsky@northwestern.edu)

Various memory deficits are a frequent complaint after a mild traumatic brain injury (mTBI). This presentation will provide a brief overview of the neuropsychology of memory, the nature of mTBI, and memory deficits following mTBI. The relationships between attention, executive functioning, and memory will be identified. The presenter will illustrate relevant concepts by presenting a forensic case of alleged memory deficits following mTBI and discuss the details of forensic neuropsychological and psychiatric evaluation of memory in a medico-legal context. This part of the discussion will focus on record review, forensic psychiatric interview, neuropsychological testing, and evaluation of malingering. Last but not least, aspects of collaboration between forensic psychiatrists and neuropsychologists will be highlighted.

### 118. Mental Health Assessments and Judgments II

#### 118.1. Client Competency: The Representation of Mentally Impaired Criminal Defendants on Appeal

Mae C. Quinn, *University of Tennessee* (quinn@libra.law.utk.edu)

This paper examines criminal defendant competence for purposes of appeal. It focuses on the potential problems of providing representation on appeal - versus at trial - for those who suffer from serious mental impairment. Specifically, it looks at the concepts

of appellate-level incompetence, suggesting that we should re-examine current law and practice given that many defendants do suffer from serious mental illness after trial has ended, and such impairment can work to undermine the fairness of appellate process.

### 118.2. Best Practices for Lawyers When Counseling a Client to Seek Evaluation and Treatment for a Mental Disability

Carol M. Suzuki, *University of New Mexico* (suzuki@law.unm.edu)

This session will explore how lawyers can approach the issue of evaluation and treatment of a client's mental disability in a mindful and sensitive manner, and in keeping with the lawyer's ethical duties. A diagnosis of a mental disability may assist the lawyer and client to determine how to proceed toward legal resolution of a case. It may provide evidence in support of the legal claim. Also relevant to legal representation, treatment for a mental disability might help the client to better participate in her case. Treatment may affect the client's ability to prove the legal claim either positively or negatively. Having been retained for legal representation and not mental health services, a lawyer should consider a number of factors prior to raising the issue of mental disability with her client. A client may be in denial as to a mental disability. Mental health evaluation and treatment may not be concepts that the client understands from her culture or they may be culturally unacceptable. Lawyers should explore and develop a methodology for approaching mental disability in a manner that recognizes the importance of mutually trusting and respectful relationships among the client, attorney and mental health professional.

### 118.3. Fitness to Stand Trial and the Insanity Plea in South Africa after 2005

Albert Kruger, *High Court, Bloemfontein, South Africa* (albertkr@global.co.za)

2002 legislation created more disposal options, including detention as a civil patient and unconditional release. A "trial of facts" procedure was introduced. Psychiatric examination may now also be done "for any other reason". Some courts misinterpreted the test, thereby wrongly acquitting because of "sane automatism". The Supreme Court of Appeal set out guidelines as to how this defence should be applied in *S v Eadie* (2002). The aspects addressed are universal & arise in many countries.

## 118.4. Capacity Issues in the Context of the Mental Health Act 2001

Patricia T Rickard-Clarke, *Law Reform Commission of Ireland, Dublin, Ireland*  
(ptrc@lawreform.ie)

The Consent of a person is not required for involuntary admission to an *approved centre* under the Mental Health Act 2001 and the Act does not mention either capacity or consent in the definition of mental *disorder*. Consent, however, is required for general treatment under the Act. The consent of the patient can be dispensed with where the treatment is necessary to safeguard the life of the patient. There are certain treatments such as psycho-surgery, electro-convulsive therapy and the administration of medicine that cannot be given without consent. The question arises that if consent is required for such treatments and the patient is not capable of giving consent, who is entitled to give consent on the patient's behalf.

The aim of the presentation will be to argue that the lack of modern capacity legislation means that the rights of patients who do not have the capacity to consent to treatment are not being adequately protected.

## 119. Mental Health Care in South Africa

### 119.1. Girls & Boys Town: A Preventive Model

Joe Araujo, *Girls & Boys Town, Greenside, South Africa* (ja@gbtown.org.za)

Reports in the media bear witness to a worldwide crisis in dealing with youth who pose challenging behaviours.

Professionals, educators and parents have consistently identified discipline as one of the biggest issues facing parents and schools today. When educators must focus on controlling learner behaviours - rather than on teaching - learning suffers. These same learners also present difficulties for their parents in the home.

Fact 1: Babies do not arrive with an Instruction Manual.

Fact 2: Teachers are not trained to manage many behaviours displayed in the classroom.

Best known for its residential programmes – the peer group system of self-government - Girls & Boys Town South Africa has worked successfully with thousands of “at-risk”

youth and families for half-a-century. In association with the famous Girls & Boys Town, Nebraska, USA, it has developed one of the most innovative, practical and holistic approaches to youth and the challenges they pose for parents and teachers – by teaching social skills, ensuring consistent behaviour expectations in the home and at school and enabling youth to remain where they belong – at home, in their community!

*Results:* The following aspects are essential for the successful implementation: (1) Operational plans to access resources; (2) Adequate expenditure on mental health; (3) Acceptable norms and standards; (4) Solutions to current nursing staff crisis; (5) Management information systems; (6) An integrated service program; (7) Facility planning and reconstruction; (8) Cost center management.

*Discussion:* The paper will discuss these factors pertaining to the mental health care services on the teaching circuit of WITS University.

### 119.2. Can Mental Health Legislation Assure Human Rights and Clinical Standards with Limited Resources?

Tuviah Zabow, *University of Cape Town* (zabow@new.co.za)

The formulation of comprehensive legislation within limited resources does not automatically assure the provision of health services or the adherence to human rights principles. The Constitution of the Republic of South Africa (Act No. 108 of 1996), prohibits unfair discrimination and recognises the socio-economic injustices, imbalances and inequities of health services of the past. It provides for the right of everyone of to access to health services. Important revisions of health laws and related legislation have been introduced in keeping with the new Constitution. These include in particular the National Health Act (2001) and the Mental Health Care Act (2002). An emphasis on human rights in both legislations is evident in relation to various areas including research and other ethical issues. Various international and national organisations have issued documents in form of guidelines and principles. Health issues in developing countries receive inadequate financial and personnel resources. The prevention of discrimination in providing treatment for those with adequate health insurance and the indigent populations has been addressed in legislation.

### 119.3. Mental Health Review Boards in Gauteng Province, South Africa

Bernard Janse van Rensburg, *University of the Witwatersrand* (bernardk@gpg.gov.za)

N. Sennelo, *Gauteng Mental Health Review Board Secretariat, Gauteng, South Africa*  
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D. Sekhukhune, *Gauteng Mental Health Review Board, Gauteng, South Africa*  
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*Background:* The South African Mental Health Care Act, Act No. 17 2002 was promulgated during December 2004. Mental Health Review Boards (MHRB) were introduced for the first time to oversee admission procedures and to uphold the rights of mental health care users.

*Method:* A review was done of the submissions received by the MHRB from mental health care facilities in Gauteng Province during the two years January 2005 to December 2006. Data reviewed included applications for assisted and involuntary admissions, appeals, periodical reports and investigations done.

*Results:* Two sets of boards were in operation since January 2005 as the boards were reconstructed during November 2005. From the provisional analysis it is clear that the initial number and quality of applications received were inadequate and grossly incomplete. Some improvement of documentation received during the second year of implementation can be reported.

*Discussion:* Heads of health establishments took up a new function as gateway to mental health services. With appropriate administrative support and operational funds not fully in place during this period, the MHRB and its secretariat struggled to fulfill its assigned role. Much remains to be done to ensure adequate communication between different role players and the MHRB.

## 120. Mental Health Courts and Tribunals: What Works and What Doesn't I

### 120.1. Toronto's Mental Health Court: History, Present State, and the Future

Richard D. Schneider, *Ontario Court of Justice, Toronto, Canada*  
(Richard.Schneider@jus.gov.on.ca)

In May 1998, a Mental Health Court was opened at Old City Hall in Toronto to accommodate the special needs of mentally ill persons who come, often repeatedly, before the courts generally charged with minor criminal offences. The Toronto Court

was the first such court in Canada, and one of the first in the world. This paper provides an overview of the successes and challenges faced by the Mental Health Court over the past nine years and evaluates whether the Court's establishment has reduced the frequency of appearances at Court. It is estimated that between 2,000 and 3,000 accused pass through the Mental Health Court in Toronto annually. Most accused who would have otherwise been remanded for in-custody assessments now have this accomplished on a same-day basis at the Court. This paper examines the operation of the Court in light of its principal objectives which are to deal expeditiously with issues of fitness to stand trial; where possible, to slow down "the revolving door" of repeated returns to court; and to take fuller advantage of the Diversion of Mentally Disordered Accused program set up by the Crown.

## 120.2. Burden to Benefit? Psychiatric Perspectives on the Impact of Administrative Review in Victoria, Australia

Erica Grundell, *Mental Health Branch Department of Human Services, Melbourne, Australia* (erica.grundell@dhs.vic.gov.au)

In 1987, the Mental Health Review Board commenced operations in Victoria, Australia, providing independent administrative review of involuntary detention under the Mental Health Act 1986. At that time, review of this kind was novel in Victoria. This paper is drawn from structured interviews with senior public sector psychiatrists in 1995 and 2004. The research sought to determine whether, and if so how, administrative review had impacted on these psychiatrists and their psychiatric practice and how, if at all, this had changed during a period of significant service and policy reform in Victoria. In general terms, and by comparison with the 1995 research, the 2004 findings reflected an increased level of support for the functions of the Board and a significant increase in those who considered that Board procedures and decisions had impacted on their clinical practice. The majority of interviewees remained skeptical about the capacity of administrative review to raise standards of treatment and care or bring about positive therapeutic outcomes for patients. The paper explores these findings in depth, and considers whether there is a role for increased education of, or promotion to, clinicians and Board members concerning the positive therapeutic potential of administrative review.

## 120.3. The Authority of Medical vs. Social Expertise – The Rhetoric of Psychiatrists and Social Workers in Court Hearings Relating to Coercive Intervention

Stefan Sjöström, *Umeå University* (stefan.sjostrom@socw.umu.se)

The aim of this paper is to compare and analyse the role of psychiatrists and social workers when they argue for coercive intervention in Swedish administrative court hearings. Psychiatrists and social workers apply different rhetoric strategies to persuade the court, but the court also seems to have different expectations and standards of proof with respect to different professional testimonies. Judges and lawyers are more inclined to challenge arguments put forth by social workers. Arguments from psychiatrists are seen as exclusive expert statements that cannot be challenged by non-psychiatrists. This seems to be the case regardless of the nature and content of the statements presented. Whereas social workers routinely seek to strengthen their claims by citing medical experts, psychiatrists never use the judgments of other professionals to increase the credibility of their arguments. Although a large part of the arguments put forth by psychiatrists pertain to social, ethical, moral, practical and legal aspects where they cannot claim any unique authority, their expertise and authority in medical matters such as diagnostic assessment and medication seems to spill over to every aspect of the complex social circumstances that are discussed.

#### 120.4. Assessing the Fairness of the Mental Health Review Tribunal: Reflections from New Zealand

Kate Diesfeld, *University of Auckland* (kate.diesfeld@aut.ac.nz)

This research examines several features of the New Zealand Mental Health Review Tribunal. The decisions of one annual cycle (95 cases) and the Annual Reports for 5 years are analyzed to identify trends. The analysis identifies: the rate of withdrawal of applications; the patient status (in-patients, community patients, and special patients); the gender and ethnicity of applicants; the numbers that were released from compulsion; and the number of video and telephone conferences. The research will identify other factors that warrant research (such as the frequency of representation; reference to case law and legislation; and level of accessibility of the process). Also, the cases are compared with the first 20 decisions of the new Health Practitioners Disciplinary Tribunal to determine whether there is an equivalent level of scrutiny, legal reasoning, and transparency in the decision-making from the written decisions of the two review bodies.

#### 120.5. Mental Health Courts: A Human Rights Perspective

Grace Kerr, *London School of Economics* (graciekerr@hotmail.com)

This presentation analyses specialised mental health courts (MHCs), as one diversionary solution to the long-standing, growing challenge of dealing fairly and justly with persons with mental illness (PMIs) coming before the criminal justice system, from a human rights (HR) perspective. MHCs have garnered professional and political support in North America, redefining their primary purpose from the determination of fault and the imposition of punishment to the provision of treatment and the enhancement of well-being. To date little consideration has been given to whether the costs of MHCs in terms of de-individualised justice are worth their benefits. Potential HR concerns arising from MHCs relate to PMIs' essential dignity rights as well as their rights to non-degrading treatment, autonomy, privacy, due process and non-discrimination. These are identified and assessed. Like other writers, the presenter urges that, only through respecting PMIs' rights to services and fulfilling society's duty to provide same, and not through MHCs, will PMIs be afforded the full rights that democratic states ought to provide their citizens.

## 121. Mental Health Courts and Tribunals: What Works and What Doesn't II

### 121.1. Review Boards in a Mainstreamed Environment - A Toothless Tiger in a Bedless Desert?

Ruth Vine, *Department of Human Services, Barton, Australia* (ruth.vine@dhs.vic.gov.au)

When the Mental Health Review Board (MHRB) was established in Victoria, Australia in 1987, its intent was to strictly regulate psychiatric decision-making concerning involuntary detention. In an era of large-scale institutions, the underlying concern was that these decisions should be subject to external review. Today, community concern about accessing acute mental health beds is as significant as concerns relating to infringement of rights through involuntary detention. In the intervening 20 years, total acute inpatient bed numbers have decreased significantly with a corresponding increase in community based services. The average acute inpatient length of stay is approximately 12 days and these units have very high occupancy rates. Those admitted are more often involuntary and generally very acutely unwell, with illness complicated by substance use, physical co-morbidity or social alienation. In this environment, is the role of the MHRB still an appropriate one? Should the powers of the MHRB extend beyond determinations on detention criteria, and include consideration of service availability, support in the community, and accommodation options? Should there be different considerations for

review of a person in an inpatient unit, compared with those on a CTO? This paper will explore the above and consider the implications of 21st century mental health policy for review tribunals.

### 121.2. In the Best Interest: Dilemmas Faced by Psychiatrists and Mental Health Tribunals

Fred Stamp, *Mental Health Review Board, Melbourne, Australia*  
(fred\_stamp@yahoo.co.uk)

In The Best Interest? Acts of Parliament aim to protect the freedom of individual citizens and the values of society at large. Current Acts were promulgated when monolithic institutions were active. Current societal standards, professional paradigms and resource allocation operating under “yesterdays” thinking conspire to confound the original intent. There is a risk that the “Best Interest” of the individual may become subordinate to other interests. Psychiatrists sitting on a Mental Health Review Board meet with these dilemmas. Boards’ decisions are legal matters determined by clinical facts. Many Boards are composed of a psychiatrist, a lawyer, and a community member. In the Victorian jurisdiction the legal determination regarding continuation of involuntary status is made by a majority vote. It is possible for the psychiatrist to be outvoted by clinically lay people. The administrative burden on treating clinicians and teams appearing before a Board are onerous. This may deprive patients of treatment so that a legal process is given effect. Deprivation of treatment risks patients not receiving optimal care, thereby extending their loss of freedom. Victorian Mental Health Act 1986 and the author’s experience of extensive sittings will be presented in order to consider in whose “Best Interest” determinations may be made.

### 121.3. Cassandra’s Lament: A Psychiatrist’s Musings on Mental health Acts

Richard Ball, *University of Melbourne* (brunos@svhm.org.au)

Apart from some developments in treatment and in relation to causal theories, there is nothing much new under the sun when it comes to societal approaches to individuals with mental illnesses. Psychiatric history moves in cycles and contrary to public belief, psychiatric services in hospitals are not a new invention. For example the temples of Saturn in ancient Egypt were used as psychiatric hospitals which might be the envy of some places today. At the end of 1980, the author was appointed to the Victorian Consultative Council’s Review of Mental Health Legislation by the Minister of Health.

In this paper, he looks at the attempts to regulate the treatment of mental illness through different legislative regimes. He argues that any legislative framework makes no essential difference to the work of psychiatrists except to increase bureaucratic activity at the expense of clinical work.

#### 121.4. On Becoming a “Community Member”: a view from the other side!

Bill Healy, *La Trobe University* (b.healy@latrobe.edu.au)

A Mental Health Review Board was established under the 1986 Victorian Mental Health Act with the aim of reviewing and hearing appeals on all involuntary admissions to psychiatric services. The author was appointed at the beginning of this year to the Community Member category of Board membership and regularly sits on panels with the two other category representatives, one a Lawyer, the other a Psychiatrist. This paper will draw on the author’s experiences as a Board Member and relate them to his long history of work as an educator, researcher and teacher in the mental health field and will present some of the key dilemmas of this new part of his practice experience. Particular attention will be given to:

- The challenge to appropriately take up the role of member of an Administrative Law Tribunal whilst having a personal history of advocacy practice and research.
- Resolving tensions between individual rights and community interests, including those of carers and family members.
- Understanding and deciding about the need for treatment versus the right to refuse treatment
- The struggle to understand and evaluate the legal versus medical concepts of insight and capacity and their respective consequences for a psychiatric patient.
- Responsibilities to due process and balanced judgement in the context of limited time and with often partial and occasionally conflictual information.

#### 121.5. Evaluating the Effectiveness of the Victorian Mental Health Review Board

John Lesser, *Mental Health Review Board of Victoria, Melbourne, Australia*  
(john.lesser@dhs.vic.gov.au)

The presenter, John Lesser, has been the President of the Mental Health Review Board of Victoria (the Board) since 2000. As a participant in this symposium reviewing Mental Health Courts and Tribunals, and their effectiveness, John reflects on the strengths and weaknesses, and overall effectiveness, of the Victorian Board, which has operated under

the *Mental Health Act 1986* since October 1987. He explores how, and how effectively, the Board and legislative framework under which it operates has responded to significant changes in the Victorian community's mental health needs and clinical practice, particularly the effects of deinstitutionalisation and increasing emphasis on treatment in the community. His evaluation of the changing role of the Board as the quasi-judicial tribunal charged with the responsibility of conducting independent external reviews of involuntary treatment, and hearing appeals from involuntary patients is informed by a 2007 study tour of several overseas jurisdictions. Possible future changes and directions will also be considered.

## 122. Mental Health Ethics

### 122.1. The Use of Coercion with Adolescents Receiving Voluntary Psychiatric Inpatient Treatment

Brenda LeFrancois, *Laurentian University* (blefrancois@laurentian.ca)

This paper is based on a study conducted at an adolescent inpatient unit in the UK. The study involved engaging in ethnographic research, in which the researcher spent four months immersed in the culture of the patients. The aims of the study were to explore power relations between the patients and staff, to explore the patients' perspectives of mental health and inpatient treatment and to evaluate the extent to which children's rights to participate in their treatment and care are being accorded within this setting. Data were collected through taking field notes of observations of interactions amongst and between the practitioners and the patients as well as informal conversations between the researcher and the practitioners and patients. Additional data were collected through semi-structured and unstructured individual and group interviews with the patients and practitioners. All the patients in the inpatient unit at the time of the study were admitted voluntarily by their parents. Regardless of the informal status of the patients, there was frequent use of coercion by the practitioners to gain consent and to ensure compliance to treatment plans. The exercise of power through coercion not only denies patient autonomy and children's rights to participation within psychiatry, but raises ethical questions with respect to the best interest principle as well as the nature of practitioner/patient and adult/child relationships in psychiatry.

## 122.2. 'The Secondary Family': The result of strong community partnering

Irene R. Cant, *310-COPE, York Support Services Network, York, Canada*  
(hollyhocks36@hotmail.com)

In Western society, the valued support for individualism can leave marginalized individuals isolated and hopeless. People with severe mental illness have a great deal of difficulty negotiating the demands and responsibilities our society expects of each adult living in the Western World. In isolation, families often attempt, at the expense of their own emotional health to help their unwell family member. They find themselves soon emotionally depleted. It is at this point that they cannot or will not further involve themselves with this individual. Research indicates that support in addition to psychiatric intervention helps to alleviate symptoms of mental illness. Community agencies often only become aware of the suffering of individuals when extreme symptomatology is displayed. The 'secondary family' which is created when community agencies partner with one another can offer hope for stabilization, if not recovery, for citizens living with mental illness. This paper will draw upon present programs where crisis services are partnering with regional police to de-escalate psychiatric crisis in individuals. Shared goals bring crisis staff and police together to provide compassion, support, and follow-up. It is concluded that community partners can function as that 'secondary family' to individuals who would otherwise be ostracized and forgotten.

## 122.3. Mental Health Nursing in a Global Village

Freida Chavez, *University of Toronto* (freida.chavez@utoronto.ca)

In an era of globalization, there is a moral and ethical obligation for nurses to function in a "global village". Nursing has a long history of international and global work and yet, in most countries, including Canada, formal integration of such perspectives to the nursing curriculum has been limited. Presently, the shortage of nurses in the United States and some European countries and the subsequent migration of nurses from the so called 'third world' to perform nursing work have been shaping health care systems around the world (Kingma, 2006). Unfortunately, this historical and current trend is not reflected in nursing undergraduate education. In this paper, it is argued that nursing, as the largest health profession in the world, should include global health as a core component at the bachelor's of science of nursing degree. The paper illustrates the possibilities and challenges of undertaking curricular changes to integrate global health based on the journey of a Canadian Faculty of Nursing, second-entry BScN program. Addressed is an understanding of global health, the principles and theoretical framework that guide our

work, and the development of local, national and international partnerships including Northern Canada, Ethiopia, Namibia, Cambodia, and India to support an elective course with rural and international placements. The Ethiopia Mental Health Nursing Project will be described - a partnership between University of Toronto, University of Addis Ababa, Amanuel Mental Health Hospital in Ethiopia, St. Michael's Mental Hospital Mental Health, and the Ethiopian Nurses Association. Nursing colleagues in Ethiopia asked for assistance in role enhancement, faculty upgrading and curriculum development in mental health nursing. After an exploratory visit to Ethiopia, faculty and students went to Ethiopia to begin to respond to identified needs. Subsequently, two Ethiopian nursing colleagues came to visit partners in Toronto and collaborative work is in progress. Guided by a moral framework for international "mental health for all", challenges in resourcing the project will be discussed.

## 122.4. Ethics and Advocacy

Steve Lurie, *Canadian Mental Health Association, Toronto Branch, Toronto, Canada*  
(slurie@cmha-toronto.net)

Ethics can be thought of as doing the right thing and doing things right. Advocacy may call for the right thing to be done, but public policy decisions are only occasionally made on the basis of doing the right thing. Other factors are at play. Ontario's mental health policy record over the past 25 years will be analysed using this lens.

## 123. Mental Health Issues in Homicide and Violence

### 123.1. Matricide by Female Adolescents: Why Girls Kill Their Mothers

Kathleen Heide, *University of South Florida* (kheide@cas.usf.edu)

Eldra Solomon, *University of South Florida* (solomon.fulero@sinclair.edu)

Matricide, the killing of mothers by their biological children, is a very rare event, comprising less than one percent of all U.S. homicides in which the victim-offender relationship is known. This paper examines more than 20 years of U.S. homicides to determine the age, gender, and racial characteristics of matricide offenders. These data

reveal that most mothers are killed by their adult sons. Daughters under 18 are the most infrequent killers of mothers. Following the discussion of demographics, the literature on matricide is reviewed with special attention focused on offender types: male adults, male juveniles, female adults, and female juveniles. Thereafter, several case studies of girls who killed mothers are presented. The motivational dynamics behind these crimes are discussed. The article concludes with a discussion of risk to the community, dispositional alternatives, and treatment recommendations.

### 123.2. A Phenomenological Investigation of Thinking Errors, Self Concept and Moral Reasoning of Violent Adolescent Offenders

Roy Persons, *Beaumont Juvenile Correctional Center, Beaumont, USA*  
(discoveryroy@aol.com)

Natasha Persons, *Bon Air Juvenile Correctional Center, Beaumont, USA*

The study focuses on Virginia's most violent incarcerated delinquent males (ages 15 to 20). Youths who committed murder, attempted murder, or malicious wounding will be interviewed. The research will explore their cognitive processes and attempt to isolate their thinking errors. Data will be presented on how they perceive the acts that they have committed. Of particular interest will be the question of taking responsibility, remorse, sense of empathy, sense of morality, and how the person perceives himself. Participants will be asked what they believe led them to be so violent, and what could have been done to have prevented them from committing violent crimes. Official records will be utilized to determine if they tell the truth in describing their crimes. Any distortions in their descriptions will provide information into their cognitive structure. The responses of the adolescents who are in gangs will be compared to the response of the adolescents who are not in gangs. The comparison will provide information on how identification affects thinking, decision making, moral reasoning and behavior. The results of this study will be used to develop a description of a treatment program that can be designed to specifically address their cognitive distortions and emotional deficiencies.

### 123.3. In Canada, Predictions of Therapeutic Outcomes Determine Sentences for the Worst Offenders

James A. Carlisle, *Barrister, Toronto, Canada* (beard.carlisle@sympatico.ca)

In 1997, the introduction of the “long term offender” designation to the Canadian Criminal Code profoundly changed the approach to sentencing the most dangerous criminals. Forensic psychiatrists must now predict future behavior and prospects for therapy of these individuals. If the offender can be controlled by therapy, he will be releasable into the community. Otherwise, the offender will probably spend the rest of his life in prison. This presentation will outline the unique features of the Canadian approach to sentencing the worst offenders. The extension of the designations to greater numbers of offenders and lesser crimes; the practical and ethical dilemmas for psychiatrists arising from judges’ uncritical reliance on their predictions and the emerging statistics concerning the efficacy of treatment for the rehabilitation of offenders and protection of society, will be discussed. The sources for this presentation are statistics from research sponsored by the Canadian government, transcripts of court proceedings and interviews with offenders and psychiatrists as well as the author’s observations as counsel. The author is a senior barrister, who has represented clients in dangerous and long term offender applications and appeals from such designations.

#### 123.4. Psychosocial Interventions to Reduce Violent Behaviour: A Meta-analysis of Controlled Trials

James McGuire, *University of Liverpool* (beard.carlisle@sympatico.ca)

Maria Leitner, *University of Liverpool* (maria.leitner@btinternet.com)

Wally Barr, *University of Liverpool* (walb@liv.ac.uk)

Gillian Lancaster, *University of Liverpool* (g.lancaster@liverpool.ac.uk)

Cathal Meehan, *Mersey Care NHS Trust, Liverpool, UK*  
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Richard Whittington, *University of Liverpool* (whitting@liv.ac.uk)

We report a meta-analytic review of a series of randomised controlled trials of psychosocial interventions for reduction of violence in offenders with and without diagnosis of mental disorders. The studies were located as part of a systematic review of methods of risk assessment and of interventions for violence prevention, encompassing an initial total of over 1,200 studies identified in a detailed worldwide search of electronic databases and a hand-search of 42 key journals covering the period 1990-2005. A total of 112 studies described psychosocial interventions for which outcome evaluations employed at least a quasi-experimental design. In the present paper methods of analysis will be described and results will be presented from a meta-analytic review of the 30 studies (mean sample size=110) achieving the highest standards of methodological rigour. Implications of the studies will be discussed in relation to service design, professional practice and future research.

## 124. Mental Health Legal Reform in Ontario – A Critical Update

### 124.1. The Relevance of Community Treatment Orders (CTOs): The Toronto Experience

Magnus Mfoafo-M'Carthy, *University of Toronto* (magnus.mfoafo.mcarthy@utoronto.ca)

The introduction of Community Treatment Orders (CTOs) in Ontario, Canada since 2000, has had a tremendous impact on the lives of the chronically mentally ill. Many have benefited from this outpatient treatment. However, the question often asked is whether CTOs are a panacea to issues facing the persistently mentally ill. The study was undertaken in the context of looking at CTOs issued in hospitals in Toronto, Canada. The investigation examined failed CTOs in approximately ten Toronto hospitals from the inception of the program in December 2000 to March 2006. The purpose of the study was to explore the efficacy of CTOs and to ascertain whether other forms of treatment could be utilized in some cases instead of CTOs. Other forms of treatment explored include advanced directives, leverage, case management and community integration. The intent of this presentation is to provide detailed results of the outcome of the study.

### 124.2. The Evolution of the Ontario Consent and Capacity Board

John Wilson, *Barrister, Ontario, Canada* (johnwilson@hurontel.on.ca)

The Ontario Consent and Capacity Board is an administrative tribunal which adjudicates cases of involuntary committal to psychiatric institutions, consent and capacity matters in relation to medical treatment, and, to a lesser degree, property, as well as admission to long-term care facilities in the Province. The Board is the successor to the Psychiatric Review Boards, first established by sections 27-30 and 39 of the *Mental Health Act* of Ontario in 1968. While the jurisdiction of the Board in these areas is derived from the *Mental Health Act*, the *Health Care Consent Act*, and the *Substitute Decisions Act*, the majority of the applications appear to relate to involuntary admission to psychiatric facilities. In hearings before the board, patients are usually represented by legal counsel,

generally funded by Legal Aid, while physicians generally appear as unrepresented parties. In recent years there has been a perception amongst physicians that the process before the Board has become more technical and complex, with hearings lasting much longer than necessary due to the adversarial and technical nature of the process. This paper will examine whether the Consent and Capacity Board has evolved into a debating club for lawyers, rather than an agency that balances the interests of society with those of individuals caught up in the mental health system in Ontario. It will also discuss some of the origins of this perception, including the changing legal and societal environment in the time since the concept of a psychiatric review board was first advanced.

### 124.3. Capacity and Consent in Child Protection and Family Law

Sandra Meyrick, *Barrister, Toronto, Canada* (meyrick@meyricklaw.com)

Outside of the states' powers under the Criminal Law, the State's involvement and power over the individual can be its most intrusive and intimate when dealing with issues arising in the context of child protection. It is also clear that the mental health of one or both parents and the child or children involved in the protection proceeding must be addressed by the Child Protection Agency, the Court and Counsel retained by the various litigants. This paper will discuss how the special challenges created by the mental health of the parent(s) and/or child(ren) is/are being addressed both in Canadian Courts and other Jurisdictions. The paper will also examine how the law addresses the individual's consent and capacity when family relationships are formed, terminated and the resolution of issues upon the termination such areas as: (1) The capacity to marry, (2) The capacity to divorce, (3) The capacity to seek, defend and continue property claims which arising from the termination of the marriage - both with the separation of the spouses or the death of a spouse, and (4) The capacity to consent to the adoption of one's child by a third party. Again, different jurisdictions will be examined to explore the range of approaches which have developed to determine capacity to form and terminate the most intimate of inter-personal relationship.

### 124.4. Best Practices in Psychiatric Emergency Room Assessments: Lessons from the Oster Coroner's Inquest, Ontario, Canada

Ian Dawe, *University of Toronto* (dawe@smh.toronto.on.ca)

In 2004, Ms. C.O., who had a history of mental health problems and was just discharged from a rural general hospital emergency room, drove her car southbound on the

northbound lanes of a major highway and collided with another vehicle, killing all 5 occupants. A coroner's inquest was convened to investigate the circumstances of the accident. This presentation will examine the jury's recommendations as they pertain to emergency room physicians and staff, the impact of scarce resources in rural and remote settings, and best practices in psychiatric emergency room assessments

### 124.5.A Comparative Study of the use of CTO Legislation in the Canadian Province of Ontario

Ann-Marie O'Brien, *Royal Ottawa Hospital, Ottawa, Canada* (aobrien@rohcg.on.ca)

The introduction of Community Treatment Order legislation in the Canadian province of Ontario has occurred within a context of significant change in the delivery of mental health services. Governance of most provincial psychiatric hospitals has been divested from the province to large multi-site health care organizations. Health districts have been realigned to form Local Health Integration Networks (LHINs). This study describes CTO activity in the Canadian province of Ontario at 7 hospitals in 5 distinct LHINs (London, Hamilton, Barrie, North Bay, and Ottawa). The 7 hospitals included in this study are 3 acute care facilities with psychiatric units and 4 tertiary care mental health facilities. All hospitals are located in urban centers that vary in population from 53,000 (North Bay) to 750,000 (Ottawa). The area served by each hospital will be described in terms of population, rural/urban distribution, beds for psychiatry, availability of community resources including case-management and ACTT. Description of the use of CTO legislation will include numbers of CTOs issued, source of consent (patient/ SDM), CCB activity, and use of the "Order for Psychiatric Examination". This information was collected over a six year period, January 2000 to December 2006. This study describes the diversity that exists across the province with respect to the use of this legislation.

### 124.6.Managing the Intersection of Mental Health and Justice Systems

Steve Lurie, *Canadian Mental Health Association, Toronto Branch, Toronto, Canada* (slurie@cmha-toronto.net)

Each year 6,000 people are apprehended by police in Toronto Canada, because of mental illness. Each day 300 people are in Toronto area jails with observable symptoms of mental illness. Planning and management of services for this population poses a challenge for both the mental health and justice systems. In the past two years, the provincial government has invested \$15 million to improve services for people with

mental illness and reduce pressures on jails and hospitals. The network of services that has been developed to operate these services will be described, as well as the role of local human service and justice coordination committees who have been charged with achieving coordination between the two systems.

## 125. Mental Health Policy: Evolution in Concepts of Capacity, Substitute Decision Making and Disability

### 125.1. Deconstructing Capacity and Disability in Mental Health and Welfare Determinations

Joan M. Gilmour, *York University* (jgilmour@osgoode.yorku.ca)

This paper will analyze the ways in which the experience of people with disabilities is regulated by systems of law and policy in two contexts: constructions of capacity in mental health law, and of disability in welfare determinations. Law, regulation and policy are powerful forces that assign and sustain social meanings, and the paper will illustrate and interrogate the models and assumptions that law advances about disability and capacity in these areas. It contrasts the prevalent government policy rhetoric in Canada, which commits governments to framing and evaluating policies that affect people with disabilities in terms of advancing citizenship, with the reality of law reform and administrative, discretionary practices, that have been characterized by continued adherence to a medical model of disability, as well as increasingly intrusive monitoring and surveillance. It will also examine ways in which the medicalized conception of disability advanced by and in law becomes identified with what disability is both generally and sometimes for people with disabilities themselves as well, reinforcing and validating judgments of incapacity and exclusion. The paper will conclude with a consideration of the role of access to justice, and of the ambiguous role of lawyers and legal workers in these processes.

### 125.2. Capacity, Incapacity and Guardianship under Israeli Law: Analysis of Recent Developments

Israel Doron, *University of Haifa* (idoron@univ.haifa.ac.il)

*Background:* In recent years there has been a growing awareness of the need to reform Israeli law regarding adult guardianship. However, the direct law in this field – The Legal Competence and Guardianship Act 1962 - has not changed in Israel in the last 40 years. Nevertheless, indirectly, important legal changes – such as the enactment of The Rights of People with Disabilities Act 1998 – have taken place in the fields of disability, elder rights and rights of the mentally ill.

*Aims:* The aim of this presentation is to describe and analyze recent developments in Israeli law and the relationships between direct and indirect legal reform in the field of mental capacity and adult guardianship.

*Method:* Qualitative analysis of legal texts, including case law and legislative materials

*Results:* The analysis of recent changes in Israeli law exposes gaps, incoherence and tensions between the direct legislation in the field of adult guardianship and recent indirect legal changes.

*Conclusion:* Indirect legal changes to the legal regime of adult guardianship and mental capacity are important. However, they cannot prevent the need to directly reform legislation which has lost its societal and moral basis.

### 125.3. Assessing the Rights Implications of Capacity Reform and Deinstitutionalization in Ontario

Patricia Peppin, *Queen's University* (peppinp@post.queensu.ca)

As part of the international movement to protect the rights of persons with disabilities in the 1970s, the Ontario government began to reassess the laws governing guardianship and consent for persons with mental disabilities. At the same time, they started deinstitutionalizing residents from facilities and creating community alternatives for persons with intellectual disabilities. The legal reform process eventually culminated in legislation that was intended to achieve the least restrictive alternative for those affected, expedite the transfer of decision-making authority, and enhance individual rights. These reforms to capacity legislation appear to have received a wide degree of acceptance. Litigation challenging the legislation has focused on overly paternalistic interpretations of the definition of capacity, on the process of providing rights advice, and on the interpretation of prior capable wishes. Recent litigation challenging deinstitutionalization has raised the issue of access to care as the government moves to final closure of the facility system. This litigation questioned the appropriateness of community living for persons with the most serious intellectual disabilities and asserted the right to consent to changes in living circumstances.

## 125.4. The Social Construction of Disability and Decisions of Life and Death

Arlene Kanter, *Syracuse University* (kantera@law.syr.edu)

Mental disability has been viewed throughout time and in most countries of the world as a problem within the person that should be “cured” or “fixed” by medical doctors or other professionals. According to this medical model, issues of capacity and consent have become the province of doctors and the courts. The Disability Studies perspective, on the other hand, challenges this medical model and adopts instead a social construction model of disability which requires society, not the individual with a disability, to change in order to accommodate differing abilities and differences. I will explore questions of capacity and decision making from a social construction model of disability. How can the social construction model inform our thinking about issues of life and death? In particular, if we adopt the view that society, not the individual, bears the responsibility to adjust to people with differing cognitive abilities or mental health labels, should guardianship laws even exist? How should a decision be made about whether or not a baby with disabilities should be born? And, what principles should guide our decisions about whether or not adults with disabilities should be allowed to end their own lives or refuse or be denied medical life saving treatment?

## 125.5. The Triumph of Medical Hegemony: Presumption of Incapacity in Legal Decision-making

Marcia Rioux, *York University* (mrioux@yorku.ca)

The paper will use three legal decisions involving the involuntary sterilization of women with intellectual disabilities to look at ways in which difference and capacity are constructed in law. The three decisions, from Canada, England and Australia, were based on similar fact patterns and legal issues but appealed to different legal doctrines to consider appropriate circumstances to intervene in the lives of the young women. The paper will specifically examine the way in which the issues of competence, of *parens patriae* power, of rights, and of well-being as well as discrimination, equality and difference were dealt with by the Courts. The role of the traditional presumption that women control their own bodies and specifically of their access to decision-making around child bearing to which non-disabled women have access will be considered in relation to inclusion and exclusion. This case study will be used as a point of entry for understanding the competing values that can be found in law in relation to people with disabilities.

## 126. Mental Health Tribunals: International Perspectives

### 126.1. The Consent and Capacity Board in Ontario: A Canadian Perspective on Mental Health Tribunals

Gary Chaimowitz, *Consent and Capacity Board, Hamilton, Canada*  
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Joaquin Zuckerberg, *Consent and Capacity Board, Toronto, Canada*  
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Each Canadian province has its own mental health act and its own independent tribunal to adjudicate matters of consent and capacity. In Ontario the Consent and Capacity Board (CCB) deals with several pieces of mental health legislation, although review of a previous involuntary status and ability to consent to treatment constitute 80% of all applications to the Board. Comprising a lawyer (chair), psychiatrist, and public member, the CCB reviews “appeals” of physician-determined involuntary status or capacity. The onus of proof is on the physician making the determination with the patient usually being represented by counsel. Although less formal than the courts, the process tends to be at minimum perceived as adversarial. In Canada provinces differ in their approach to treatment capacity and involuntary status. In Ontario treatment capacity and involuntary status are not coupled. This paper will review the Ontario experience with its CCB, its composition and functioning. The authors will discuss the advantages and disadvantages of an adversarial versus an inquisitorial approach as it relates to the Ontario experience. In addition they will review the varying conceptual approaches to linking or separating the need to treat from the involuntary detention of mentally ill persons.

### 126.2. An Australian Perspective on the link between Treatment Capacity and Involuntary Status

John Lesser, *Mental Health Review Board of Victoria, Melbourne, Australia*  
(john.lesser@dhs.vic.gov.au)

The Victorian Board generally comprises a lawyer (chair), psychiatrist and community member. It conducts statutory reviews and hears patient appeals to determine whether patients on involuntary treatment orders and community treatment orders meet the legal criteria to continue to receive involuntary treatment. Capacity (or refusal) to give informed consent is one of 5 criteria the Board must apply. There is no specific onus of proof in the legislation, and the Board is an inquisitorial body, less formal than courts. However, despite the Board's best efforts, at times, participants find hearings confronting and adversarial. In practice, very few patients who are involuntarily treated either in hospital or in the community are treatment capable and have their refusal to consent overridden because of their status, the vast majority being deemed to lack capacity. Unlike Ontario, treatment capacity and involuntary status are invariably coupled. This presentation will address the links between treatment and involuntary status, particularly community treatment, in Victoria (and Australia) in an attempt to elicit the underlying conceptual approaches to the need (or lack thereof) to treat a person involuntarily and the effect on the tribunals' jurisdiction.

### 126.3. Should Involuntary Status Imply Treatment Incapacity: the Scottish Perspective

Eileen P. Davie, *Mental Health Tribunal, Hamilton, Scotland*  
(Eileen.Davie@scotland.gsi.gov.uk)

The Mental Health (Care and Treatment) (Scotland) Act 2003 (the Act) introduced a capacity test for the first time into mental health law in Scotland. As yet there has been no such change to the current English legislation. Consent to treatment was described as “perhaps the most fundamental issue in mental health law” by the Millan Committee charged with responsibility for carrying out a review of the mental health law in Scotland between 1999 and 2001. Following wide consultation, the Committee's recommendation has resulted in a statutory test for compulsory treatment in the following terms: “As a result of the mental disorder the patient's ability to make decisions about [such] medical treatment is significantly impaired”. When contested, the issue for the Mental Health Tribunal is, how does one measure “significantly impaired”? No assistance is to be found in the interpretation section of the Act. The most common response by doctors when asked to satisfy this test is to advise that the patient lacks insight, a concept which is often very difficult to define. This presentation will consider the reasoning behind the introduction of the capacity test into the legislation and how that test is addressed in the context of applications to the Mental Health Tribunal for Scotland for compulsory measures of care and treatment.

## 126.4. Treatment Incapacity and Involuntary Treatment: The Israeli Perspective

Paola Rosca, *Ministry of Health, Jerusalem, Israel* (paola.roska@moh.health.gov.il)

Alexander Grinshpoon, *Ministry of Health, Jerusalem, Israel*  
(alexander.grinshpoon@psy.health.gov.il)

The Mental Patients' Treatment Law, 1991 regulates all psychiatric hospitalizations and treatments in Israel, both voluntary and involuntary. Involuntary hospitalization is possible also in cases of people whose legal capacity is diminished and are under the supervision of a court designated guardian. The link between treatment incapacity and involuntary treatment is more evident in article 11 of the Mental Patients' Treatment Law, 1991, which deals with involuntary out-patient treatment. This article is either implemented as a less coercive alternative to involuntary commitment for those patients who, due to treatment incapacity refuse psychotropic medications and as a result of that require involuntary re-hospitalizations or for those patients who were involuntarily committed and their condition slightly improved but from their history are known not to adhere to drug treatment after release. The mental patients' family advocacy organizations were among the stakeholders who fought for the legal provision of preventive involuntary commitment as a way to avoid deterioration of the mental patients' condition for those with treatment incapacity but this issue is contested particularly among patients and professionals. In this presentation the authors will briefly review the relevant legislations and discuss the most controversial issues.

## 126.5. The Israel Board for the Assessment and Prevention of Violence in the Family: Pros and Cons

Paola Rosca, *Ministry of Health, Jerusalem, Israel* (paola.roska@MOH.health.gov.il)

Nabil Geraisy, *Ministry of Health, Jerusalem, Israel* (Nabil.Geraisy@LBR.health.gov.il)

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The number of victims of family violence has been rapidly increasing over the last decade in Israel. Due to this disturbing fact, in February 1998 the Israeli Government decided to institute a Committee with representatives of the different and relevant Offices in order to deal with the issue of violence in the family and propose specific preventive programs. The Committee founded 8 smaller Boards in order to work on specific and

distinct aspects of this problem. One of these Boards is the Board for the assessment and treatment of family dangerousness, involving professionals from different disciplines addressing topics such as early detection, prevention, treatment and legal aspects. This Board instituted 4 Boards for the assessment and prevention of violence in the family, for the different districts of the country. Each Board is constituted by two members: a senior psychiatrist from the Ministry of Health and a social worker from the Ministry of Welfare. The four Boards are not statutory and aim at assessing the immediate danger for violence and to suggest adequate interventions and therapy to the treating staff. In this presentation the authors will illustrate the functioning of the Board, the legal background, and the results of the Board institution through a number of case vignettes.

## 127. Mental Ill Health and Exclusion under Australia's Contract State: A View from the Far North

### 127.1. Exclusion by Remoteness: Mental Health Services in Australia

John Field, *James Cook University* (john.field@jcu.edu.au)

The principal contention of this paper is that people with serious mental illness living in remote areas of Australia are excluded from access to mental health services by virtue of that remoteness. Modern mental health services in Australia can be traced from the Richmond Report (1983) in NSW which heralded the era of deinstitutionalisation first in that state and then throughout the nation. The usual rhetoric of deinstitutionalisation prevailed but it is economic considerations that have so singled out mentally ill Australians for exclusion and neglect, and none more so than those who live in remote parts of the country. This affects a disproportionate number of the indigenous people of Australia. This paper traces the patterns of distribution and form of mental health services in remote areas and comments on the relative effectiveness of the approaches adopted. In spite of a national mental health policy and a recent review, the emerging picture is bleak indeed, even against the relatively low comparator of the public mental health services offered in metropolitan and rural areas in Australia. This paper asserts a telling paucity of services.

## 127.2.Homeless Mentally Ill People: Impacts of Contractualism and Exclusion

Lynda Crowley-Cyr, *James Cook University* (lynda.smith@jcu.edu.au)

This paper links the processes of contractualism to the negative impact of exclusion. Exclusion is defined as a multi-faceted source of suffering and hardship experience by homeless people disabled with mental illness. The paper argues that the new contractualism, represented by the public health management practice of out-sourcing mainstreamed mental health services, has exacerbated the exclusion and suffering that the chronic mentally ill experience. The sad consequences of the false promises of de-institutionalisation and community based alternative care made in the 1960s have been compounded by the false promises of the new public management and its technique of outsourcing services. Neither community based mainstreaming nor outsourcing has delivered for some with severe mental illness, promised inclusive, de-stigmatising ‘asylum’—care, security and freedom outside of institutions. The paper argues that today, under the contracting out state, the serious mentally ill homeless remain even more on the margins where they are prey to neglect, suffering and extreme vulnerability even more than they were under the Keynesian welfare state. The mentally ill homeless orbit through a variety of forms of shelter such as secure mental health units, jails, detention centres and low cost accommodation. Increasingly, these sites of temporary sojourn are outsourced by the state to be managed by the so called ‘third sector’. Both patients and providers now have a commodified relationship. Yet, neither the funder’s agent nor the patient determines the terms of their contractually defined relationship. Both are victims of circumstance and both are severely compromised, and exclusion and suffering become more common rather than less.

## 127.3.Fragmentation of Mental Health Service Delivery in Australia as a Factor in Social Exclusion

Joe Morrissey, *James Cook University* (joe.morrissey@jcu.edu.au)

Australia has a federal political structure, a legacy of its colonial past. A consequence of this is that responsibility for delivery of health services is predominantly between two levels of government. As in other countries, the non-government sector also has a role to play in service delivery. This paper will outline the constitutional divisions between the levels of government in Australia. It will then outline the responsibilities of the levels of government for delivery of health services. Included in this section will be the role of non-government organisations in service delivery. After demonstrating the complexity of

the process of service delivery, the author will then argue that many users of mental health services are potentially excluded from adequate access to appropriate care. This becomes even more likely if the patient moves to a different jurisdiction. Finally, the chronic shortage of mental health professionals is exacerbated by a system that makes coordination of services difficult. In some instances out of hours crisis services are not based in acute mental health units, and the phone calls of a distressed patient may be answered elsewhere – a de facto call centre.

#### 127.4. Mental Ill Health and Indigenous People: Tracing Patterns of Legalized Persecution from ‘Terra Nullius’ to Shared Responsibility Agreements

Paul Havemann, *James Cook University* (paul.havemann@jcu.edu.au)

The starting point of the paper is the evidence of extraordinary levels of mental illness and the co-occurrence of this with substance abuse in Australia's Indigenous communities. The paper argues that the patterns of persecution experienced by Indigenous peoples in Australia over the period from 1788 to the present offers a macro-level explanatory frame work for this co morbidity. The analogy is drawn between the experience of Australia's Indigenous peoples and the experience of those who suffer from post traumatic stress disorders (PTSD) arising from chronic exposure to conflict saturated environments. In support of this the paper reviews findings from ttrans-cultural psychiatry and studies of traumatized and involuntarily displaced peoples, and traces the patterns of legalised persecution of Australia's Indigenous populations. The pattern is manifest in the fiction that the Australian continent was the land of no one (terra nullius) through to the contemporary legal extinction of native title and the imposition of so called 'agreements' such as shared responsibility agreements and Indigenous land use agreements (ILUAs). Place based Indigenous people are now placeless strangers in their own land. The law continues to serve as an instrument of persecution and the state continues to deny the genocidal impact of its pattern of conduct. Pleas for the acknowledgement of the impact of the pattern of persecution go unheard and hence healing and reconciliation are stalled.

#### 128. Methods for the Assessment of Psychiatric Impairment in Forensic Practice

### 128.1. Assessment of Money Damages for Psychiatric and Mental Trauma in United States Civil Courts

Jack W. London, *Attorney, Austin, USA* (jlondon@texas.net)

American civil courts condition an assessment of damages for mental and organic trauma resulting in psychiatric or psychological injury on a fact finding of tort liability. The American civil judicial system is presently in tension seeking a balance between increasing violence toward others yet exempting some tortious acts from legal responsibility for money damages regardless of the amount of damage caused by such acts. The evidentiary threshold for eligibility for such an assessment is very high and requires competent, reproducible, objective testing and testimony by a competent medical professional.

### 128.2. The Concepts of Impairment, Disability and Handicap in Psychiatry

George Mendelson, *Monash University* (george.mendelson@med.monash.edu.au)

In assessing the extent of injury for legal purposes, it is necessary to have an objective method for the rating of the severity of that injury. This might be required to determine the level of lump sum damages for non-economic loss, or to determine the level of compensation or income replacement. In some jurisdictions the level of impairment is also used to determine whether or not the injured person has met a statutory threshold that is required to establish entitlement to sue for damages on the grounds of negligence. The various rating scales for the evaluation of the extent of injury generally seek to determine the level of permanent medical impairment; which is considered the most objective method for the assessment of the impact of the injury on the individual. This presentation will discuss the concepts of impairment, disability and handicap, as defined by the World Health Organization, in relation to psychiatry, and will serve as the introduction to a number of presentations that will explore the methods used to determine the level of psychiatric impairment in various jurisdictions, namely Canada, Israel, the United States, and Australia.

### 128.3. Evaluation of Psychiatric Impairment in Canadian Courts and the Strange case of Billy Whitfield

Shelley Miller, *Barrister, Edmonton, Canada* (shelley.miller@fmc-law.com)

On September 30, 1990, William Joseph Whitfield picked up his shiny new Dodge truck and spent the evening driving it around Edmonton. Unfortunately, the pleasure of celebrating his first purchase of a new vehicle was short lived. The Defendant, David Calhoun, drove through a stop sign and broad sided Mr. Whitfield's truck. The impact sent the truck over a fence and into an adjacent yard. Mr. Whitfield would be expected to be disappointed. However, his reaction to the accident was not predictable. His immediate reaction was a profound desire to grab a tire iron and physically assault David Calhoun. Fortunately, he did not. This urge however has not diminished despite the passage of years. It is this continuing, often overwhelming, desire of Mr. Whitfield to harm or even kill David Calhoun, that is at the heart of this most unusual case. Using the case as a focal point the author discusses the primary principles of compensation in Canadian Tort law and some of the difficulties of their application to the assessment of psychiatric impairment.

#### 128.4. Psychiatric Impairment Rating Scales in Australia: A Clinical Perspective

Michael Epstein, *Consultant Psychiatrist, Sandringham, Australia*  
(eppie@bigpond.net.au)

The American Medical Association Guides to the Evaluation of Permanent Impairment have become incorporated into legislation in a number of States in Australia to manage various statutory schemes and personal injury claims. These schemes have differing thresholds for claimants to gain access to benefits. Most jurisdictions use either the 4th or 5th Edition. These guides have provided uniformity of assessment except in the areas of psychiatric injury and pain. The chapters on mental and behavioural disorders in both editions are fundamentally flawed. The items assessed are measures of disability rather than impairment and there is no means of quantifying the impairment assessment. This has led to a tower of Babel as each jurisdiction has attempted to overcome these fundamental flaws by developing their own method of measuring psychiatric impairment. This paper discusses both the basic problem and the difficulties with the varying solutions that have been developed to correct that problem. These difficulties are both for the psychiatric assessor and for the claimant. The varying solutions too often lead to lack of equity, lack of reliability and different levels of impairment for similar injuries.

## 129. Models of Training in Forensic Clinical Psychology and Medicine

### 129.1. Mental Disability Law Online

Michael Perlin, *New York Law School* (mperlin@nyls.edu)

A program that will be offered online by New York Law School will nicely complement the psychology offerings at Nova. The courses are designed for both legal and mental health professionals. They cover a wide range of topics in mental disability law. Students will be able to take a full Masters program in Mental Disability Law Studies, or one of multiple certificates in Advanced Mental Disability law Studies. This presentation will discuss the programs and their potential for changing forensic practice in related areas of the law.

### 129.2. The Place of Forensic Training in a Professional School

John Lewis, *Nova Southeastern University* (lewis@nova.edu)

The Forensic Concentration at Nova Southeastern University is one of the five concentration areas offered, along with several tracks such as child and adolescent and trauma. Students apply for the concentration after their first half of their first semester. They become familiar with the instructors through participation in ongoing research projects. There is a seamless transition from basic coursework such as ethics, assessment, intervention, and case conceptualization to the application of these skills in the forensic area. Non concentration students are also allowed to take the forensic courses after the required number of slots for concentration students has been filled. The goal is to provide a variety of basic and advanced ethical and professional skills from a general perspective which can then be applied to specific areas of forensic practice.

### 129.3. Doctors for Doctors: Applying the Transtheoretical Model of Change to Helping Physicians in Distress

Tatyana Barankin, *University of Toronto* (tatyana\_barankin@camh.net)

This presentation will address the application of the Transtheoretical model of change (TTM) to physicians health in the individual and health systems context. Issues of unique psychological and social stressors in physicians' lives will be discussed, as well as barriers to seeking appropriate help. Application of TTM originally developed by Dr. James O Prochaska emphasizes progress through a series of stages: precontemplation, contemplation, preparation, action and maintenance. The presenters have adapted TTM to improve physicians' awareness and adaptability to stressors inherent to practicing medicine in the new millennium. Ethical and legal issues arising when treating physicians in distress will be discussed with a specific focus on new privacy legislation. Learning Objectives: 1. Increase awareness of specific stressors in physicians personal and professional lives. 2. To learn skills applying TTM

#### 129.4. Video-link Forensic Evaluations & Reports: Innovation or Gimmick?

Younus Saleem, *Nottinghamshire Health Care NHS Trust, Nottingham, UK*  
(khanysaleem@yahoo.com)

Tele-psychiatry is not new. Psychiatrists working in remote areas with inadequate access, or who provide services to isolated communities have found it time-efficient for clinical work. It can also be useful for Forensic Psychiatrists carrying out expert evaluations in relation to medico-legal work. Tele-psychiatry may present an exciting opportunity to innovate and develop new ways of delivering an efficient and cost-effective service. In UK a new telepsychiatry based court reporting service is being developed by one of the panellists. However there are questions as to how telepsychiatry can provide a valid Forensic Psychiatric opinion that is clinically accurate, legally robust and has ethical integrity. Through this presentation the author invites discussion on the legal, ethical and therapeutic dilemmas of interviewing patients through video link. Evidence is essentially a philosophical concept, which rests heavily on the process of acquisition (including context, investigative style and the question under address), and the probative value of telepsychiatry is yet to be established. The author will particularly address the issue of what information may be unavailable due to the potentially impersonal nature of this new way of evaluating patients. In addition, the panel will address whether tele-psychiatry helps or hinders in the management of counter-transference during evaluations. How do video link interviews affect the doctor-patient dynamic?

## 130. Moral Panic and the Legal Construction of the Sex Offender I

### 130.1. Fixing Public Policy in the Shadow of Moral Panic: How to Get On the Right Track in Fighting Sexual Violence

Eric Janus, *William Mitchell College of Law* (ejanus@wmitchell.edu)

Public policy in the fight against sexual violence is often shaped in reaction to high profile, horrific crimes. The “predator” paradigm distorts our understanding of sexual violence, and misaligns our public policy. Yet public fear and media focus seem to create an irresistible pull to the predator model. This talk will analyze the politics of sexual violence, and propose a set of principles for the design of a more rational public policy.

### 130.2. Naming, Framing, Blaming and Shaming: The Moral Panic over Child Molesters and Implications for Public Policy

Pamela D. Schultz, *Alfred University* (fschultz@alfred.edu)

In the United States, concern over child molestation and child molesters has attained the status of moral panic. Media accounts frame child molesters as monsters, which insinuates that they exist in a category contrary to human nature, outside natural sexual identity and order. This dramatic, even gothic, stereotype undermines our ability to combat the crime. A monster might be captured and contained, but a monster cannot be expected to experience or respond to human sources of motivation. Therefore, legal interventions and public policies are aimed at alienating and isolating offenders, largely ignoring the potential for combating the crime by understanding the motivation for the behavior. The goal of this paper is to expose the ways in which the rhetorical constructions of child molesters have inspired politically expedient approaches to the crime, such as “Megan’s Law” and civil confinement that may prove to be ultimately ineffective and potentially even dangerous.

### 130.3. Double Jeopardy: The Impact of Moral Panic on Civil Commitment Defense Attorneys

Joan Van Pelt, *New Jersey Department of the Public Advocate, Trenton, New Jersey*  
(jdvanpelt@gmail.com)

In reaction to the perceived dangers posed by convicted sex offenders to the public, several jurisdictions have enacted laws which permit open-ended civil detention of persons at the end of prison terms for “care and treatment. These offenders, labeled “sexually violent” are supposed to be the “worst of the worst” – the most dangerous to the public. A relatively small number of attorneys represent these individuals in civil commitment hearings. While some are retained, most are assigned either by the courts or as part of their employment by state defender groups. This paper seeks to explore how community reaction to the sexual predator impacts the individuals charged with their defense. By exploring individual experiences with representation of sexual predators, we hope to better understand whether, and to what extent, community panic with respect to sexual offenders is transmitted to the quality of representation offered the client, including relationships between counsel and client, counsel and the court, and counsel in their everyday lives.

### 130.4. Clinicians Treating Sex Offenders: Healers or Jailkeepers?

Jocelyn Aubut, *Institut Philippe Pinel de Montreal, Canada*  
(jocelyn.aubut@ippm@sss.gouv.qc.ca)

In the last 25 years, treatment programs for sex offenders have flourished through most occidental countries. During the same period most countries have implemented laws more and more constraining towards the assessment and coerced treatment of sex offenders. For instance, France has adopted a law “coercing” general psychiatrists in the community to take charge of sex offenders in general psychiatric outpatient settings. Most of the states in the U.S. have laws “coercing” psychiatric inpatient treatment for so-called “abnormal” sex offenders. In Canada, psychiatrists are regularly called upon to make assessments of sex offenders to determine if they are to be under special statutes, dangerous offender or offender to be controlled. More so, much of the research on sex offenders is funded by states who put emphasis first and foremost on on control and secondarily on tratment. There is a growing promiscuity between clinicians/reaserchers and the states. In this context, there is a growing risk that the essence of the mission of clinicians/reaserchers, that is, healing and developping objectively better treatment

models will be compromised by states' imperatives which are more of a social control nature. An ethical discussion of these apparently conflicting roles will be presented.

## 131. Moral Panic and the Legal Construction of the Sex Offender II

### 131.1. Sex Offenders as Scapegoat: Violence, Moral Panic, and the Sacrifice of Justice

John Douard, *New Jersey Office of the Public Defender, Trenton, New Jersey*  
(douard@rci.rutgers.edu)

The notion of sexual deviance has been normalized in American culture: it is a "disease" (paraphilia) that can be "treated," but only if the offender is isolated from the community during the "treatment." This normalization of sexual deviance lends itself to a juridical solution to sexual conduct society deems harmful, namely, civil commitment and registration statutes. However, this medico-judicial network results in violations of liberty not warranted by sex offender recidivism statistics. This paper argues that sex offenders in the United States are subjected to legal violence far in excess of the dangers they pose because they are scapegoats. Sex offenders are treated as monsters that must be sacrificed to sustain a social order that is threatened by perverse, but human, desires.

### 131.2. Media's Sexual Obsession: How Reporting on Sex Offending Triggers Moral Panic

Laura Mansnerus, *Independent journalist, New York City, USA*  
(lmansnerus@verizon.net)

Journalistic convention dictates that coverage of criminal offenses follow a rough rule of proportionality – a murder is on the front page, a car theft not reported at all – and avoid the tinge of moral judgment. These principles are regularly ignored, however, in the news media's coverage of sex crimes and sex offenders. The popular fascination with sex crimes is fed by media reports and, in turn, invites yet more attention from journalists. The result, amplified by cable news shows, is a growing perception that sexual abuse of

children is increasingly common and brutal, even while national crime data show a downward trend. Perhaps more worrisome is the media's suspension of the neutrality and distance that they pride themselves on. This presentation will examine not only the language of vituperation and fear that pervades coverage of sex offenders but also the prosecutorial role of the reporter. Many reporters rely on nonprofessional, victim-focused organizations as principal sources; at their most aggressive they work with law enforcement agencies, as NBC does in its "To Catch a Predator" series and as The New York Times did in an elaborately detailed report on Internet "predators" by enlisting a teenager who ran a small business exposing himself on video camera.

### 131.3. Juvenile Sex Offenders, Megan's Law, and Moral Panic

Douglas Martinez, *Consulting Psychologist, New York City, USA* (docdoug@aol.com)

"Megan's Law" (1994), requiring lifetime registration, community notification, and civil commitment, was rushed through the New Jersey, USA, legislature and signed into law in just 91 days. It followed three child rape/murders by three adult recidivists. With no lower age limit, children as young as ten years old have been subject to it. It was developed in a moral panic. Community and press sensationalism created an escalating spiral of fear and the perception of sex offenders, regardless of age and specifics of offense, as equally deviant and menacing. It culminated in "feel good" legislation with consequences not only to the offender, but to his family, and victim. Teenagers are a prime subject of moral panic. Adolescents develop into adults in their 20's, and lack the social awareness, moral judgment or impulse control of healthy adults. The moral panic that surrounds sexual offenses ignores the differences between adults and adolescents. The law fails to address developmental differences, and precludes therapeutic processes. The result is an immense cost to the adolescent, his family and society. This presentation provides a summary of research, case examples of children and adolescents who have been the subject of these laws, and recommendations for alternative legal approaches.

### 131.4. The Triumph of Panic over Reason: Sex Offender Laws in the United States

Jamie Fellner, *Human Rights Watch, New York City, USA* (jamie.fellner@hrw.org)

The Triumph of Panic over Reason: Sex Offender Laws in the United States: 1) Irresponsible politicians and a fearful public have produced registration, community notification and residence restriction laws in the United States that have had devastating

impact on the lives of people who have been convicted of any one of a wide range of offenses lumped together as “sex offenses. The offenses can range from public urination, to buying the services of a prostitute to raping a small child. Convicted offenders are required to register their names, addresses, their crimes and other information with law enforcement. They are required to register for periods ranging from ten years to life time. The information is available to anyone and everyone because it is online on state and national registry websites. Local and state residency laws prohibit convicted sex offenders from living within one or two thousand feet of sites where children may gather. While the impact of these laws on public safety is dubious, they have exposed offenders to utter loss of privacy, vigilantism, harassment, loss of housing and employment, physical abuse and even murder. The laws are predicated on the erroneous but widespread public belief that sex offenders invariably recidivate and commit additional dangerous crimes. Public officials need to rethink these laws, and develop alternatives that are more narrowly tailored to protect public safety and which use monitoring, case-by-case risk analysis, and treatment to help sex offenders remain offense free.

## 132. Multicultural Perspectives on Mental Health

### 132.1. Universal Standards and Cultural Particularities: Constructing Ethical Guidelines in the Japanese Context

David N. Weisstub, *Université de Montréal* (admin@ialmh.org)

Tsunemi Hasegawa, *Hasegawa Hospital, Tokyo, Japan* (tsunemi@hw.catv.ne.jp)

Despite the reality of globalization there is ample room for cultural minorities and diverse cultures to persist in making claims about the relevancy of specific morality codes that mitigate against accepting international law standards as the key points of reference for clinical ethics in psychiatry. Equally, in the regulatory process of dealing with professional standards of interaction with government or public decision making, a variety of claims are made about why mature cultures such as Japan should dissociate themselves from avowed global principles or rules. Apart from culturally driven arguments there are more basic philosophical questions that can be raised about whether codification or guidelines are the appropriate methods by which psychiatric ethics can be clarified and evolved. Certain established codes used either by professional associations or institutions will be looked at critically from the standpoint of assessing where common points of interest can be underlined between Japan and representative Western countries and the areas where either for reasons of principle or culture, modifications are recommended. Questions will be raised about avenues that are pertinent for further

reflection and research endeavors. Recent developments in the forensic area in Japan will be assessed in this context. As well, the civil system will be commented upon, given the high rate of institutionalization in Japan. Finally, issues will be discussed that are connected to the challenges facing Japan within the geriatric population which is now incrementally demanding both greater resources and ethical sensitivity.

### 132.2. Diasporic Ruptures and Psychosocial Renewal

Joan Simalchik, *University of Toronto Mississauga* (joan.simalchik@utoronto.ca)

Yaya de Andrade, *Psychosocial Training Institute, Vancouver, Canada*  
(ydeandrade@shaw.ca)

In the modern condition of diasporic communities, Canada has become a major country for refugee resettlement. Among this population are those who have survived war, dictatorship and persecution. In response, psycho-social services dedicated to meet these needs were initiated and a Canadian model of care developed. This presentation will discuss the constituent elements of the model including community-based design, psycho-social intervention and the more recent inclusion of anti-impunity programs for justice. It will discuss the nexus between the work of the Canadian Centre for International Justice and the Canadian Network for the Health and Human Rights of Survivors of Torture and Organized Violence.

### 132.3. Epidemiology of Psychiatric Disorders among Immigrants and Their Descendants in the United States

Joshua Breslau, *Harvard Medical School* (jabreslau@ucdavis.edu)

Epidemiological studies have found large inter-generational differences in risk for psychiatric and substance use disorders between international migrants and their descendants born in the receiving countries. This paper reviews research on the how this change in risk occurs over time with respect to immigration to the United States. Results suggest that 1) large changes in risk occur within a single generation, 2) early socialization in the United States accounts for most intergenerational differences 3) changes occur more rapidly with psychiatric than with substance use disorders and 4) longer duration of residence in the United States is associated with higher risk for disorder among immigrants relative to their US-born descendants. A major limitation of existing research is the lack of comparable data on risk for these disorders in migrant

sending countries that would allow us to directly examine the effect of migration among immigrants. This research is needed to inform migration policies in receiving countries to minimize the mental health consequences of migration.

### 132.4. Adverse Events and Patient Claims in Psychiatric Care: Experiences of the Swedish Patient Insurance

Claes-Göran Westrin, *University of Uppsala* (claes-goran.westrin@privat.utfors.se)

Sweden introduced in 1975 a no-fault insurance to compensate for injuries caused by medical malpractice. Until 1997, this only applied to somatic cases/complications. Starting in 1997, compensation for psychiatric malpractice itself was added. The potential of reimbursement, however, is restricted to injuries in a professional psychiatric sense. 1108 claims from 1997 to 2005 were reviewed. Many were not reimbursable according to the insurance criteria, e.g. complaints about violations by compulsive measures or improper behaviour of staff. After psychiatric assessments, reimbursement was granted in 215 cases. Some referred to worsened psychiatric illness. Others to somatic complications as e.g. teeth fractures after ECT, bodily injuries because of suicidal behaviour etc. Some reimbursable claims had to do with maladaptive stress/depressions after adverse events in somatic care. In many cases, the psychiatric judges are confronted with notoriously difficult questions e.g. in cases of severe somatic injuries, to make a distinction between ‘normal’ suffering vs depressive disease. Other problematic cases concern doctors’ responsibilities for induced benzodiazepine addiction. Still other problems include the development of complications (obesity, diabetes and caries etc) induced by improper prescription and lack of information provided to patients.

## 133. Multidimensional Family Therapy: A Perspective from Daily Practice

### 133.1. Cannabis use in Europe: Multidimensional Family Therapy as a Potentially Effective Treatment

Vincent Hendriks, *Parnassia Addiction Research Centre (PARC), The Hague, The Netherlands* (v.hendriks@parnassia.nl)

Cannabis is the most often used illegal drug in the general population and especially among youth in the Western world. In EU member states and in Switzerland, the prevalence rate of current consumption of cannabis has risen markedly in the past decade. In the Netherlands, current (past month) cannabis use in the general population of 12 years and older increased slightly from 1997 to 2001. Invariably, the largest proportion of cannabis users is found among adolescents and young adults. Cannabis abusing or dependent youth show high rates of psychiatric co-morbidity (e.g., anxiety, depression, conduct disorder) and alcohol use disorders. This co-morbidity is particularly firm and prevalent among adolescents with a broad array of problem behaviours, such as truancy and delinquency. Concerning the treatment of cannabis dependence, no efficacious pharmacotherapy has yet been developed, and psycho-social interventions have generally produced only modest results. In the U.S., multidimensional family therapy (MDFT) has been developed and investigated as a potentially effective therapy for adolescents with cannabis use disorders and related problems in other life areas. A total of six randomised controlled trials each showed superior results in favor of MDFT compared to control treatment, in terms of engaging and retaining adolescents in treatment, reducing the adolescents' cannabis, alcohol and 'hard drug' use, and reducing their psycho-social and behavioral problems, including the adolescents' internalising and externalising mental health problems, school functioning, and delinquency.

### 133.2.MDFT: Theoretical Background and Explanation of the Treatment

Kees Mos, *Teylingereind Forensic Centre, Sassenheim, The Netherlands*  
(mosk@dejutters.com)

Multidimensional Family Therapy (MDFT) is a comprehensive and flexible family-based program for treating substance-abusing adolescents often facing other problems, including delinquency, conduct and developmental disorder, internalizing behavioral tendencies, and psychosocial adversities. MDFT targets established risk factors that may contribute to the emergence or persistence of adolescent behavioral problems. It helps adolescents and families to rely on empirically substantiated protective factors that may help to offset or diminish substance use and other behavioral problems. MDFT is based on theories of adolescent development, parenting practices and family functioning, stressing an ecological perspective (Bronfenbrenner) and family focus (Salvador Minuchin & Jay Haley). MDFT assumes that reductions in negative behavior of adolescents and increases in positive behavior occur via multiple pathways, in differing contexts, and through various mechanisms. Knowledge of normal development and developmental psychopathology guides the overall therapeutic strategy and the choice of interventions. The therapist seeks to transform the youth's lifestyle into a developmentally normative one and to improve functioning across four life domains: (1)

the adolescent as an individual, (2) relationship to parent(s), (3) relationship to other family, and (4) relationship to extra-familial contexts of influence such as peer groups or friends and school. Negative behaviors targeted include substance use, withdrawing from family interactions, hanging out with drug using peers, truancy, and delinquency. Positive behaviors that are being reinforced include steering away from settings and persons eliciting deviant behavior, learning of relevant skills, and engagement in rewarding social interactions and leisure activities.

### 133.3.MDFT: The Practice

Thimo van der Pol, *'Forensic Psychiatric Centre', The Hague, The Netherlands*  
(PolT@dejutters.com)

In this presentation the practice of the therapeutic work of MDFT will be presented by video and case examples. MDFT studies have demonstrated a relationship between changes in parents' well being and changes in their parenting practices and the clinical changes achieved in MDFT youth – decreases in substance use and delinquency and increases in family functioning, positive attitudes, and supportiveness (developmentally normative behaviors) in the daily family environment. Thus, changes in parenting practices are the key to changes in the youth's problem behavior.

### 133.4.INCANT: A European Research Initiative to Investigate Multidimensional Family Therapy

Nathalia Brusse, *Parnassia Addiction Research Centre (PARC)* (n.brusse@parnassia.nl)

In 2003, representatives of the Ministries of Health of Belgium, France, Germany, the Netherlands, and Switzerland established the Action Plan for Cannabis Research. Part of this action plan was to conduct a multi-site, transnational randomized controlled trial comparing MDFT with treatment as usual in these countries. The action plan acknowledged that adolescents are quite sensitive to the development of cannabis use disorders, which are not easily overcome without treatment in this age group. Also, it was stressed that the commonly high rates of co-morbidity require focusing on a multiplicity of problems, including delinquency, rather than on cannabis alone. MDFT meets this requirement. In the previous two years, the five countries involved worked intensively to prepare the execution of this controlled trial, and in 2006 the trial actually started. In this presentation, the background, rationale and design of the study will be explained and discussed, and some first impressions will be given.

### 133.5. On the Concept of Cannabis Dependence

Juergen Rehm, *ISGF/RIPHA, Zurich, Switzerland* (jtrehm@aol.com)

In the paper, the author will define and explain the concept of cannabis dependence within the framework of substance use disorders, and present underlying research evidence for cannabis. Then, an overview will be given of predictors, both personal and social/contextual and their interactions. The social/contextual risk factors will include a discussion based on the determinants of health concept, and the links to law enforcement. The individual factors will include genetic predisposition, as well as personality traits.

## 134. MultifunC - A Residential Treatment Program for Delinquent and Drug Using Adolescents

### 134.1. Evaluating the Efficacy of MultifunC

Sturla Fossum, *University of Tromso* (sturla.fossum@fagmed.uit.no)

The objective is to evaluate a manualized, residential treatment program for delinquent and drug abusing adolescents, MultifunC, implemented in six institutions in Norway and two institutions in Sweden. The evaluation plan of a randomized, controlled trial is presented. As usual, residential treatment serves as control condition. The efficacy study of MultifunC is expected to start in August, 2007 and will last approximately two years. Adolescents, parents (or parental figures), teachers and archival information will serve as informants on multiple domains of functioning. The power analysis indicates that 70 participants are needed in each condition. Assuming that the true difference of means in these populations is 0.5, the alpha level is .05, results in a power of .84, which is considered satisfactory. In addition, approximately 60 Swedish adolescents are randomized to either a MultifunC institution or residential treatment as usual. This study will provide vital information of residential treatment effects for delinquent and drug abusing adolescents in Norwegian and Swedish child welfare samples, in addition to evaluating MultifunC per se. Obstacles in research are presented.

### 134.2. MultifunC: A Residential Treatment Model for Delinquent Adolescents

Tore Andreassen, *Bodo University College* (tore.andreassen@hibo.no)

MultifunC is short for multifunctional intervention in institution and community. The treatment model is based on a review of several important assets in residential care of delinquent and drug abusing adolescents. The residential treatment should target medium to high-risk offenders, and the risk level of youth should be assessed. The targets of the interventions should be known dynamic risk factors for change, implying an assessment of the criminogenic needs both within the individual and in his or her environment. The focus of change must be on all important areas. The treatment should also focus on changing dynamic risk factors within the family, the peer relations, and function at school. Cognitive behavioural methods for changing the behaviour and to help him/her to develop control of aggression, social skills, and moral development are applied. In carrying out the treatment, there should be a focus on individual differences. One example of promising models based applied in the institutional setting is Aggression Replacement Training. The treatment climate needs to balance autonomy/support and control for the staff and the adolescents. The staff needs to be competent in how to prevent and manage violent behaviour constructively. An intensive aftercare is integrated into the treatment process.

### 134.3. A Prospective Study of the Implementation of MultifunC - A Treatment Program for Antisocial Youth

Kerstin S. Carplan, *Services of Social Welfare, Stockholm, Sweden*  
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MultifunC, a multifunctional treatment in residential and community settings, is based on the recommendations from a review of the research. The treatment model is implemented in 6 institutions Norway and 2 institutions in Sweden. The implementation study is carried out prior to the evaluation of treatment effects, in relation to MultifunC, and will focus on both implementation process and result. The following questions are addressed: Is it possible to implement MultifunC in ordinarily clinical setting? Is practice carried out in accordance with the theoretical model and the manuals? How does the process develop? What moderating factors contribute to a successful implementation? Are there differences between countries? The implementation processes during a two-year period are followed. Every fourth month, a site visit questionnaire is used to assess the status of the implementation according to resources, organizational factors,

collaboration with partners and the core components of the model. The personnel fill out a survey with questions about leadership, organization, implementation support. At the end of the first and the second year of the observation period each institution is evaluated with Correctional Program Assessment Inventory, which is designed to empirically evaluate correctional programmes. Aspects of therapeutic integrity across eight domains are measured.

#### 134.4.MST/CM: The Implementation of an Evidence-based Substance Abuse Treatment

Terje Ogden, *Norwegian Centre for Studies on Conduct Problems and Innovative Practice, Oslo, Norway* (ogden@online.no)

This study is a replication of a US study that addressed gaps between research and practice. The implementation of an evidence-based substance abuse treatment, contingency management, CM, was studied in treatment organizations that have already adopted another evidence-based treatment, multisystemic therapy, MST. MST provider organizations were randomized to CM intensive quality assurance versus a standard 2-day workshop in CM with access to additional consultation, but no sustained quality assurance. Preliminary data show that the specified quality assurance system does promote therapist fidelity to contingency management and that therapist fidelity to CM correlates with lower levels youth marijuana use. In addition, youth, therapist, and organizational moderators of a) the effects of intensive quality assurance on therapist fidelity to contingency management, and b) the effects of therapist fidelity on youth outcomes are described.

### 135. Narrative, Cultural, Spiritual, Faith and Religion Based Models of Explanation for Displaced People

#### 135.1.Displaced People and Displaced Patients: The Stockholm Experience of using the DSM-IV Cultural Formulation in Psychiatric Assessments of Refugees and Migrants

Sofie Bäärnhielm, *Karolinska Institute, Stockholm, Sweden*  
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Marco Scarpinati Rosso, *Karolinska Institute, Medicine, Stockholm, Sweden*  
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*Background:* Psychiatric diagnostics in multicultural contexts is challenging given the inherent high risk of misdiagnosing. Symptoms and course of several disorders codified by the Diagnostic Statistic Manual of Mental Disorders (DSM-IV) are influenced by cultural, ethnic and social factors. The outline of the Cultural Formulation in DSM-IV is meant to supplement the multiaxial assessment and to solve the difficulties of applying DSM-IV in multicultural environments.

*Aims:* To develop a methodological and clinical tool to increase the visibility of the context that influences the phenomenology of symptoms and disorders in the psychiatric diagnostic process.

*Method:* In accord with the intentions of the Cultural Formulation, Swedish language guidelines will be developed and adapted to the Swedish social context. The guidelines, applied and evaluated with reference to psychiatric patients, are mainly founded on patients' interviews analyzed by qualitative methods.

*Results:* Preliminary results will be presented.

*Conclusion:* Further development of the Cultural Formulation will be discussed.

## 135.2. Psychological Distress among Kurdish Immigrants in Sweden

Marina Taloyan, *Karolinska Institute, Stockholm, Sweden* (marina.taloyan@sll.se)

*Study objective:* To analyze whether there is an association between poor self-reported health, sex, some indicators of psychological distress and socio-economic and demographic characteristics of Kurdish immigrants.

*Design:* The prevalence of reporting poor health, sleeping difficulties, general fatigue and anxiety was estimated for men and women and analyzed in relationship to age, marital status, education, housing, and employment by an unconditional logistic regression model estimating odds ratios (OR) with 95% confidence intervals. Immigrant-specific migration related variables were used to explore possible reasons for the sex differences.

*Setting:* Data from the first Swedish National Survey on the living conditions of four immigrant groups born in Chile, Iran, Poland and Turkey, conducted by Statistics Sweden in 1996 in Sweden.

*Participants:* The sample consisted of immigrants with self-reported Kurdish ethnicity (n=111, men; n= 86, women) in Sweden, based on data collected in 1996 from a national sample of immigrants between ages 27-60 years.

*Main results:* Age-adjusted odds ratios for poor self-reported health and anxiety were higher in Kurdish women than in men. Sex differences in anxiety remained even when marital status, education, housing and employment were taken into account.

*Conclusion:* Kurdish men and women report a high prevalence of poor SRH and indicators of psychological distress. Women have a higher risk for anxiety than men. Negative experiences of pre-migration as well as some post-migration experiences such as economic difficulties, preoccupation with the political situation in the home country, perceived discrimination, and feelings of poor control over one's life are associated with these outcomes.

### 135.3. Migration, Mental Health and Suicide from a Swedish Perspective

Leena Johansson, *Karolinska Institute, Stockholm, Sweden* (lmse.johansson@swipnet.se)

*Background:* In spite of restrictions in Swedish immigration policy during the 1990s, the foreign-born population (10.7% in 1996) is steadily increasing because of immigration of relatives of refugees and labour migrants. Migration forced by violence, war or economic factors, the encounter and being faced with a new society and acculturation might cause stress and result in mental illness with suicide as an ultimate action. Existential questions about life and death, meaning and meaninglessness are always present in every human life and are specially activated during migration, and this activation influences thoughts and actions concerning mental health, illness and suicidal behaviour.

*Aims:* The central aim of the work is to study migration, health, suicide and their relation to each other from epidemiological, psychiatric and cross-cultural perspectives. This complex relationship is influenced by many other dimensions, such as existential, cultural and social aspects, which are also taken into consideration in the research project.

*Results:* The main finding in the first part is that ethnicity is a significant risk factor for suicide in both sexes and in all age groups except for males aged 30-49. The highest risk ratios for suicide in Sweden, adjusted for age, have been found among males born in Russia and Finland. They also show increased suicide risks compared with their countries of birth. Females born in Hungary, Russia, Finland and Poland all have an increased risk of committing suicide in Sweden, and they also have higher risks than in their countries of birth. Native Swedes in nearly all age groups were hospitalized for a longer time than foreign-born persons. The last part confirms the common risk factors for suicide (such as psychiatric disorder, especially depression and earlier suicide attempts) but points to the need for these factors to be assessed in relation to a lack of self-esteem and a limited sense of self-identity.

### 135.4. Negotiating with the Saint: Miracles and Exchange in Apiao, Chile, Southern Chile

Giovanna Bacchiddu, *University of St. Andrews Fife* (g.bacchiddu@st-andrews.ac.uk)

The inhabitants of the small island of Apiao are deeply egalitarian and often emphasize it. Social relations are regulated by strict reciprocal exchange, and the obligation of giving and receiving shape daily interactions. Yet the apparent rigidity of patterns conceals the incessant act of negotiations. People constantly negotiate relations, testing and renewing them each time there is a new encounter. This same pattern is brought forth in the relation with the supernatural: the Catholic cult of San Antonio de Padua, a local miraculous saint, shows how Apiao people engage in a ‘social’ relation with a powerful other, treating him as if he were a human being. San Antonio and his effigy are considered particularly powerful in Apiao. The saint’s powers are ambivalent: he can be both miraculous and revengeful. People ask for miracles and promise something in exchange. They may ask for little favors, that they pay back with small offerings, and they ask for miracles in life-threatening situations. These are always paid back with novenas, 9-day praying sessions held in private households, involving many guests, consumption of food and alcohol, music and dance. The gifts and the novena are offered to the saint only if he granted the miracle, in line with the reciprocity rule. Accordingly, if the faithful, having obtained the miracle does not reciprocate the favor, he should expect the saint’s revenge. San Antonio, it is argued, is treated ‘as equal’, since each individual has a chance of negotiating a relationship with his divine nature through the acts of asking, receiving and offering back in return.

### 135.5. Improving the Resilience of Black Minority Ethnic ‘Looked After’ Children

Savita De Sousa, *BAAF Adoption and Fostering, London, UK*  
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“Children's mental health is everyone's business” is the underlying principle of the Children's National Service Framework. It means that all professionals have a role to play in promoting the emotional well-being and preventing the mental ill health of all 'looked after' children, including those from black minority ethnic communities. The Framework identifies the importance of focusing on children's capacity for resilience, growth and adaptation. Promoting resilience and empowerment requires a positive social context and high quality service provision for its full implementation. However, research results show that black minority ethnic ‘looked after’ children are particularly

vulnerable in terms of mental health outcomes. Services are not designed to meet their needs, and are not available when children most need them. There is little awareness amongst black minority ethnic ‘looked after’ children of the services which promote mental health. Schools and education have also been recognised as not playing a full and proper part in preparing these children for later life. There is still a need to develop the knowledge base on culturally competent practice, to learn from innovative practice and to explore more creative approaches to improving the resilience of black minority ethnic children.

### 135.6.A Cultural Model of Leadership for Displaced People

Lisa Rieger, *Cook Inlet Tribal Council, Anchorage, USA* (lrieger@citci.com)

President/CEO of Cook Inlet Tribal Council Gloria O’Neill is an Alaska Native leader drawing international recognition for her model of indigenous leadership, which promotes a paradigm shift in thinking for tribal leaders. At Cook Inlet Tribal Council, the organization promotes an integration of spiritual and cultural pillars of Alaska Native culture with the efficiencies of the business world into the non-profit arena, creating a continuum of opportunities for Alaska Natives to attain the skills necessary for survival in the twenty-first century. Organizationally and in the provision of services, this new Native leadership fosters a shift in thinking from dependence to empowerment and from entitlement to responsibility for self. Changing the organization’s mission statement to “working in partnership with our people to develop opportunities that fulfill our endless potential” has caused a rethinking of traditional colonial models of service provision. Whether in addressing the systemic and individual issues in child abuse and neglect cases, the cultural component in recovery services, the special attributes of Alaska Native learning styles, or the dramatic change from village work to urban employment opportunities, participation in the decision and planning process leads to individual responsibility, accountability and success. Recognizing the strength and resiliency of Alaska Native people leads to “relocation” of displaced persons into successful lives while being able to “walk in two worlds.” An example of this integration is found in the provision of child welfare services in a western legal system, through which we are able to acknowledge and honor Native values and voices.

### 136. The Nature of Human Aggression

### 136.1. Violence, Capacity, and Character

Matt Matravers, *University of York* (mdm3@york.ac.uk)

The law demands that people refrain from acts of unjustifiable violence. When this demand is flouted, the law holds the perpetrator to account. In some cases, it allows mitigation or absolves the person from responsibility; in others it finds the offender to be particularly heinous. In this paper, I briefly consider the way in which the English law has captured the notion of responsibility from the mid-Eighteenth Century to the present. The paper is framed by two conceptions of responsibility: a character conception, in which the defendant is judged on the basis of his character and reputation; and a capacity conception in which the agent is judged on the basis of specific acts that (do or do not) result from a specific set of cognitive and volitional capacities. Clearly, how the law conceives of responsibility – as grounded in the character or capacities of the agent – manifests itself in the conditions of liability and exculpation of offences. In tracking this, the paper considers the ways in which the law has understood, and responded to, the idea that individuals vary in their capacity (broadly conceived) to understand and act in accordance with reasons to refrain from acts of unjustifiable violence.

### 136.2. The Neurological Basis of Feline Aggressive Behavior: Insights into Our Understanding of Human Aggression and Rage Behavior

Allan Siegel, *University of Medicine & Dentistry of New Jersey* (Siegel@UMDNJ.edu)

Aggressive behavior in animals and humans can be broadly classified as either defensive rage, characterized by marked hissing, piloerection, pupillary dilatation, increased heart rate and blood pressure, and striking at a moving object within its visual field, or predatory attack, characterized by stalking and biting the back of the neck of the target animal, but containing few autonomic signs with no vocalization. The medial hypothalamus and midbrain periaqueductal gray (PAG) are associated with the expression of defensive rage, while the lateral hypothalamus is associated with the expression of predatory attack. Each of these forms of aggression is mediated via distinctly different descending pathways from the hypothalamus to the PAG and adjoining regions of the midbrain tegmentum and, from the PAG, to autonomic and somatomotor nuclei of the lower brainstem subserving these forms of aggression. Each of these forms of aggression is controlled by limbic neurons, which include the amygdala, hippocampal formation, septal area, anterior cingulate and prefrontal cortices. Each of these regions projects directly or indirectly to the hypothalamus or PAG. This presentation will also consider the linkage between feline and human aggression, the

functions of several key neurotransmitter systems, and the role of brain cytokines in modulating rage behavior.

### 136.3. The Nature of Human Aggression

John Archer, *University of Central Lancashire* (jarcher@uclan.ac.uk)

Human aggression is viewed from four explanatory perspectives, derived from the ethological tradition of Niko Tinbergen. The first consists of its adaptive value, which can be seen throughout the animal kingdom, involving resource competition and protection of the self and offspring. A cost-benefit evolutionary analysis can be used to understand both non-human and human aggression. The second explanation concerns the phylogenetic origin of aggression, which in humans involves brain mechanisms associated with anger and inhibition, and a variety of ways in which aggressive actions are manifest. The third explanation concerns the origin of aggression in development and its subsequent modification through experience. Contrary to social learning perspectives, physical aggression is found in the second year of postnatal life, and its subsequent development is characterised by learning to inhibit this form of aggression, replacing it by alternative forms of aggression or other ways of achieving social goals. The fourth explanation concerns the immediate causes of aggression, internal and internal causal influences. Most motivational models of aggression – human or non-human – view it as an aversion rather than an appetite: it is a reaction to some deviation from a desired set of conditions, rather than something to be sought out (as both Freud and Lorenz portrayed it). Two-stage motivational models incorporate this process, which generates an affective state, and a second decision process that evaluates the specific situation in relation to stored associations and expectancies.

### 136.4. The Evolutionary Social Neuroscience of Aggression

Jeff Victoroff, *University of Southern California at Los Angeles* (victorof@usc.edu)

Aggression is not intrinsically “bad” or “good,” but an essential feature of animal behavior. Many aspects of selective fitness, from acquiring food to mating to self-defense, depend on successful aggression. Social species such as humans represent a special case in which aggression can serve multiple functions, some of which are beneficial to the group (e.g., collectively beneficial dominance hierarchies or group defense), others of which, even if they serve the interests of an aggressive individual, may be harmful to the group (e.g., murder or rape). Thus, the implicit social contracts of

human group membership, incarnated in the brain as the “instinct for justice,” always involve difficult-to-manage compromises between individual and group benefit and between promotion of and suppression of aggression. Human societies have also served as incubators of laws that formalize the social contract and instinct for justice that is required to foster the benefits of human aggression and limit the disruptive impact of aggressive cheaters. Yet, even 10,000 years after agriculture made geographically-stable large-group living possible, it remains difficult to agree upon universal laws for two reasons: (1) the best balance between promotion of and suppression of aggression is debatable, and (2) scientific advances confront us with the limits of so-called free will, e.g., the multiplicity of conditions in which ‘free will’ and, hence, responsibility, seems diminished. A synthesis of knowledge from several disciplines at several levels of analysis suggests a new unifying framework. Such a framework — acknowledging both human individuality and the need for group behavioral expectations — is essential to develop scientifically reasonable social and legal policies regarding moral responsibility.

### 136.5. The Role of Biological Factors in the Development of Aggressive Behaviour

Klaus Schmeck, *University of Basel* (klaus.schmeck@medizin.uni-ulm.de)

The etiology of aggressive behaviour can only be understood in a multifactorial approach. Sociological and psychosocial factors as well as severe psychological and psychiatric problems have been proven to be of high explanatory value. Aside from this, a broad range of empirical data has been gathered that demonstrate the important role of biological factors in the development of aggressive behaviour. In this presentation, research data are explained from different studies in the areas of neurochemistry, psychophysiology and neuroimaging that have been conducted with children as well as adults with a high level of aggressive and/or antisocial behaviour. Decreased central activity of the neurotransmitter serotonin, for example, has been shown to play a significant role in the etiology of impulsive and aggressive behaviour. Approaches like the rapid tryptophan depletion (RTD) to decrease central serotonergic activity or the uptake of serotonin in platelets have been developed for the non-invasive study of CNS serotonergic activity. Research data will be discussed with respect to their relative importance in a multifactorial model of the origins of aggressive behaviour.

### 136.6. Testosterone, Social Signals, and Justice

Jack Van Honk, *Utrecht University* (E.J.vanHonk@fss.uu.nl)

Testosterone has been associated with socially aggressive behavior in humans. Many mechanistic explanations have been offered to account for this association. The authors' experimental research has suggested one possible explanation: elevated testosterone levels may impair the brain's ability to interpret the vital social signals of facial expression. Whether inborn or acquired, a tendency for elevated testosterone might reduce a person's social skills and predispose to socially inappropriate or even antisocial behaviors. This raises a challenging question for social responses to aggression: since brain mechanisms for interpreting social signal differ between individuals, should a just society find a way to accommodate those individual differences in the distribution of rewards and punishments? This paper will review the pertinent science, and speculate about how neurobiology might better inform systems of justice.

## 137. The Necessary and Natural Intersection of Family Law and Mental Health

### 137.1. The Capacity of Children and Constitutional Ramifications of Limitations on their Capacity

Gilbert A. Holmes, *University of Baltimore* (gholmes@ubalt.edu)

Generally, children are considered to be under a "disability" that renders them incapable of making reasoned decisions for themselves. Accordingly, children are deemed too incapacitated to make major decisions including decisions about the type of medical care that they receive. Instead, the right to make major decisions for children has been bestowed on parents and other guardians even if the parents' decisions or the state guardian's decisions conflict with the children's wishes. This presentation will examine whether children really are incapacitated in certain situations and potential Constitutional infringements that some laws impose on children when children are precluded from making decisions on their own behalf.

### 137.2. Mental Health Advocacy for Adolescents in the Child Welfare System

Lisa Kelly, *University of Washington* (lisak2@u.washington.edu)

The underlying thesis for this presentation is that adolescents in the child welfare system have a greater need for mental health services than other youth. Yet, their access to appropriate, quality mental health services is more restricted than it is for those young people who live in families with private health insurance. Even so, current research in the mental health field shows that many mental health interventions automatically applied in the adolescent context are untested, ineffective or have iatrogenic effects, i.e., they make the situation worse. This research points out the need for advocates to be educated about the various treatment modalities being employed for youth in care in order to understand when to advocate against a proposed mental health treatment and what forms of mental health treatment to advocate for instead.

### 137.3. Applying Scientific Standards to Mental Health and Family-Level Information in Child Custody Judicial Proceedings: Assessment and Pathways to Improvement

Robert F. Kelly, *LeMoyne College* (Kellyrf@mail.lemoyne.edu)

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In the U.S., family and other courts are called upon to make custody determinations in circumstances such as parental custody, visitation, and relocation disputes attending divorce or separation, child protection cases, and adoptions. These are difficult cases and in recent decades the courts increasingly have considered social science information in making their decisions. This information may come to courts through expert witness testimony, amicus briefs, and judicial notice. In this paper we assess two types of social science information that courts may consider: individual-level, mental-health information related to parents and children, and family-level information. Specifically, we address three questions: (1) to what degree do the various types of mental health and family information considered by the courts meet the standards of the scientific method, (2) to what degree does this information actually assist the courts in coming to sound custody decisions, and (3) how can the quality and utilization of this information be improved. Because the relevant legal and social scientific literatures upon which our analysis bears are substantial, we limit our purview to the mental health and family social science information considered in parental custody and visitation disputes attending divorce or separation.

### 137.4. Empowering Parents and their Children to Create Healthy Transracial Adoptive Families

Cynthia R. Mabry, *Howard University* (cmabry@law.howard.edu)

Annually, an estimated eight percent of domestic adoptions in the United States (between 1000 and 6000) are transracial adoptions. In addition, nearly 20,000 intercountry adoptions which usually are transracial as well as transcultural occur annually in the United States. A majority of transracial adoptions are created when white parents adopt African American children or other children of color. Transracial and transcultural adoptions also occur in other countries such as Canada where white parents adopt African American children from the United States. Federal and state laws in the United States forbid consideration of race and culture in adoptions. The stated goal of the anti-race legislation is to promote adoptions and to ensure that adoption petitions are not delayed or denied based on a prospective parent's or a child's race. In contrast, article 16 of the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption provides that sending countries shall give due consideration to a child's "ethnic, and cultural background." This presentation will focus on United States and international laws concerning race that govern transracial and transcultural adoptions. Furthermore, the presentation will emphasize psychological and sociological ramifications of transracial adoptions as they affect some adoptees and members of their adoptive families. The adoptee's perspective is an integral part of this discussion. Finally, to promote good psychological adjustments in such adoptions, suggestions will be offered regarding how mental health experts and other experts may prepare adoptees and prospective parents for external and internal conflicts that may develop.

### 137.5. Children of Incarcerated Parents: Protecting the Parental Tie through the Lens of Therapeutic Jurisprudence

Laurence C. Nolan, *Howard University* (lnolan@law.howard.edu)

Nearly two million children in the United States have a parent who is incarcerated either in a state or a federal prison. For some, both parents are incarcerated. Thus, for these children and their parents as well as for other affected family members, maintaining the child-parent relationship often presents a crisis situation. Psychological studies confirm that unless the relationship is detrimental to the child, maintaining it is beneficial to the well-being of children and parents as well as society as a whole. Continuing contact between parent and child is the most effective way to maintain the relationship. The most recent decision of the United States Supreme Court considering the validity of the rules

regarding contact between family members and prisoners seems weighed more in favor of a “legitimate penological interest” without much regard to other important interests and policies. Regrettably, this approach may further frustrate the protection of this relationship. This presentation suggests that shaping laws and policies to protect this relationship through the lens of therapeutic jurisprudence may be a better approach because it will underscore the importance of other legitimate and key interests. A major aim of therapeutic jurisprudence is to link legal and social science research. From the perspective of therapeutic jurisprudence as it relates to children and their incarcerated parents, it is, thus, the ability of the law to intervene in a helpful manner to improve the lives of these families.

## 138. Needs in the Networks Providing for Treatment of Refugees and Torture Survivors

### 138.1. A Comparison of Mental Health among Former Hidden Asylum Seekers Versus those with Permanent Permission to Stay in the County of Värmland, Sweden - A Pilot Screening Study

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Bertil Larsson, *Center for Traumatic Stress, Karlstad, Sweden*

*Background* Evidence based knowledge shows that undocumented migrants without legal status in Sweden, i.e. “hidden” migrants, are largely excluded from primary health care and non-emergency specialist care (Ohlson, 2006).

*Objectives* (1) to determine the impact of the new temporary asylum law (Nov 15, 2005 – 31 March 2006) for “hidden” migrants in Sweden, and (2) to offer when needed psychiatric treatment, and to identify and establish longitudinal treatment plans.

*Design and Setting* Värmland County Council completed a project co-financed by the European Refugee Fund. Consecutively the first 100 former hidden adults and children who reported for a renewal asylum seeking application were selected during early 2006.

*Measures* Standard measures were used to assess past trauma, post migration stresses, symptoms of post-traumatic stress disorder (PTSD), depression and functional impairment. A specialized asylum-nurse interviewed the participant at a primary health care with an interpreter available when needed, after an informed consent procedure. The results from the adults will be presented.

*Results* 43 adults (27 men and 16 women) had reported for a renewal asylum application. Nearly every second were still asylum seekers (63% versus 33%). In average, they had been in Sweden for about four years, of which 10,7 months as hidden. Very few had managed to live independently of others by a job or savings. The majority had experienced traumatic events, many felt illness. Men had experienced more traumatic events compared with women, while the women had more symptoms. Seventy three per cent of the women and 30% of men fulfilled the criteria for PTSD in the Harvard Trauma questionnaire, a significant difference ( $p < .022$ ). PTSD were significantly lower among those who had received permission to stay compared to asylum seekers ( $p < .001$ ).

*Conclusion:* The sequence of postmigration stressors, eg being earlier hidden and still waiting for asylum after the new application in the temporary law appear to impact adversely on their mental health.

## 138.2. Intensive Residential Care and Multilingual Psychosocial Intensive Care

Lydia Krob, *Verein Projekt Integrationshaus, Vienna, Austria*  
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Asylum seekers who are coming to a foreign country need security, tranquility and peace. They need a lot of information on the asylum procedure, health system, school and the host country. Furthermore, they need care and counselling through qualified employees, focusing on empowerment, promotion of personal resources and self-esteem. An attempt to offer this is made in the housing and care project. Since 1995, the Integrationshaus has been providing accommodation, food and psychosocial support to more than 600 refugees and asylum seekers. The target groups are asylum seekers and refugees within the basic welfare support in Vienna and particularly vulnerable people like traumatised persons, single parents, women and young people. The main objectives are psychological stabilisation, (re-)integration into the labour market and assistance during their integration into the Austrian society. Housing and psychosocial care is possible for a maximum of 110 persons in 38 housing units. Accommodation ranges from double bedrooms to big, furnished units for families of up to 6 persons. Residents are responsible themselves for buying food and preparing their meals. Intensive residential care and multilingual psychosocial intensive care are composed of three subgroups: 1) Residential care is available during the day and in case of crisis and emergencies, also by night. Counsellors process all aspects of basic welfare support, help to cope with everyday life in various aspects and offer conflict management and crisis intervention. 2) Counsellors of the “Multilingual Intensive Care” offer labour market counselling, counselling on asylum, legal and housing issues, woman-specific counselling and support during the search for a flat. 3) Psychologists offer mental health and clinico-psychological care. They support people suffering from traumatising and severe mental

stress, accompanying persons having psychological problems or chronic diseases and their relatives, offering health information and organising different groups.

### 138.3. Prevention of Burnout with Traumatized Caregivers

Lilla Hárdi, *Cordelia Foundation for the Rehabilitation of Torture Victims, Budapest, Hungary* (lilhardi@mail.mata.v.hu)

The author has been dealing with the caregivers' trauma processes for several years offering psychological support to the staff members of the refugee shelters and to the eligibility officers of the governmental bodies. The staff of the refugee shelters, border guards, eligibility officers, and judges involved in the legal process can be seriously traumatized in their daily work dealing with trauma/torture survivors. Supervision sessions and training on a regular basis have been introduced in order to increase the level of psychological mindedness and to offer tools to the psychological prevention of burnout. The special issue of the supervision sessions is the non-verbal part in addition to the verbal case analysis or team building. This helps to communicate on a "body level" among the team members and increases empathy towards the basic physical aspect of trauma. Training facilitates a better understanding of the importance of vicarious traumatization and burnout and provides tools to the caregivers to better protect themselves.

### 138.4. Roots or Routes? Improvement and Extension of the Treatment and Counsel Services for Victims of Torture in the Region of Styria

Ingrid Egger, *Zebra, Graz, Austria* (Ingrid.egger@zebra.or.at)

Offering psychotherapeutic treatment for refugees the NGO Zebra has been dedicated to react to societal and political challenges. Despite the efforts and rigorous strategies to save the "fortress Europe" from the impact of raging wars, human rights abuses and effects of globalisation, many help-seeking refugees succeed to overcome these barriers – mostly at the price of great loss, trauma, total exhaustion and displacement of their souls. Austria tends to accommodate refugees remotely and without sufficient access to necessary networks in rural areas with inadequate infrastructure. It seems the policy makers want to counteract the threats of economic ruin by placing refugee-camps in these areas. In these areas one can find a tremendous undersupply of health services that meet the special needs of refugees as well as a lack of intercultural competence of health professionals, which might be at least partly available in the regional capitals such as

Graz. Zebra team members are aware that refugees and migrants should have equal and adequate access to public health services. The most significant objective of the project “B5” is to promote psychosocial, psychotherapeutical and psychiatric services to build stronger capacities to tackle refugees’ health needs. Three psychosocial centres and the “Landeslinik Sigmund Freud”, a psychiatric hospital in Graz, collaborated providing an extended and integrated network. Project B5 will be presented.

### 138.5. Internal Displacement in Turkey: What can be the Future Steps in a Psychosocial Perspective

Ahmet Tamer Aker, *Medical School of Kocaeli University* (info@tihvistanbul.org)

Internal displacement in Turkey is a traumatic phenomenon from the psychosocial and legal perspective as well. IDPs may have been subjected to traumatic events such as armed clashes, torture, physical or sexual violence, rape, death threats and the loss of loved ones. Besides the traumatic aspects of the pain caused by the past, uncertainty regarding the future arising from internal displacement can create many negative feelings, such as loss of hope, lack of confidence, loneliness and scepticism besides the trauma related symptoms or syndromes. Therefore, seeing its potential consequences, internal displacement qualifies as a manmade disaster and as such it constitutes a public health issue. There is the need therefore for a sustainable and durable programme and practices that cover multiple decades and that are not limited only to the healthcare sector, but are multi-disciplinary and multi-sectorial. Community-based approaches would be beneficial in this instance. Reaching a common ground is necessary therefore for the state, NGOs, IDPs and citizens to work together. Capacity-building work needs to be carried out in the areas of legal and mental healthcare education, information and for equipping with healthcare practitioners. Healthcare personnel should receive training focusing on internal displacement and the legal and health problems of IDPs. Measures must be taken to facilitate IDPs’ access to healthcare services. With this objective, the number of primary health care worker, mental health workers’ and lawyers’ knowledge about the assessment and problems of IDPs should be increased.

### 139. Neurobiological and Neuropsychiatric Mechanisms in Aggression

## 139.1. Genetics and Forensic Psychiatric Nosology

Henrik Anckarsäter, *Lund University* (henrik.anckarsater@skane.se)

**Background:** Research on genetic mechanisms involved in human behaviour is faced with a huge discrepancy. On the one hand, research on twins has shown that strong genetic effects are involved in creating individual differences in virtually all human behaviour patterns, including aggression. On the other hand, molecular genetic research has not been able to identify gene variants associated with such traits.

**Aims:** To review the current state of genetic research on aggression, psychopathy and criminality.

**Method:** Systematic literature searches for aggression, psychopathy, criminality, antisocial, conduct disorder and ADHD vs. gene/genetic, following both the epidemiological and the molecular strands.

**Results:** Genetic effects explain a considerable part of the variance in aggression. No molecular genetic variant specifically involved in this causation has been identified, even if there are some promising findings.

**Conclusion:** Genes are important but the mechanisms involved are enigmatic and most certainly unspecific.

## 139.2. Neuronal Correlates of Emotional Processing in Mentally Disordered Offenders: an fMRI Study

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**Background:** The biological background of lack of empathy is unknown. It is conceivable that emotional cognition is important for development of empathy. In this study we are concentrating on emotional cognition in two different groups of subjects, those with marked psychopathic traits and those with marked autistic traits.

**Aims:** Our aim in this study is to investigate biological differences in emotional processing between two different groups of mentally disordered offenders with lack of empathy compared to a healthy control group.

**Method:** Brain activity and reactivity were studied by applying functional magnetic resonance imaging (check with author fMRI) which is an indirect measurement of

neuronal activity in the brain. Visual stimuli comprising affective pictures and emotional face expressions were presented to the subjects.

**Results and Conclusion:** Data from pilot cases performed on controls and patients will be presented and discussed from various aspects, such as forensic psychiatric assessment and risk prevention.

### 139.3.SPECT: Findings in Aggression and Aggression-related Personality Disorders

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**Background:** Studies using brain imaging techniques have reported prefrontal and limbic abnormalities in connection with aggression, violent criminality and antisocial personality traits. Most research has been performed on small study groups using very advanced technical methods (PET, (f)MRI).

**Aims:** To replicate previous findings in a very large, naturalistic study group assessed by SPECT and CT.

**Method:** About 200 violent offenders have had SPECT and CT scans as part of forensic psychiatric examinations since the mid-90s, in combination with structured clinical assessments. A broad information base is currently gathered according to structured assessment principles. Hypotheses about disturbances in the prefrontal, limbic and other “social brain” areas in relation to clinical features will be tested.

**Results:** The data bank is under construction and has not yet been analysed.

### 139.4.Neurocognition and Aggression

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**Background:** Some data sets suggest that neuropsychological deficits can provide complementary information to current clinical risk assessment procedures. It is reasonable that the selection of such neuropsychological indices should vary with diagnosis, i.e., be different for personality disorders, autism spectrum disorders, schizophrenia and mental retardation, with or without abuse.

**Aims:** To identify associations, within diagnostic categories (Axis 1 and 2), between neuropsychological test profiles and aggression – assessed by a history of violent crime(s) and self-ratings of aggression by a modified Buss-Durkee instrument.

**Method:** Data are available on approximately 400 consecutive forensic patients in our unit (violent crimes dominating), and a national material of 180 consecutive prisoners sentenced to more than 4 years in prison for a violent crime, all well diagnosed. They were tested by a comprehensive computerized test battery with particular emphasis on evaluation of executive problems.

**Results and conclusions:** Not yet available.

### 139.5. Neurochemical Markers for Aggression-related Personality Traits

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Anders Forsman, *Göteborg University* (anders.forsman@rmv.se)

Henrik Anckarsäter, *Lund University* (henrik.anckarsater@skane.se)

**Background:** Various biological risk factors for aggressive behaviours have been proposed, including disturbances in monoaminergic neurotransmission, endocrine axes and central nervous system (CNS) integrity.

**Aims:** To describe findings of correlations between markers of CNS chemical integrity, neurotransmission and hormone metabolism in relation to personality traits from forensic psychiatric investigatees and normal subjects in a stress paradigm.

**Method:** Cerebrospinal fluid (CSF) and serum (S) samples from 46 forensic psychiatric investigatees and 35 healthy subjects undergoing knee replacement surgery were analysed in relation to aggressive personality traits as rated by the Karolinska Scales of Personality, the Psychopathy Checklist-Revised and the Temperament and Character Inventory.

**Results:** Aggressive traits were especially associated with increased HVA/5-HIAA ratios, indicating a deficient serotonergic tonic regulation of the monoaminergic activity, and with indices of deficient CNS integrity, such as increased CSF/S albumin ratios.

**Conclusion:** Neurobiological vulnerability factors are associated with aggressive behavioural and personality traits.

## 140. Neurobiology of Aggression in Juveniles

### 140.1. Neurobiological Research on Delinquent and Antisocial Behavior

Lucrez M.C. Jansen, *VU University Medical Centre, Amsterdam, The Netherlands*  
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Previous research on determinants of delinquent and antisocial behaviour has mainly focussed on psychosocial, environmental factors. Although this research has revealed several important determinants, it is still difficult to predict development of antisocial behaviour. In recent years, it has become clear that neurobiological factors play an important role as well. Antisocial behaviour nowadays is seen as the result of a complex interaction between environment and biology. As a result, research on neurobiological determinants of antisocial behaviour has increased significantly over the past two decades. Main subfields within neurobiological research on antisocial behaviour involve: genetics, psychophysiology/neuroendocrinology and brain imaging. Findings of these studies generally show that systems related to arousal and responsivity to negative or stressful situations are impaired. Results from recent studies suggest that these impairments may already be present at a very early age. However, one should be cautious to interpret these findings in a deterministic way, since longitudinal studies on neurobiological determinants of antisocial behaviour as well as studies on the interaction between neurobiological and environmental determinants are still sparse.

### 140.2. Neurobiological Factors of Antisocial Behavior in Delinquent Male Adolescents: A Follow-up Study

Marjan de Vries-Bouw, *VU University Medical Centre, Amsterdam, The Netherlands*  
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Antisocial behavior by children is a major public health problem; antisocial children are at risk for a series of negative outcomes in adulthood, including psychiatric disorders. There is increasing evidence that these children, in particular those who show persistent antisocial behavior, are characterized by neurobiological deficits. In a recent study amongst young-adolescent delinquent boys, an association was found between disruptive

behavior disorders and low basal cortisol levels and a blunted cortisol response to stress (Popma, 2006). This current follow-up study aims to investigate the predictive value of neurobiological factors on the persistence of antisocial behavior, as well as the coherence between the development of neurobiological factors and the course of behavior problems over four years. In the initial study, 114 boys (12-14 years) attending a delinquency diversion program and 32 matched normal control were studied. In the current study, boys will be followed up four years later. Delinquency characteristics, the prevalence of disruptive behavior disorders and psychosocial problems are measured by means of a structured psychiatric interview (DISC) and self-report questionnaires. Neurobiological parameters include salivary cortisol, testosterone, heart rate and skin conductance level, measured during resting and stressful conditions. The current study design and preliminary results will be presented.

### 140.3. Neurobiology and the Future of Forensic Assessment

Arne Popma, *VU University Medical Centre, Amsterdam, The Netherlands*  
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During the past two decades, research on the role of biologic factors in antisocial behavior has made great progress. In this presentation, recent findings and their possible implications for future forensic assessment and treatment are brought forward. After briefly reviewing the current literature on genetics, brain imaging and neuroendocrinology, implications will be discussed for four distinct aspects of forensic assessment: 1) diagnostic identification, 2) providing treatment options, 3) risk assessment, and 4) treatment evaluation. In which way may our increasing understanding of the neurobiological underpinnings of antisocial behavior both inform current methods and provide clues for developing new ones? In addition, some relevant philosophical, ethical, and political questions are brought forward.

### 140.4. Facial EMG Responses to Facial Expressions of Emotions in DBD Boys and Normal Controls

Minet de Wied, *Utrecht University* (m.dewied@fss.uu.nl)

Within the context of a larger project on empathy in children with Disruptive Behavior Disorders (DBD), we explored facial electromyographic (EMG) responses to facial expressions of positive and negative emotions in school-aged DBD boys and normal controls. EMG activity in the zygomaticus major (cheek) and corrugator supercillii

(eyebrow) muscle regions were studied during exposure to 5-s film clips showing a male model producing dynamic happy and angry facial expressions. EMG responses in the same muscle regions were also studied during more complex empathy-inducing film clips showing other children experiencing either positive (happiness) or negative (anger, sadness) emotions. Relative to normal controls, DBD boys showed significantly smaller corrugator EMG responses to expressions of negative emotions. No significant group differences emerged in zygomaticus EMG responses to facial displays of happiness. These findings suggest that DBD boys may have special difficulties in sharing negative (not positive) emotions.

### 140.5. Are Prenatal Testosterone Levels related to Aggressive and Social Behavior in Children?

Cornelieke van de Beek, *VU University medical centre, Amsterdam, The Netherlands*  
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During the preschool and elementary school years boys exhibit significantly more adjustment problems than girls. These difficulties are primarily of an externalizing nature and include amongst others opposite defiant disorder (ODD), attention hyperactivity disorder (ADHD), and physical aggression. The bases for these sex differences in psychopathology are complex: social and cognitive processes seem to be involved, but also biological and genetic factors. Among the biological determinants, fetal androgens are likely candidates. Animal studies have demonstrated that, during critical prenatal periods, alterations of these masculine hormones have persisting and programming influences on the developing central nervous system and thereby on postnatal behavior. However, the role of prenatal exposure to androgens in differentiating behavior in humans is less clear. In the current prospective longitudinal study, the relationship between prenatal testosterone and postnatal behavior in normal developing children will be investigated. Prenatal testosterone levels were measured in amniotic fluid of 153 pregnant women. At the age of 5 to 6 years, information will be collected about aggressive and social behavior of the offspring, by means of parental questionnaires (Reinisch Aggression Inventory, Child Behavior Checklist, Children's Social Behavior Questionnaire). In this presentation the results will be presented and their implications discussed.

### 140.6. Evidence for Specific Neuropsychological Impairments in Children and Adolescents with Severe Antisocial Behaviour

Stephanie H.M. van Goozen, *Cardiff University* (VangoozenS@cardiff.ac.uk)

Graeme Fairchild, *University of Cambridge* (gff22@cam.ac.uk)

S. Kine, *University of Cambridge* (sjk56@cam.ac.uk)

I. Goodyer, *University of Cambridge* (ig104@cus.cam.ac.uk)

Deficits in executive functioning are thought to have a predisposing influence on impulsive or aggressive behaviour. In two separate studies, the hypothesis that child psychiatric patients with Disruptive Behavior Disorder (DBD) and adolescents with conduct disorder (CD) would have problems in executive functioning was tested. All participants had a normal IQ and completed a range of neuropsychological measures of executive functioning. Some of the tasks involved the possibility of monetary rewards with a view to testing the prediction of a specific motivational inhibitory deficit. In the first study involving children, the findings did not support the hypothesis that DBD involves a general deficit in executive inhibitory control; rather, the results showed that DBD children had problems in regulating their behaviour under motivational inhibitory conditions (Van Goozen et al., 2004). The second study aimed to replicate and extend these findings in adolescents screened for CD in the community. According to Moffitt's (1993) theory, early-onset antisocial behavior differs from adolescent-onset antisocial behavior in terms of its neuropsychological and neurobiological underpinnings. Teenagers were screened for CD and determined whether their behavioral problems started in childhood or in adolescence. Both groups, together with matched healthy controls, were tested on a range of neuropsychological tasks, involving, for example, emotion recognition, executive functioning, risk taking and gambling behavior, and fear conditioning. The implications of the findings from both studies for a role of the prefrontal cortex and/or the amygdala in antisocial behaviour will be discussed.

## 141. New Developments in Risk Assessment

### 141.1. Risk Assessment in Offenders with Organic Mental Disorders

Frank Wendt, *Institute of Forensic Psychiatry, Berlin, Germany*  
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Offenses like child molesting, rape, severe impulsive violence or murder regularly evoke discussions about illness, requirements of therapy or recidivism, but there is no well established general relationship between psychiatric diagnosis and delinquency of the

offenders. Organic mental disorders subsume a variety of different neurological, cognitive or behavioral syndromes, including e. g. congenital or acquired defects of intelligence. Besides medication and therapeutically influencible symptoms the wide spectrum of noticeable clinical factors must be considered when planning and delivering effective therapy as well as risk management. The main problem is that their medical facts of brain dysfunction can not generally be changed. The subjects' individual insufficient skills of interacting socially and with their environment should be a focus of therapeutic interests as well. For risk management, which learning experience and progress can be attained and how much can be affected by means of multi-modal treatment in the individual case, must be verified. Social integration of the subject is a prognostic parameter that merits special consideration for prevention and therapeutic outcome. This paper covers differential diagnostic psychiatric and legal aspects, focusing particularly on risk estimation of some chronic organic mental disorders with non-uniform characteristics, such as epilepsy or mental retardation, their relationship between disease conditions, possibilities of treatment, delinquency and readiness for cooperation.

## 141.2. German Guidelines for Risk Assessment by External Forensic Psychiatric Experts

Hans-Ludwig Kröber, *Institute of Forensic Psychiatry, Berlin, Germany*  
(hans-ludwig.kroeber@charite.de)

A workgroup of judges, lawyers, forensic psychiatrists and psychologists at the German Federal Court (Bundesgerichtshof) developed and discussed guidelines for the risk assessment of conditional release of prisoners and convicted inmates of security hospitals. The presentation will report on the essentials of this guideline.

## 142. New Trends in Law and Mental Health in Japan

### 142.1. The Reform of Adult Guardianship Laws in Japan

Yoji Nakatani, *University of Tsukuba* (ynakatan@md.tsukuba.ac.jp)

The protection of the incompetent person's rights has been one of the major topics in law and mental health in Japan. Traditionally, the Civil Law provided legal protection for the

person having impaired mental capacity with respect to financial matters such as transactions. Recent social changes, particularly the rapid aging of the population, led to a considerable increase of people declared incompetent. The main cause of this tendency was assumed to be the growing number of the elderly suffering from dementia. Under these circumstances various flaws in the system were recognized, and the government was urged to revise the laws. Drastic legal reform in 2000 aimed at both providing proper legal protection of mentally impaired persons, and respecting their autonomy and ability to remain intact as much as possible. In contrast to the old system that mainly targeted severely impaired persons, the new system intends to be more extensive and flexible, offering four options from which the family court can select the most suitable one in proportion to the needs and severity of impairment of the person. Recent statistics show that adult guardianship has become more available after the revision. The author will discuss the outcome and problems to be solved.

## 142.2. Criminal Justice and Mental Health: Overview of the Act for the Medical Treatment and Supervision of Insane and Quasi-insane Persons who Caused Serious Harm

Teruyuki Yamamoto, *University of Nagoya* (yteruyuki@nomolog.nagoya.a-u.ac.jp)

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 establishes a new judicial system to enable courts to decide appropriate treatments 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 the appropriate and continuous treatment for them. The new act has brought great changes in terms of responsibility in ordering psychiatric inpatient treatment: from the administrative and judicial points of view. The contents of the act and its theoretical and practical problems will be considered in this presentation.

## 142.3. Towards Community Care? Aims of a New Law for Disabled Persons

Isao Takayanagi, *Arisawabashi Psychiatric Hospital, Toyama, Japan*  
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The Ministry of Health, Welfare & Labour of the Japanese Government issued an action program for the reform of mental health & welfare system in September 2004. To

accomplish the objective of the program that mental health system should be shifted from a hospitalization oriented system towards community care, the following three subjects were particularly stressed: 1) Developing people's sensitivity to mental disorder 2) Reform of the psychiatric treatment system which includes elimination of 70,000 psychiatric beds and 3) Reinforcement of the community care system. For the reinforcement of community care, a new law named "The Law for supporting independent life of disabled persons" was enacted in October 2005. Since the new law was enforced in April 2006, various problems have been revealed. Further details will be presented.

#### 142.4. Japan's New Legislation for Mentally Disordered Offenders - Current Situation from the Legal Point of View

Miwa Kojimoto, *University of Josai* (m\_kojimoto@hotmail.com)

"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. There are some questions relating to the operation of the Act from the legal point of view. The Act is applied to only three kinds of people who have caused serious harm to others : people who have been found not guilty by reason of insanity, those who have been given a suspended sentence due to diminished responsibility, and those not prosecuted because of insanity and diminished responsibility. Those accused will be the subject of the Act as the result of a psychiatric evaluation. However, the results of the evaluation are not said to be as reliable as they should be. The Act was intended to create a system where community treatment would be promoted. And it is expected that the offenders dealt with in the inpatient facilities will be moved into the outpatient facilities smoothly and cared for under the very close supervision of rehabilitative coordination officers. However, this has been found to be more difficult than expected. The current situation regarding the implementation of the Act will be discussed in the presentation.

#### 142.5. Mentally Disordered Offenders under Japan's New Legislation: How Are They Treated?

Saburo Matsubara, *Matsubara Hospital, Kanazawa, Japan*  
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Japan's legislation for mentally disordered offenders has undergone a radical change since the Act for the Medical Treatment and Supervision of Insane Persons Who Caused Serious Harm came into effect on July 2005. About 400 applications were made in a year by prosecutors to the district court. 85.5% of patients are diagnosed with schizophrenia, mood disorders 6.5% and substance related disorders 3.2%. Fifty-seven percent of the court judgments are inpatient treatment orders, and 23% are outpatient treatment orders. For the inpatient treatment eight designated hospitals with a total of 175 beds have already opened, and 24 hospitals with a total 720 beds are planned for construction. In those hospitals the treatment process will be carried out in accordance with the guidelines of the Ministry of Health, Welfare and Labor. The standard pathway of inpatient treatment is divided into three stages: the acute phase: three months, the stabilizing phase in nine months, and rehabilitation phase: six months. Discharge from the hospital must be decided by the collegiate body of the district court. For outpatient treatment, 272 hospitals are designated by the government. Discharged patients must receive medical treatment at those facilities under supervision of probation officers.

## 143. Nomogenic Disorders in Forensic Psychiatry

### 143.1. Did Lawyers Invent PTSD?

Tracy D. Gunter, *University of Iowa* (tracy-gunter@uiowa.edu)

Posttraumatic stress disorder (PTSD) is a mental illness that arises from complex interactions between internal and external factors existing before, during, and after extreme trauma. If extreme trauma is caused by the actions (or negligence) of another litigation may ensue. In order to prevail in a tort action the plaintiff must prove that the index event caused the injury resulting in the plaintiff's disability and suffering. Although compensable injuries are not limited to those injuries for which a categorical mental health diagnosis might be assigned, many involved in the legal system believe that the presence of a diagnosis of PTSD establishes requisite causation. Litigation is a lengthy and consuming process, often concluding with a random decision poorly correlated with the extent or nature of the injuries sustained by the plaintiff as well as the true culpability of the defendant. The chronicity, intensity, and uncertainty of the process can make the assessment, diagnosis, and treatment of the injured person problematic for the forensic psychiatrist. In this discussion we will examine the phenomenology of PTSD in civil litigants and discuss the nomogenic aspects of the disorder in detail, concluding with recommendations to the forensic psychiatrist examining injured individuals.

## 143.2. Impulse-Control Disorders and the Law

Alan D. Jager, *Forensic Psychiatrist, Melbourne, Australia* (jager@bigpond.net.au)

*Introduction* Impulse dyscontrol is a feature of several psychiatric conditions. It is also a variant of normal human behaviour. Many criminal offences result from impulse dyscontrol. The question of when impulse dyscontrol becomes pathological is discussed in this presentation.

*Method* A literature review was undertaken, examining research on impulse regulation in psychiatric disorders, personality disorders and impulsive behaviour that contravenes laws.

*Results* The presentation examines the research evidence that exists to support the notion of impulse dyscontrol presenting as a mental disorder and how the law deals with such impulse-control disorders. The issue of whether laws have the effect of enhancing or perpetuating those disorders (that is, whether there is a nomogenic effect) is examined.

*Conclusion* Diagnosing an impulse-control disorder is a first step in providing a medical explanation for bad behaviour. Diagnosis alone is not sufficient, however, to exculpate the perpetrator. The presence of an impulse-control disorder can be a mitigating factor in sentencing, but can also be viewed as a negative prognostic indicator and trigger harsher sentencing.

## 143.3. Paraphilias: “Mad” or “Bad”?

William Glaser, *Consultant Psychiatrist, Melbourne, Australia* (wllmglaser@aol.com)

Although the DSM-IV purports to provide operational clinical definitions of the various forms of sexual deviance, the concept of “the paraphilias” is still largely delineated by social, moral and legal criteria: witness, for example, the acceptance of the sexual abuse of female children by virtually all societies until recently. Nevertheless, courts and legislatures in many jurisdictions are increasingly insisting that offenders “suffering” from paraphilic “disorders” be “treated” using a clinical model of disease. This poses significant problems for the administration of justice: the clinical model of the paraphilias struggles with notions of criminal responsibility, has justified harsh and unjust incarceration of offender “patients”, and jeopardizes the ethics and the professional integrity of the clinicians “treating” them. On the other hand, it has enabled the development of useful and relatively benign interventions which have had some success

in reducing their long-term risk of harming vulnerable victims. It is argued that the clinical model has been adopted so enthusiastically not because it is the most appropriate one but rather because of the paucity of conceptual frameworks available to the criminal law for dealing with these complex behaviours.

#### 143.4. The Concept of Nomogenic Disorders with Special Reference to ‘functional somatic syndromes’

George Mendelson, *Monash University* (george.mendelson@med.monash.edu.au)

Nomogenic disorders are defined as “those conditions in whose development and/or maintenance the law and its implementation play a significant role” (Tyndel, Egit, 1988). It has been claimed that nomogenic disorders can include the Ganser syndrome (dissociative pseudodementia), drug addiction and alcoholism, chronic drunkenness, psychosexual disorders, and Posttraumatic Stress Disorder. Other speakers during this session will discuss several of these conditions with special reference to the assertion that these disorders are produced or perpetuated by nomogenic factors. This presentation will deal with the subject of so-called “functional somatic syndromes” – conditions in which physical symptoms do not have an objectively demonstrable organic basis. Barsky and Borus (1999) have written that such syndromes are “characterized more by symptoms, suffering, and disability than by consistently demonstrable tissue abnormality”. According to these authors, “functional somatic syndromes” include multiple chemical sensitivity (also referred to as psychogenic idiopathic environmental intolerance), the “sick building syndrome”, repetitive strain injury (also known as occupational overuse syndrome), adverse effects of silicone breast implants, Gulf War syndrome, chronic whiplash, chronic fatigue syndrome, irritable bowel syndrome, and fibromyalgia. Several of these presentations occur only in the setting of litigation or compensation, and hence might be considered as meeting the criteria for nomogenic disorders, as described by Tyndel and Egit.

#### 144. Novel Approaches to the Evaluation and Treatment of Juvenile Offenders

### 144.1. Acting Out: How to Manage Difficult Adolescents in Correctional Settings

Joseph V. Penn, *Brown University* (jpenn@lifespan.org)

Adolescence is characterized by profound biological, psychological, and social developmental changes. Many adolescents present with “acting out” behaviors (e.g., rebelliousness, mood swings, impulsivity, or aggression to self or others). Mental health and substance use disorders (SUDs) are significant public health problems affecting juveniles in correctional settings. Incarcerated or court involved youths should receive intake screenings, continued monitoring, and clinical referral if indicated for mental disorders, SUDs, or other emotional/behavioral problems. Sufficient time is necessary to conduct diagnostic assessments, determine quantity/frequency and consequences of substance use, and whether the youth meets criteria for a mental disorder and/or SUDs. This session will review the clinical presentation, epidemiology, risk factors, co-morbidity, and practical evaluation and treatment approaches of these juveniles in juvenile justice and correctional settings.

### 144.2. Identification of Mental Health and Substance Use Disorders in Juvenile Court Clinics

Ohania Torrealday, *Juvenile Court of Memphis and Shelby County, Memphis, USA* (torrealday-o@shelbyjuvenilecourt.com)

The juvenile justice system has become a final common conduit for many youth who present with multiple behavioral, developmental, and psychological needs (Arredondo et al., 2001). In particular, delinquent adolescents with psychiatric and substance use disorders pose a challenge for the juvenile justice system. It has been estimated that as many as 65% of youth in the juvenile justice system have diagnosable disorders (Wasserman et al., 2003). The reality is that many youth, however, enter the system without having been identified or treated in their communities (Wasserman et al., 2003). Historically many juvenile justice systems have been challenged to promptly and accurately identify youth mental illness and then bridge the divide that often exists in delivering appropriate programming and mental health services (Teplin et al, 2006). Increased effort is needed to systematically screen and assess, triage and treat youth with co-morbid problems. Although national statistics reflect that in the U.S. in 2003, the juvenile violent crime arrest rate was lower than it was before its increase in the late 1980s (OJJDP, 2006), the violent crime rate for youth detained in Tennessee’s largest urban juvenile court and detention facility has risen. In 2005, Shelby County Juvenile

Court handled 22,857 children's cases, 13, 121 of which were delinquent, 3,141 unruly and runaway, 5,081 dependent and neglected, and 1,341 custody cases. Moreover, a large number of youth charged with serious crimes against persons, typically involving the use of a weapon, were transferred to Criminal Court to be tried as adults. Adding to this reality is the fact that many of the youth coming into contact with the court are presenting with a host of psychiatric and substance use issues. Cognizant of this, Shelby Juvenile Court initiated a comprehensive strategic plan in an effort to more accurately identify and properly serve these youth presenting with complex problems and needs. Components of the plan, including screening, placement and continuum of care, as well as challenges faced in implementing the process will be outlined.

### 144.3. Addressing Juvenile Offenders Psychiatric Needs: A "Real-World" Approach to Developing a Court Mental Health Clinic

Marina Tolou-Shams, *Brown University* (mtoloushams@lifespan.org)

Larry K. Brown, *Brown University* (lkbrown@lifespan.org)

Jeremiah S. Jeremiah, Jr., *Rhode Island Family Court, Providence, Rhode Island* (jjeremiah@courts.ri.gov)

Ron Pagliarini, *Rhode Island Family Court, Providence, Rhode Island* (rpagliari@courts.ri.gov)

Kevin Richard, *Rhode Island Family Court, Providence, Rhode Island* (krichard@courts.ri.gov)

Data suggest that youth in the juvenile justice system suffer from high rates of psychiatric disorders, including substance abuse (Abram et al., 2003). Lack of timely screening, evaluation and treatment of these disorders can be associated with increased rates of recidivism (Dembo et al. 2005), repeated psychiatric hospitalizations, and a higher incidence of other potentially lethal risk behaviors, e.g., contracting HIV through unprotected sexual activity, self-mutilative behaviors, suicidality (Teplin et al., 2003; Tolou-Shams et al., in preparation; Penn et al., 2003 ). Multiple systems, including school, health, mental health and legal, suffer the exorbitant costs of such outcomes (Dembo et al., 2005). Through research that documents rates of psychiatric disorders in a systematic manner (e.g., Grisso, Vincent & Seagrave, 2005) and advocacy efforts that highlight how better care should be made available to these youth, juvenile courts are realizing the importance of developing "in-house" clinics to address these adolescents' psychiatric needs in a timely manner. The Mental Health Clinic of the Rhode Island Family Court, under Chief Judge Jeremiah, is part of a pioneering pilot project intended to provide rapid psychological evaluations and treatment recommendations to youth and the courts. The clinic is in its first year of operation and is one of only a handful of such clinics in the United States. The primary aims of the Mental Health Clinic are to 1)

provide expedited evaluations of juveniles in the court setting (both emergency/crisis evaluations and in-depth mental health evaluations), 2) reduce juvenile recidivism rates and 3) reduce cost to school, health, mental health and legal systems. To achieve such aims, however, there are multiple “real-world” systems issues that must be addressed. Examples of these include, but are not limited to: building a consistent clinic referral process across multiple intake workers, magistrates and judges, restructuring the court intake process to include standardized measures that will more efficiently triage youth, clarifying referral questions from court staff and judges, being able to effectively manage multiple systems (e.g., judge, public defender, attorney general, family, Department of Child and Family Services, and psychiatric hospital) when determining disposition for a crisis patient, developing a protocol for conducting evaluations in a timely manner, and determining how to partner with referrals in the community to make services more readily available for these youth. During this presentation, these systems issues will be presented and discussion will focus on ways to build a model Juvenile Court Mental Health clinic while considering “real-world” barriers and facilitators.

#### 144.4. Mental Health Systems in Juvenile Justice: Results of the National Norm Study for the MAYSI-2

Gina Vincent, *University of Massachusetts* (Gina.Vincent@umassmed.edu)

Thomas Grisso *University of Massachusetts* (thomas.grisso@umassmed.edu)

Anna Terry, *University of Massachusetts* (anna.terry@umassmed.edu)

The National Norms study for the Massachusetts Youth Screening Inventory-2 (MAYSI-2) was an archival study designed to test the generalizability of rates of mental health problems across states, types of juvenile justice facilities, and groups of juveniles (race, age, and gender). We gathered case data from 283 juvenile justice facilities located within 19 states, totaling 70,423 juveniles (22% female) aged 12 to 17 years. Meta-analysis was used to determine which MAYSI-2 scale differences among youths could be reliably expected across a large number of sites, and which varied too much to be considered generally true for youths in juvenile justice programs nationally. Results revealed that JJ girls had a much higher likelihood than boys of scoring in the clinically elevated range on most of the MAYSI-2 clinical scales and these differences were reliable across sites. Another reliable finding across sites was that white youths were more likely to report suicide ideation than black youths. In contrast, white youths were more likely to report high alcohol/drug use, but the magnitude of this difference varied across U.S. sites. We hope the consistency of gender differences and inconsistency of some racial differences will assist JJ administrators in the ways they manage the needs of youths in their care.

## 145. Nursing and Mental Health Law

### 145.1. The Nurse as Law Enforcer

John Hurley, *University of Dundee* (hayeshurley@hotmail.com)

Paul Linsley, *University of Lincoln* (paulmlinsley@aol.com)

Proposed changes to the Mental Health legislation in England and Wales have been identified as having significant impact upon both mental health service delivery and professional roles. The authors explore how changes to mental health law translate to clinical practice. Additionally, this presentation aims to inform not only clinicians but also health organizations and educational institutes providing mental health law training. A systematic literature review is given, drawing on relevant qualitative and quantitative research as well as the presenters drawing on their own research of the topic. Results highlight the need for expanding training related to mental health legislation to include not only knowledge-based learning but also emotional preparation for those undertaking training within this area. The multiplicity of legislative changes directly impacts upon the role of the nurse, service delivery and the provision of relevant training and education.

### 145.2. Caring Control? Mental Health Nursing in the UK

Marjorie Lloyd, *North East Wales Institute of Higher Education, Wrexham, UK*  
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Social policy in the UK currently places great emphasis upon empowerment of the individual indicating an urgent need to address the balance of power and control in mental health services. However translating policy into practice can be difficult if not impossible for practitioners in the current climate of zero risk tolerance. A phenomenological study was carried out to explore the discourses on empowerment of mental health nurses working in an acute hospital setting. Individual semi-structured interviews were employed to extract the data which were tape recorded and transcribed verbatim. The data were then coded using thematic analysis identifying significant stages of empowering practice. Mental health nurses working in the acute hospital setting identified significant stages of empowerment from admission to discharge of the mental health service user. These stages included Working with Mental illness, Making

Connections, Responsibility and Team Working. The effectiveness of these stages was underpinned by the values and skills of each individual member of staff including other professional agencies. Attitudes and values towards mental illness have a profound affect upon the empowerment of staff and service users within the mental health services in the UK. Challenging the balance of power within mental health services may require a re-evaluation of the characteristics of all public services involved in the care and /or control of people who suffer from mental illness.

### 145.3. Mental Health Legislation in New Zealand

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

Mental health care in New Zealand moved from an institutional to community focus between the 1970s and 90s. In 1992, mental health legislation was significantly changed with the introduction of the Mental Health (Compulsory Assessment and Treatment) Act. This Act introduced Community Treatment Orders, a form of involuntary outpatient treatment, further reinforcing the notion that mental health care should be provided in the least restrictive environment, ideally in the community. Since the changes over the latter period of the 20th century there has been no systematic study of the rate of use of compulsion in mental health care, or of trends in the use of compulsion. This presentation will outline a study aimed at providing a quantitative description of the use of compulsion in New Zealand, and will present initial data mapping the use of compulsion. Data describing compulsion in relation to region, demographic characteristics of patients, and clinical presentation will be presented. The data are part of a PhD study aimed at modelling the use of compulsion in terms of geographical, service, clinician and patient characteristics. The presentation will include an outline of the latter part of the study.

## 146. Outpatient Commitment: Objectives and Outcomes I

### 146.1. Conditional Release: A Less Restrictive Alternative to Hospitalization

Steven P. Segal, *University of California at Berkeley* (spsegal@berkeley.edu)

*Aims:* Consider conditional release in Victoria Australia over a decade as a “least restrictive” alternative to hospitalization.

*Method:* Characteristics of Victorian patients with career hospitalizations, 8,879 exposed to conditional release and 16,094 without exposure are discussed. Logistic regression is employed to specify factors in conditional release selection; OLS regression to evaluate conditional release’s relationship to hospital utilization and to determine “net days under restrictive care.”

*Results:* Conditional release patients were selected with emphasis on their illness— notably schizophrenia-- pre-morbid adjustment and increasing risk for long-term hospitalization. They evidenced more inpatient days and longer patient careers with more though briefer inpatient episodes (8.3 fewer days per episode) and an increase of 5.1 days-per-month under restrictive care.

*Conclusion:* For patients at risk of long-term hospitalization, conditional release is associated with extended treatment careers and shortened inpatient episodes, providing a “least restrictive” alternative to hospitalization. Doubling of days under restricted care may result in more frequent hospitalization.

## 146.2. Mental Health Social Workers’ Views on the Use of CTOs: Comparing Practice across Five Jurisdictions

Jim Campbell, *Queens University at Belfast* (jim.campbell@qub.ac.uk)

The growing literature about the use of mental health law regarding compulsory care and treatment of citizens in the community is complex and contentious. This paper presents results from a proposed study (to be completed in June 2007) about a neglected area in the literature, namely the important role of mental health social workers in the administration of such laws. A number of social work academics and research-minded practitioners have constructed an international, cross-jurisdictional study (involving Victoria, Australia; Ontario, Canada; Scotland (UK); Northern Ireland (UK) and California (USA). The study will survey total populations of mental health social workers in these jurisdictions, and then interview stratified samples of practitioners to examine knowledge values and skills bases. It is expected that the study will reveal the complicated nature of the role in terms of risk management and judgments about the balance between the rights of the service user and the duty of the state to protect citizens.

### 146.3. Contributing to the Development of an Evidence Base for the Use of CTOs in Victoria, Australia: Case Study Outcomes

Lisa Brophy, *University of Melbourne* (Lisa.Brophy@mh.org.au)

This paper will report on a study which is exploring the implementation of Community Treatment Orders (CTOs) in Victoria, Australia. The research method involves a mixture of quantitative and qualitative methods and case studies are the primary method of investigation. A cluster analysis informed the selection of case study participants and interviews have been undertaken with service users, carers, case managers and medical staff involved in each case. This triangulation has enabled a general picture of the current context of the use of CTOs in one area - mental health service in Victoria - where there is considerable experience with, and reliance on, the use of these Orders over more ten years. The paper will explore the impact of CTOs from these multiple perspectives and provide insights into the experience and outcomes of being on a CTO, for the person involved and those providing treatment and care. The research findings, which also include interviews with other key stakeholders, will provide information about how to develop a stronger evidence base to the use of CTOs that includes service user and carer perspectives and highlights areas of good professional practice in their implementation.

### 146.4. Are Advance Directives and Compulsory Community Treatment Complementary or Two Alternatives?

Steve Kisely, *Dalhousie University* (Stephen.Kisely@cdha.nshealth.ca)

*Background:* Joint crisis plans/advance directives are agreed upon by patients & their clinicians for emergency treatment when patients are too unwell to give consent.

*Aims:* To examine the effectiveness of advance treatment directives (ADs) for people with severe mental illness.

*Method:* A systematic review/meta-analysis of RCTs of adults with severe mental illness, comparing any form of advance directive with standard care.

*Results:* Preliminary results are that more intense interventions, including a lengthy interview with patients and carers, are more effective than booklets

*Conclusion:* Evidence for the effect of advance directives on health service use appears better than that for compulsory community treatment.

## 146.5. Community Compulsory Treatment Orders in Scotland: The First Year

Simon Lawton-Smith, *The King's Fund, London, UK* (s.lawton-smith@kingsfund.org.uk)

Scotland introduced community-based compulsory treatment orders (CCTOs) on 5 October 2005, under powers set out in the Mental Health (Care and Treatment) Scotland Act 2003. The King's Fund has been studying the initial impact of the CCTO arrangements in Scotland, to establish the number of people subject to compulsory community treatment in the first months of the new Act and to analyse the routes that people took to compulsory community treatment, and the impact on staff and services. The initial findings show that the number of people placed under CCTOs in Scotland has to date been small; that concerns that the new CCTO arrangements would be abused have not yet materialised; that professionals' understanding of the new CCTO powers in the Act is incomplete, though improving; that there is concern about the complexity of the new arrangements; and that an apparent lack of new resources to address the impact of the new arrangements has caused increased pressure on staff and may be having an adverse impact on the care of voluntary patients. The question of whether in the longer term CCTOs will lead to an overall increase or decrease in compulsion or improve patient outcomes remains an issue of debate.

## 147. Outpatient Commitment: Objectives and Outcomes II

### 147.1. Mortality Risk and Conditional Release via Involuntary Outpatient Civil Commitment

Steven P. Segal, *University of California at Berkeley* (spsegal@berkeley.edu)

*Aims:* Assess the contribution of conditional release to mortality risk among patients with mental disorders severe enough to require psychiatric hospitalization during a treatment career spanning 13.5 years in Victoria Australia.

*Method:* Risk of death was assessed against the general population of Victoria using Standardized Mortality Ratios for patients with career hospitalizations (N=24,973), 8,879 with outpatient-commitment-exposure during community care intervals and 16,094 without exposure. Relative risk of death was assessed using Risk and Odds Ratios;

Logistic Regression was used to determine the contribution of conditional release to such risk with appropriate controls.

*Results:* Patients with career psychiatric hospitalization evidenced increased mortality risk when compared to the general population, - 16% (4,034) died. Conditionally released patients evidenced a 14% reduction in their probability of death vs. those not offered such oversight.

*Conclusion:* Conditional release appears to contribute to reduced mortality risk among those with disorders severe enough to require psychiatric hospitalization.

### 147.2. Coercion and Outcomes in Community Mental Health Services in Northern Ireland

Gavin Davidson, *Queen's University Belfast* (g.davidson@qub.ac.uk)

Mental health law is being reviewed in Northern Ireland and there is debate about introducing outpatient commitment. This study aimed to compare three service models being used to respond to people who could meet the criteria for outpatient commitment. A quasi-experimental design was used. 76 people received CMHT, specialist worker or assertive outreach over 18 months. The outcome measures included engagement, symptoms and perceived coercion. Assertive outreach achieved improved engagement and a 50% reduction in bed days. If the objectives of outpatient commitment are to improve engagement and mental health, then assertive outreach may be an effective alternative.

### 147.3. Effectiveness of Community Treatment Orders for Treatment of Schizophrenia with Oral or Depot Anti-psychotic Medication

David Muirhead, *North West Area Mental Health Service, Coburg, Australia* (david.muirhead@mh.org.au)

This study examined the effectiveness of Community Treatment Orders (CTOs) when used in the treatment of patients with schizophrenia. This was a naturalistic study using a retrospective mirror-image design. The sample consisted of patients with schizophrenia (n=93) who were treated on a CTO between November 1996 and October 1999. The sample was divided into two subgroups; patients treated with oral antipsychotic medication (n=31), and patients treated with depot antipsychotic medication (n=62). Data were gathered via file review using a questionnaire. For the whole sample and both

subgroups the findings were significant increases in number of contacts with treating community services, significant decreases in number of admissions and decreased length of inpatient stay. For the whole sample there were significant decreases in number of crisis team referrals and number of other episodes of relapse. For the subgroup on depot medication there was a non-significant trend towards fewer crisis team referrals and a significant decrease in other episodes of relapse. This study provides further evidence that CTOs may be effective in improving the outcome for selected persons with schizophrenia and some evidence that they may enhance the outcome for selected patients with schizophrenia on oral antipsychotic medication.

## 148. Overuse in the Medical System: A Mental Health Issue?

### 148.1. Food Addiction, Lifestyle Diseases, Drugs and the Pandemic of Obesity: a Fatal Failure of Medical Integrity

Colin Rose, *McGill University* (colin.rose@mcgill.ca)

Since the early 1990s, in spite of increasingly frantic efforts of governments, health organizations and school authorities to contain it, the obesity pandemic has proceeded apace worldwide, including in developing nations. Not by coincidence, the obesity pandemic began a few years after the first statin (drug to lower blood cholesterol), Mevacor, was licensed in 1987. The incidence of obesity has grown by such an alarming rate that armed forces of the USA, Canada and Britain are unable to recruit enough fit youth to fill their needs. The 2004 licensing of a non-prescription statin in Britain has brought an acceleration of the pandemic in that country. What is the connection between statin availability and obesity? I advance the hypothesis that the myth, engendered by statin peddlers and doctors on their payrolls, that low blood “cholesterol” is the key to longevity and that a statin is a magical, life-prolonging elixir removed any incentive there might have been to control food intake out of fear of the many disastrous consequences of food addiction. Unlike its approach to treatment of other addictions like those to alcohol or tobacco, the medical profession, instead of insisting upon self-control of addiction as the basis for preventing lifestyle diseases, like atherosclerosis, hypertension and type 2 diabetes, has been co-opted by drug peddlers to recommend treating the superficial manifestations of these diseases with expensive panaceas, while profiting from the sale of those panaceas. If an addict is given any hope that he or she can avoid the destructive consequences of the addiction, the addiction will worsen. Such unethical behaviour by the medical profession and its consequence, the pandemic of obesity and

type 2 diabetes, threatens to result in a reduction in life expectancy to nineteenth century levels and the implosion of capitalist democracy, the social system responsible for the unprecedented accumulation of wealth and cheap food that has made pandemic food addiction possible.

## 148.2. Recent Changes in Child Psychiatry and Psychopharmacology

Edward Shorter, *University of Toronto* (eshorter@charter.net)

Psychoactive medications have always been prescribed for children. What is new is (a) the application to children of portentous adult psychiatric diagnoses such as major depression, bipolar disorder and schizophrenia in place of the behavioral formulations in use in the 1960s and before; and (b) an enormous increase in the frequency of prescribing for children, especially of SSRI antidepressants, antipsychotics and so-called mood stabilizers. (The use of stimulants for hyperactivity in children is well-known and is not considered in this paper.) These changes are attributable to the inappropriate use of “disease thinking” for children, to pharmaceutical marketing, and to changes in family life that increase parental uncertainty and loosen the affective web in which children are inserted.

## 148.3. Trussed in Evidence? Ambiguities at the Interface between Clinical Evidence & Clinical Practice

David Healy, *Cardiff University* (healy\_hergest@compuserve.com)

This paper considers the evidence from randomised controlled trials of psychotropic agents as it has recently been applied to the practice of psychiatry in both mental health and primary care settings. It illustrates how one interpretation of clinical trial data, which takes data of marginal significance as evidence that treatments are effective, is currently dominant, and why this is arguably not the correct interpretation and definitely not the only possible interpretation. This dominant interpretation has contributed to the commercial success of psychotropic agents by concealing their lack of generalisable efficacy under statements like “significantly better than placebo” and their hazards by reports that these are “not statistically different from placebo” — statements that are both true and misleading. The implications of this dominant interpretation are drawn out for academic journals, drug development, guideline development and patient treatment. On a pragmatic level, alternative interpretations of what the data “show” are possible and will

be offered but the lecture will also attempt to flag up points where there are profound uncertainties as to what the data “mean”.

## 148.4. The Commercialization of Medical Knowledge

John Abramson, *Harvard Medical School* (johnabramsonmd@gmail.com)

Over the past 30 years the fundamental purpose of medical knowledge has been transformed from a public good into a commodity. This has taken place as a result of the privatization of clinical research, the transfer of responsibility for clinical trials from academic medical centers to private for-profit contract research organizations, the growing dependence of universities and academic researchers on commercial funding, the medical journals' dependence on revenues from the drug and medical device industries, the increasing proportion of commercially funded continuing medical education, and the commercial influence on clinical practice guidelines. In the United States two additional factors further exacerbate this trend: the rapid growth of direct-to-consumer advertising of prescription drugs (from \$55 million in 1991 to \$4.6 billion in 2006) and the growing dependence of the division of the FDA responsible for new drug approval and oversight of drug safety on pharmaceutical industry funding. As a consequence of the privatization of the production and dissemination of medical knowledge, the gap between so-called "evidence-based medicine" and epidemiologically based medicine is growing. Particularly in the area of mental health, this transformation has led to the medicalization of ordinary problems in living and the subsequent overuse of psychiatric medications. Remediation of these excesses, especially in the United States, is hampered by a broad interpretation of the constitutionally protected right of commercial speech and a political reluctance to adequately fund oversight of the integrity of medical knowledge and drug safety as well as the political influence of the drug industry's lobbying and campaign contributions

## 149. Paradigms of Socio-Political Phenomena and Consciousness

### 149.1. A Construct of Sociopolitical Phenomena from a Psychiatric Developmental/Characterological Viewpoint

David M. Reiss, *Consulting Psychiatrist, Santa Fe, USA* (dmreiss@cox.net)

This paper presents a schemata that integrates personality developmental theories and systems theory, to develop a model of psychological functioning as it pertains to affecting social phenomena on all levels – the individual, the family, society, domestic political processes (primarily focused on the United States), and the international landscape. The model evaluates political processes in consideration of the general dynamics of personality development inherent to all participants – the public/electorate, politicians, political “advisors”, and political “pundits” (without analyzing any particular individuals). The discussion strives to maintain a balance between psychological, developmental, psychodynamic, behavioral, social and neuro-biochemical paradigms. Using the model, the author hopes to show that within a deeper exploration into any complex system, one is forced to address issues of inherent chaos, unpredictability and instability; and regarding the sociopolitical system as a whole, this intricately involves an understanding of personality development and psychological defenses – with a focus upon observable aspects of the process of the personality maturation, as opposed to any one specific theory of personality development. Using this model, the impact upon political processes of individuals who become fixated at each stage of development will be discussed, with particular regard to the current sociopolitical landscape.

## 149.2. Zen and the Art of Motorcycle Politics: Religion, Culture and Perception in the 21st Century

Richard M. Poniariski, *University of Winthrop* (rmpmd@optonline.net)

The beginning of the 21st Century has been characterized by a period of great turmoil. There have been wars, terrorism and a general feeling that things are getting worse on a daily basis. To help deal with the uncertainties, people turn to various belief systems, cultural norms and religious values. Though helping some, others can be affected in a negative manner, causing varying degrees of anxiety, frustration and depression. This presentation will be a discussion of some of the causes, both cultural and religious, of today’s fears, the political consequences of them and how our perceptions, which are fundamentally shaped by our biopsychosocial world view, can alter this reality, for better or worse, both on a personal and societal level.

## 149.3. Becoming Conscious in an Unconscious World: A New Paradigm for Mental Health and Global Community

Elio Frattaroli, *University of Pennsylvania* (elio@comcast.net)

Modern psychiatry is divided between two paradigms. One sees disturbing emotions like anxiety and depression as neurobiological diseases that disrupt our stability. The other sees disturbing emotions as adaptive biopsychosocial responses, embodying important information about what is out of balance within ourselves and in the world around us. Under the first paradigm, the goal is to restore stability by getting rid of disturbing emotions. Under the second it is to facilitate growth toward a better adaptation by becoming conscious of disturbing emotions. These two paradigms operate not only in psychiatry, but in every human endeavor dealing with problems that evoke disturbing emotions — problems like terrorism, war, abortion, crime, pollution, corporate corruption, and poverty. Problem-solving in all these areas involves choices between the quick fix and consciousness, taking action to get rid of disturbing emotions versus inwardly reflecting on those emotions to learn what they are trying to tell us about the problems we face. Using examples from Shakespeare’s “Hamlet” and from the American response to 9/11, the author will argue that disturbing emotions are not diseases but rather genetically programmed adaptive responses and that the survival of the human species depends on our becoming conscious of what we feel.

#### 149.4. Muslim “Group Adolescence” - Recognizing Actions and Reactions as Reflections of Group Development

Jerrold Atlas, *Center for Psychohistorical Studies, Manchester Centre, USA*  
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The “clash of civilizations” today is between traditionalists/moderates and fundamentalist Muslims – to which we can apply psychohistorical and group theories. The energy level of fundamentalist extremists is the equivalent of a warrior’s “high”, needing to be manipulated and mobilized by leaders almost daily or sinking into depression-induced paroxysms of rage, suspending their rational logic. They are in delegated “rage against the machine” [= authority/parents] and traditions [= identity] while forcibly but ineffectively controlling their emotions [= eliminating the super-ego and freeing the adolescent within to live in rage]. The synchronicity of two such extremist movements simultaneously in power – Islam and the fundamentalist US -- allows us to recognize that there’s an “agreement to war” already formed. Recognizing the Arab/Muslim world as being at war with itself also explains the fundamentalists’ insularity from us [= the enemy is seen as an infectious disease to be avoided at all costs], their embrace of the “victim” role [= acceptance of repressed childhood experiences/emotions as justification for their actions or non-actions] and their hatred/fear/subordination of women [= the result of being torn away from the “women’s world” at the age of 7, taught to hate women and

given over to deeply-disturbed male role-models]. As they restage childhood trauma and experiences, adolescents are also shaping and defining adult lives – they are developmentally adolescents and act as such, accelerating their descent into a violent, Islamo-fascist direction. They may perceive this as an “emotional outburst”, but that’s merely discomfit with the truth and desire to avoid disturbing fantasies about themselves. The external causation theories of Arab/Muslim intellectuals/moderates are continuations of their failure to recognize internal issues as causation.

## 149.5.Schizophrenia and Social Theory

Anthony Chase, Nova Southeastern University Law Center (chaset@nsu.law.nova.edu)

Freudian psychoanalytic concepts have been widely used among social scientists, historians, and social theorists. Freud himself wrote at length and with great insight on history and on the social changes which he witnessed during his lifetime. The field of psychohistory developed its own perspectives and benchmark works. Wilhelm Reich’s *Mass Psychology of Fascism* and Adorno, et.al.’s *Authoritarian Personality* are just two famous publications to emerge from the Nazi period. Marcuse’s writing on the psychology of society was only one aspect of important contributions made by the Frankfurt School of Social Research. While schizophrenia was not a mental disorder often treated in psychoanalysis and has been understood much more effectively during the decades after the Second World War, social theory has begun to try to catch up with newer territory explored by modern psychiatry. The work of Deleuze and Guattari immediately comes to mind. My research is designed to provide an overview of the way in which social theory has drawn upon the history and diagnosis of schizophrenia in an effort to provide the fullest possible discussion of how societies work.

## 150. People and Institutions in History

### 150.1.Institutionalization and Colonization of Mental Patients in Germany and Japan from the Late 19th to the Early 20th Century

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

In the second half of the 19th century in Germany, the limits to institutionalization of mental patients led to the idea of colonization, which implied not only an agricultural colony in its original sense but also a form of foster family care. It was hoped that colonies would allow patients to be treated in a freer environment and also solve the overcrowding in closed institutions. The Germans “made colonies” one after another under the control of mental hospitals, after French and Belgian models. Later, the progress of industrialized societies made it difficult to maintain agricultural colonies and the economic crisis after the First World War led to the decay of foster family care. In Japan, on the other hand, where people had never experienced institutionalization and therefore the establishment of mental hospitals was a primary task in psychiatry throughout the modern period, the colonization of mental patients in some progressive hospitals with the intention of milieu therapy was not very successful. Instead, the Japanese “invented colonies” from their own tradition: Iwakura village near Kyoto, whose tradition was interpreted as a “Japanese Gheel”, was a good example. Further, some psychiatrists even supported the home custody of mental patients as an expression of the “beauty of the Japanese family” in the context of colonization.

## 150.2. Cesare Lombroso and the Origins of Italian Criminal Insane Asylums

Mary Gibson, *John Jay College of Criminal Justice* (mgibson@jjay.cuny.edu)

This paper will address the debate among jurists, criminologists, legislators, and prison administrators concerning the establishment and organization of criminal insane asylums (manicomi criminali) during the fifty years after Italian unification (1861-1911). It will argue that the earliest criminal insane asylums constitute an example of the institutionalization by the state of the theories of the Italian school of positivist criminology. The first half of the paper will explore the theories of Cesare Lombroso and his fellow criminal anthropologists about the relationship between crime and insanity. A pioneer in calling for the establishment of criminal insane asylums, Lombroso’s rationale shifted with the evolution of his theory toward an increasing identification of insanity with criminological behavior. Initially emphasizing a humanitarian concern for insane inmates languishing in prisons without psychiatric treatment, he later focused on the threat to society of criminals acquitted by courts on the grounds of insanity. The second part of the paper will analyze the functioning of the first two criminal insane asylums in Italy located at Aversa (1872) and Montelupo Fiorentino (1886). Photographs and statistics are available to assess the makeup of the inmate/patient population and to form hypotheses about the quality of care in each institution.

### 150.3.A Private Psychiatric Hospital in Modernist Tokyo 1920-1945

Akihito Suzuki, *Keio University* (asuzuki@hc.cc.keio.ac.jp)

The growth of psychiatric institutions took place in Japan from around 1920. The overwhelming majority of them were privately owned, although many of them received publicly supported patients. Tokyo provided a particularly attractive prospect for psychiatric hospitals, with its large middle-class clientele and the epidemic of the disease of modern civilization, namely neurasthenia, among them. The virtual absence of a watchdog comparable to Lunacy Commissioners in England meant that psychiatric hospitals were free to take a substantial number of better-off neurasthenics. The archive of Oji Brain Hospital, a flourishing private psychiatric hospital in Tokyo, thus provides a rich repository of records which reveal how relatively mild psychological or behavioral problems of the middle class were coped with. This paper will examine the role of psychiatric institutions within a network of care and control of those neurasthenics which involved both immediate and extended families of the patients. It will also examine the changing cultural environment in which the patients were put through the rise of a totalitarian and militaristic regime from the mid-1930s.

### 150.4.The Lunacy Act of 1890 and Psychiatrists' Deployment of the Concept of Stigma in the Early Twentieth-century in Britain

Akinobu Takabayashi, *University College London* (ucgaakt@ucl.ac.uk)

The Lunacy Act of 1890 had a great impact on British psychiatry. By establishing legal surveillance over psychiatric admissions and prohibiting doctors from establishing new private asylums, the Act changed the social and economic grounds of the psychiatric profession. It was regarded as a serious problem by psychiatrists that the Act had undermined their opportunities to have private businesses which were important from the financial and social prestige points of view. Soon after 1890, therefore, they began criticising the 1890 Act, and endeavoured to revive the pre-1890 conditions. This paper focuses on the new concept of 'stigma' emerging from the criticism; from 1902 it was employed fully in psychiatrists' criticisms that the Act had provided unnecessary social exclusion of mentally ill patients. Historians of modern British psychiatry have thought that psychiatrists' problematisation of the psychiatric 'stigma' was the result of the increasingly humanitarian view that psychiatrists held: e.g. Kathleen Jones (1993). Considering that psychiatrists' employment of 'stigma' was always subsidiary to the economic and social motivation behind their criticism of the 1890 Act however, this

paper argues that the sharp increase of the deployment of ‘stigma’ in the early twentieth century was a crucial moment of professionalization of British psychiatry.

## 150.5. Forensic Psychiatry in Germany 1880-1930

Eric J. Engstrom, *Humboldt University* (eric.engstrom@charite.de)

Older studies on the history of criminology and forensic psychiatry in Germany tended to posit a rising crescendo of medical and biological influence as the Nazi Regime approached. More recently, however, a number of studies have demonstrated that simple models of the medicalization and biologicalization of crime are teleologically overdetermined and fail to grasp the complexity of the historical evidence. This paper will refocus attention on forensic practice. It will explore the specific interaction of psychiatrists and jurists at various levels of professional work, locating the sites at which boundary disputes arose. Among the issues of concern will be the forensic training of medical students and judges, the conditions of detention and observation of court defendants, and the status of expert opinions (Gutachten) in judicial proceedings. The paper will examine the claims and strategies deployed across these various sites to survey the highly contested border between psychiatry and jurisprudence. It will be argued that it was at this border of professional practice that the status of psychiatry in the courtroom was ultimately negotiated. In conclusion, the author reflects on the implications of these boundary disputes for current historiographic debates on criminology in early 20th century Germany.

## 151. Person Oriented Approaches in Dealing with High Prevalence Crimes

### 151.1. Individual Concentrated Approach; A Rotterdam policy

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The local approach toward Multiple Offenders. is ‘Grab ’m and don’t let ’m go!’ The behaviours of Multiple Offenders (MO’s) are caused mostly by psychiatric illness and/or

serious addiction problems. The consequences are disturbing the peace in the public domain and criminality. The problem has been out of control for a considerable time. The local government decided to integrate different approaches in a new policy, the “Individual Concentrated Approach” (ICA). This implies an end to isolated approaches such as psychiatric, medical, judicial, social or others. The goal is to diminish disturbance of the peace and criminality in the city. The cooperating organizations have one integral approach, characterized by: - a combination of repressive and judicial interventions and personal and social treatment methods - one file for one person, one plan, compiled and implemented in cooperation with the participating organizations. There is therefore only one casemanager on one file - no chance for escape for the client; he or she has everybody’s attention for many years. Non-cooperation means jail time; cooperation means a chance for help leading to a better life. At first Rotterdam was acting on the 700 most serious MO’s, who were all confirmed drug addicts. The process was scientifically evaluated by the Erasmus University of Rotterdam. The results are very positive, so Rotterdam decided to increase the number of the MO’s in this project by extending the number of categories, like violators, youth and so on. The presentation will lead participants through the process, describing the technical and process problems and their solutions.

### 151.2. Individual-bound Coercive Care for Drug-dependent Offenders: Empirical Evidence and the Experience in Rotterdam

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In 2000 various stakeholders in Rotterdam (the Netherlands) developed a so-called ‘personal approach’ (PA) to engage drug-dependent offenders in treatment. The goals of the PA were to insure public safety by diminishing drug-related criminality and nuisance, and to provide effective care. The PA consisted of three judicial and two less coercive routes: 1) court-ordered treatment for persistent offenders, 2) imprisonment with transmural care for persistent offenders with psychiatric disorders, 3) conditional treatment for care-avoiding addicts, 4) a rehabilitation program for addicted street prostitutes and 5) assertive community treatment for seriously impaired addicts. The PA was evaluated on the outcome measures ‘admission’, ‘criminal recidivism’, ‘nuisance’, ‘personal improvement’, and ‘cooperation between local actors’. Analysis revealed that the PA was associated with a high retention rate. Over a four-year period, 719 individuals were traced and sentenced to one of the routes of PA. This was a very positive result, considering the nature of the target group. In all the routes a reduction was made in criminality and nuisance. In route 1 and 3 most improvement was made,

mainly in housing and addiction problems. Bottlenecks in the coordination of the PA were lack of clarity in job description and insufficient post care facilities. Further research is needed to exclude the confounding effects of incapacitation.

### 151.3. Combatting Crime and Addiction with a Person-Oriented Approach

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In 2000 various stakeholders in Rotterdam (the Netherlands) developed a so-called 'personal approach' (PA) to engage drug-dependent, repeated offenders in treatment. The goals of the PA were to insure public safety by diminishing drug-related criminality and nuisance, and to provide effective care. Three different approaches were adopted to fight addiction and crime in 836 addicted offenders. The most effective approach led to a reduction of nine crimes per year per person (from 13 to 4) and to a drug abstinence rate of 25 percent (even though the majority of these addicts had been addicted for more than 10 years). Effects were also found with regard to finding employment, lessening debts, finding housing, et cetera. The other two approaches were less effective but still had an impact on these areas of functioning. The findings, conclusions and limitations of the study are presented.

## 152. Poor Performance in the Professions: Medicine, Psychology and Law

### 152.1. Accredited Practice Versus Ethical Practice: What is in a Name?

Elizabeth A Campbell, *University of Glasgow* (e.a.campbell@clinmed.gla.ac.uk)

With the advent of professional registration and regulation of the mental health professions, specialist titles, such as 'forensic', have become increasingly important as markers of supposed competency. Practitioners can come to rely on their 'title' when they claim competency in areas of practice and usually make reference to the content and context of their training when validating their claims to expertise. However 'competency' is not a fixed or constant attribute. The insistence of professional bodies and statutory regulators on evidence of continuing professional development and

sometimes re-validation is testament to this. The term ‘forensic’ can be especially problematic as a marker of competency since many different types of professional psychologists and psychiatrists operate within forensic contexts without necessarily having any particular accreditation. In addition, recent European developments, the ‘EuroPsych’ certification of professional psychologist status, have highlighted the diversity of national practices and nomenclature and emphasised the need for ethical claims to competency rather than claims based on a title. In addition, there is an increasing number of complaints to professional bodies from the public and prisoners about the competency of forensic professionals. The implications for practice in the field of law and mental health will be explored and examples provided.

## 152.2. Ethical Dilemmas for Forensic Medical Experts in Infant Death Trials

Sharmila Betts, *University of New South Wales* (sbetts@psy.unsw.edu.au)

Expert medical testimony (EMT) in the form of forensic pathology evidence is a central feature of the prosecution of individuals for multiple infant deaths. Recent cases (e.g., Sally Clarke in the UK and Kathleen Folbigg in Australia) relied on complex and often contradictory medical opinions about the cause of infant deaths. Autopsy investigations yield probabilistic explanations of the cause of infant deaths, yet in court, medical experts are examined with a view to establishing that the accused is or is not guilty of the crime of murder. Challenges and pressures for medical experts who present probabilistic autopsy findings in forensic contexts that require evidentiary certainty are numerous and can result in poor performance. Pressures on medical experts to resist statements that are beyond their expertise, and to ensure that their medical findings are appropriately presented at trial are reviewed in the context of infant death cases. Challenges in minimizing and managing unethical EMT include mechanisms to assess its reliability, the extent (if any) of expert bias and its management. Current solutions for managing EMT within legal systems are presented.

## 152.3. Profiles of Poor Performers in Medical Practice: Models for Prevention and Intervention

Prasuna Reddy, *University of Melbourne* (p.reddy@unimelb.edu.au)

Recent research on evidence-based medical practice has highlighted trends and patterns among medically qualified poor performers, and has produced a profile of risky performers in the profession. Drawing on empirically derived examples from medical

practitioners based on reviews of recent government-ordered inquiries of hospitals in Australia, behaviours and practices that increase the risk of poor performance are identified. These findings permit development of a preventive approach to intervene before the problematic performance generates complaints to regulatory bodies. Preventive risk assessment measures to serve the interests of patients and the public are reviewed. These findings will be of interest to individual practitioners, and to those who regulate the profession, such as medical associations, medical councils and medical defense unions.

#### 152.4. The Parameters of Professional Regulation: Disjunctions, Dilemmas and Deterrence

Ian Freckelton, *University of Sydney* (i.freckelton@vicbar.com.au)

Diverse and complex dynamics now impact the regulation of health practitioners. Much can be gleaned, though, by scrutinising the margins of regulation where distinctions can be illustrative of lingering ideological tendencies and can result in confusion. The author examines the amenability to regulation of conduct by mental health practitioners that occurs outside the context of their professional work and yet which may impact upon trust reposed in them as health practitioners and in their profession more generally. He identifies as well, uncertainty about whether the principle of witness immunity can be invoked to protect health practitioners from regulation in respect of their forensic conduct. He argues that such an interpretation would constitute a confusion of public interests. He contends that the effects upon the reputation and standing of their profession of any form of conduct should be an important consideration for determining whether it should be addressed by regulatory decision-making bodies.

### 153. Post-traumatic Pain Syndromes: Medico-Legal Issues

#### 153.1. Traumatic Injury and Persistent Pain: A Clinical Perspective

Milton L. Cohen, *University of New South Wales* (m.cohen@unsw.edu.au)

Persistent pain in the absence of obvious disease or damage challenges biomedicine. New insights from the neurobiology of pain indicate that altered function of nociceptive

(“pain-signalling”) pathways in the central nervous system may be responsible: so-called neuropathic or neuroplastic pain. In humans this can only be inferred clinically. Traumatic injury may constitute a sufficient nociceptive insult to induce such altered function: once the injury has “healed”, why should that persist? The biopsychosocial framework identifies the influence of cognition, affect and environment on the experience of pain. Given the effect of trauma on perception and memory, taken together with the threat to the existence of the individual of the trauma itself, the development of “pain behaviour” including hypervigilance can be understood. Neurobiologically and clinically, to distinguish between altered nociception and altered attention in persistent pain after trauma is a clinical conundrum for which no resolution is currently apparent. As a result, inference of causation presents a problem, which in its wake entails lack of validation of the pain experience, the exposure to ineffective if not harmful interventions and the potential for pejorative handling by health professionals if not also by society itself, including its legal structures.

### 153.2. The Appearance (and disappearance) of Chronic Low-back Pain in New Zealand's Accident Compensation Scheme

Grant Duncan, *Massey University* (l.g.duncan@massey.ac.nz)

New Zealand has a unique system of universal 24-hour no-fault compensation for personal injury (known as ACC), accompanied by a blanket ban on the right to sue for compensatory damages. The legislation makes no mention of pain, but chronic pain can potentially be covered as a psychological consequence of a physical injury. ACC has mounted several injury prevention programmes aimed at reducing the costs of chronic low-back pain. It has also made efforts to prevent acute-pain sufferers from proceeding to chronic status, and to question individual claims where there may be little evidence of physical injury caused by accident. Further, once claims are in the system, a process of work-capacity assessment can be implemented in order to terminate them if the claimant fails to return to employment. In NZ law, chronic pain occupies a marginal legal status, being unrecognized in statute, and yet actively treated with preventive and screening processes in practice. Does this kind of practice reinstate a form of Cartesian dualism that seeks to separate out ‘psycho-genic’ pain from ‘organic’ pain? Is the century-old claim that compensation ‘reinforces pain behaviour’ a matter for scientific or for ethico-legal investigation?

### 153.3. Pain in the Canadian Courtroom

Shelley Miller, *Barrister, Edmonton, Canada* (shelley.miller@fmc-law.com)

In this presentation the author reviews the reported cases involving chronic pain during the past two decades in Canada, in light of the uncertainty concerning the aetiology of the condition. This is perhaps most marked in cases where pain complaints and pain behaviour appear disproportionate to the extent of the objectively demonstrable organic abnormality. Labels such as “chronic pain syndrome”, “myofascial pain syndrome”, “learned pain behaviour” and “fibromyalgia” are used to describe such presentations, but there appears to be disagreement among members of the medical profession concerning the relative contributions of physical and psychological factors in situations where pain-contingent damages or compensation benefits are sought by the claimant.

#### 153.4. Chronic Pain: A Question of Credibility in Medical and Legal Contexts

Judy A. Le Page, *University of British Columbia* (zapar@interchange.ubc.ca)

When a person suffers from a poorly understood medical condition, there can be considerable controversy over what is acceptable or credible in the determination of disability. One such condition is Fibromyalgia syndrome (FM). A diagnosis of FM relies on physical signs and patients’ reports, and as such, the credibility of the patient is crucial not only for a valid diagnosis, but also for a disability determination. The issues surrounding a diagnosis of FM will be reviewed from patient and physician perspectives. As well, a study involving a systematic review and examination of issues related to credibility in cases involving FM claims in Canada Courts (N=194 case judgments) will be presented. Plaintiffs perceived as more credible were typically granted much larger awards than plaintiffs perceived as less credible. Regarding medical expert credibility, judges perceived experts as more credible overall than plaintiffs, regardless of the expert’s specific involvement in the case. As well, the credibility of surveillance information was central to the importance the judge placed on that information. Cases with good or “persuasive” surveillance evidence ratings (“complete agreement”) received much smaller awards than cases with poor surveillance credibility ratings (“complete disagreement”; Tukey HSD,  $p < .009$ ,  $d=1.74$ , very large effect size).

#### 153.5. Damages for Pain and Suffering in Tort Law

Danuta Mendelson, *Deakin University* (danuta.mendelson@deakin.edu.au)

Legislation enacted during 2002-2005 by each Australian State and Territory reformed and codified the common law of personal injury. This presentation will examine the nature and history of damages for pain and suffering and analyse the approach taken by different Australian jurisdictions to compensation for non-economic loss, which generally includes pain and suffering; loss of amenities of life; disfigurement, and loss of enjoyment of life. Several jurisdictions have imposed thresholds that a claimant must meet as a prerequisite to sue for damages at common law. The presentation will focus on legislation as well as the relevant case law.

## 154. Predicting Violence in the Short-Term – Research Innovations

### 154.1. Substance Use and Changes in Risk State for Violence at the Daily Level

Edward Mulvey, *University of Pittsburgh* (mulveyep@upmc.edu)

Prior research has consistently demonstrated an association between substance use and involvement in violence among individuals with mental illness. Yet little is known about the temporal quality of this relationship, largely because longitudinal data required to address this issue are not readily available. This study examined the relationship between substance use (alcohol, marijuana, and other drug use) and violence at the daily level within a sample of mentally ill individuals at high risk for frequent involvement in violence (N=132). Results support the serial nature of substance use and violence, with an increased likelihood of violence on days following the use of alcohol or multiple drugs, but not the inverse relationship. Implications for the use of substance use as a risk marker for the assessment of future violence are discussed.

### 154.2. Psychiatric Symptoms and Violence: A Dynamic Approach to Predicting Serious Violence among High-risk Psychiatric Patients

Candice Odgers, *King's College London* (candice.odgers@iop.kcl.ac.uk)

Clinical practice is dominated by the assumption that increases in psychiatric symptoms elevate the risk of imminent violence. In this paper we test whether dynamic measures, which capture the ‘ebb and flow’ of symptoms, predict violence. Study members included patients deemed to be at a high risk for involvement in community violence following their entry into an emergency room in an urban, university-based psychiatric hospital. The final sample was comprised of 132 young (M=21 years, SD=6) men and women (52%) who were equally likely to be White or African American (49%; “Other”=2%). Participants were followed into the community and interviewed weekly for six months. Data were also gathered from collateral informants. Psychiatric symptoms were measured using the Brief Symptom Inventory (Derogatis & Melisaratos, 1983) and violence each week was assessed using an adapted version of the Conflict Tactic Scale (Lidz et al, 1993). Parameters generated from dynamical systems models (Boker & Graham, 1998), were used to characterize the frequency of symptom oscillation ( $\zeta$ ) and whether individual’s symptoms were moving towards an equilibrium or amplifying across time ( $\alpha$ ). Findings indicate that the frequency of symptom oscillation was related to involvement in serious violence. Implications for research and practice will be discussed.

### 154.3. Psychiatric Symptoms and Community Violence among High-risk Patients: A Test of the Relationship at the Weekly Level

Carol Schubert, *University of Pittsburgh* (schubertca@upmc.edu)

Given the availability of violence risk assessment tools, clinicians are now better able to identify high risk patients. Once these patients have been identified, clinicians must monitor risk state and intervene when necessary to prevent harm. Clinical practice is dominated by the assumption that increases in psychiatric symptoms elevate risk of imminent violence. This intensive study of patients at high risk for community violence (N=132) is the first to prospectively evaluate the temporal relation between symptoms and violence. Symptoms were assessed with the Brief Symptom Inventory (BSI) and threat/control override (TCO) scales. Results indicate that a high risk patient with increased anger this week is significantly more likely to be involved in serious violence next week. This was not true of other symptom constellations (anxiety, depression, TCO) or general psychological distress. No evidence was found that increases in the latter symptoms during one week provide a foundation for expecting violence the following week.

## 154.4. The Effectiveness of Civil Commitment in a New Clinical Environment

Charles W. Lidz, *University of Massachusetts Medical School*  
(chuck.lidz@umassmed.edu)

Although in-patient civil commitment has always been controversial, it has generally been assumed to be an effective method of reducing violent behavior in the community on the part of people with mental illness. This presentation will report on the short-term predictive value of hypothetically detaining a group of frequently violent individuals after violent incidents based on data from 26 weekly interviews with 134 subjects and their associated collateral interviewees. Study participants were sampled from patients evaluated at the emergency room of an urban psychiatric hospital based on an algorithm designed to find frequently violent individuals. Weekly follow-up interviews with subjects and collaterals yielded a approximately 7 violent incidents per individual. A logistic regression designed to simulate a 5 day hospitalization after each incident found that only on the first day after the incident was the individual's likelihood of violence greater than their baseline likelihood. This suggests that acute hospitalization is only modestly effective as a means of reducing violence.

## 155. Prison Culture and Psychological Health

### 155.1. Meeting the Mission of the Prison: Roles, Responsibilities, and Psychological Health

Kris Paap, *State University of New York* (paapk@sunyit.edu)  
Janet McSain, *State University of New York* (jmmcsain@yahoo.com)

The contemporary prison is the product of simultaneous calls for public safety, offender punishment, and rehabilitation. In all these roles, prisons must attempt to make individuals conform to outside mandates and laws (Foucault 1995, Hawkins 1990). Prisons are not and cannot be about the actualization of individual participants. This project begins with the requirements of the correctional structures and asks how it is that prisons can meet their mission and still enhance—or at least protect—individual well-being. The paper begins with the framework offered by Haney, Banks, and Zimbardo in

1973, illustrating the ways in which situational power and control shape human behavior. According to Haney, Banks, and Zimbardo, even the simulated environment of a prison creates behavioral responses beneficial to neither the guards nor the prisoners. The authors use a multi-method qualitative approach, including interviews of correctional staff and inmates and participant observation, to explore the roles and negotiated identities of those within the prison. Results highlight the impact of gender, race, age, education, and situational and structural power on the ability to negotiate a stable and protected identity.

## 155.2. Prison Performance: Making Good or Modeling Bad?

Nancy Wolff, *Rutgers University* (nwolff@ifh.rutgers.edu)

The culture and climate of organizations are known to influence their performance. This study explores the climate inside a prison system, from the inmate's perspective, with emphasis on respect, trust, safety, morale, and fairness. A sample of 7528 subjects aged 18 or older completed the Quality of Prison Life survey. The majority of respondents reported low morale, high levels of dissatisfaction in how they were treated by staff, and of worry and concern about their safety. Respondents also reported that they, as well as their family members, were not generally treated respectfully by correctional staff. If environments affect outcomes, as indicated by the literature, prison environments are not modeling the type of prosocial behavior that is expected of inmates when they return to the community. Pressure cooking people for years inside unhealthy environments has serious implications on the character of people returning to the community and on the communities where they return.

## 155.3. The Effects of Arrest and Incarceration on Adolescent Mental Health

Helene R. White, *Rutgers University* (hewhite@rutgers.edu)

Detained and incarcerated youth exhibit a remarkably high prevalence of mental disorders. While the consensus is that the juvenile justice system is ill-equipped to address the serious mental health needs of their clientele, experts offer varying explanations for the high prevalence of mental disorders among juvenile justice populations. One explanation is that mental disorders, substance use, and delinquency frequently co-occur during adolescence. Another plausible explanation is that some mental disorders independently elevate youths' risk for justice involvement. Finally, juvenile justice system involvement itself may compound mental health problems. In a

previous study, mixed support was found for the second explanation after controlling for the first. In this study, the author's previous research is extended and the effects of arrest and incarceration on subsequent mental health problems are examined using longitudinal data from a community sample of high-risk males (N=1009). The paper examines changes in mental health from the year before the first arrest to the year after for boys who are first arrested during adolescence and a matched group of non-arrested youth. These analyses are repeated comparing those incarcerated to the non-arrested youth. The results should bring evidence to bear on several important policy issues.

#### 155.4. The Treatment Implications of Co-Occurring Psychiatric, Substance Use, and Medical Conditions among Male and Female Detainees

James Swartz, *University of Illinois at Chicago* (jaswartz@uic.edu)

People with co-occurring psychiatric and substance use disorders (CODs) are at increased risk for many medical conditions such as tuberculosis and hepatitis C and for sexually transmitted diseases (STDs) such as gonorrhea and HIV/AIDS. This study examined the relative rates of CODs and medical disorders in a sample of adult male and female detainees in a jail-based psychiatric treatment program. Structured interviews were conducted with randomly selected detainees using the WMH-CIDI. DSM-IV lifetime and past-year substance use and psychiatric disorders and lifetime medical conditions were assessed. The most prevalent psychiatric disorders for men were: psychotic disorder (44%), post-traumatic stress disorder (PTSD; 38%), and major depressive episode (31%). The most prevalent psychiatric disorders for women were: PTSD (69%), major depressive episode (50%), dysthymia (44%), and psychotic disorder (44%). CODs were also common among both men (56%) and women (69%). Medical conditions reflecting stress or trauma such as lower back pain, severe headaches and high blood pressure were common as was asthma. Many participants (> 50%) reported being in chronic pain including arthritic pain. The considerable overlap among psychiatric, substance use and medical conditions requires more study to learn about their longitudinal relationships, how individuals interface with the criminal justice and treatment systems, and how these systems interact. The high rates of chronic pain suggest that substance use in this population may be an attempt to manage physical pain and hence treatment for pain may reduce alcohol and drug use among those with CODs.

#### 156. Prison Suicide

## 156.1. Prison Suicide in Europe

Norbert Konrad, *Institute of Forensic Psychiatry, Berlin, Germany*  
(norbert.konrad@charite.de)

*Background:* In many places suicide is the leading cause of death in prison. Based on the results of international suicide research, there is a consensus that the suicide rate in penal institutions is several times higher than for the general population.

*Aims:* The presentation deals with the comparison of the development of suicide rates since 1983 for the general population and the male prison population in European countries.

*Method:* In the context of an ongoing research project, all prison authorities in all European countries were asked to provide data.

*Results:* Confirming previous studies, we found the suicide rates in the custodial institutions in most of the European countries to be greater than suicide within the general population.

*Conclusion:* Recent developments in Europe underline ongoing suicide prevention needs within prisons and an early identification of prisoners at risk as soon as possible after imprisonment.

## 156.2. Suicides in Forensic Psychiatric Institutions in Germany

Friedrich Maué, *Westphalian Hospital, Muenster, Germany* (friedrich.maue@wkp-lwl.org)

In Germany, suicides in forensic psychiatric institutions have been an under-investigated research topic. This study investigates all suicides that have been committed in Germany from 2000 to 2004. Methodologically, the study is based on medical records. As a main result, 40 suicides were reported in German forensic institutions within five years. Further detailed results will be compared to suicide rates in the general population and to suicide rates in the prison population in Germany. Moreover, results on crime details, socio-demographic details, juridical aspects, diagnostic and therapeutic aspects and the forensic prognosis will be reported. The study attempts to analyze different reasons for suicide, e.g. suicide related to psychiatric disorders vs. non-medical reasons. It is tentatively concluded that some suicides could be prevented by better prevention measures.

### 156.3. Moral Behavior in Coercive Environments

Joachim Zeiler, *University of Hannover* (Joachim.Zeiler@vivantes.de)

Moral behaviour is determined by complex individual characteristics, namely by value orientation and sense of psychic independence, on the one hand, circumstances on the other. Coercive environments restrict moral choices. It is shown that individuals tend to seek safety and moral guidance by adherence to sub-cultural groups when confronted with overwhelming external pressure. Insofar the subculture serves as socializing agency it helps individuals to develop patterns of pro-social behavior. Even criminal subculture appears to exemplify the basic function of shaping (and supporting) moral behavior and giving support to individuals who need help to stabilize their ego identity.

### 156.4. Risk Assessment in Forensic Psychiatric Hospitals

Steffen Lau, *Sächsisches Krankenhaus Altscherbitz, Schkeuditz, Germany*  
(steffen.lau@skhal.sms.sachsen.de)

Risk assessment ranks among the most difficult and most fastidious tasks of forensic psychiatry and psychology. In Germany many decisions within the criminal justice system compellingly depend on the results of risk assessments, e. g. a high risk of future dangerous re-offences is one of two conditions for a forensic psychiatric treatment order. For the release of mentally ill offenders from high security hospitals a good prognosis is compellingly demanded. It is much less obvious that in forensic psychiatric hospitals an adequate offender therapy – sufficiently relapse-preventive – is examined via risk assessment procedures in everyday work. A psychiatric offender treatment can only be effective if two substantial questions accompany the forensic psychiatric treatment process: To what extent does a mental disorder affect the criminal behavior of an offender? In which way does the treatment influence the risk of future criminal offences? Effective forensic psychotherapy is not solely a transference of general psychotherapy to the forensic context. The effectiveness of forensic psychotherapy in high security settings depends to an extremely high degree on the knowledge of the results of criminological research on re-offending.

### 156.5. Depressive Disorders and Suicidal Risk in a German prison

Christian Huchzermeier, *University of Kiel* (c.huchzermeier@zip-kiel.de)

Christian Albrechts, *University of Kiel* (c.albrechts@aip-kiel.de)

According to the metanalysis of Fazel & Danesh about mental diseases in prison prevalences of psychiatric disorders are considered to be very high in German prisons as well. However, in Germany no large studies have been done dealing with this issue. So the frequency of mental abnormalities and disturbances among sexual and violent offenders in a German prison remains unclear. In a previous investigation in a prison of Northern Germany (JVA Neumünster), which aimed to serve as a basis for the planning of specific psychiatric and psychotherapeutic resocialization measures (Kiel-Psychotherapy-Program for Violent Offenders), the authors observed that about 60% were personality disorders but only comparatively low rates of so called axis-I disorders were found. These results were probably due to selection-effects. This presentation sought to screen an unselected sample of prisoners in the Neumünster prison for axis –I - disorders: Up to now 250 prisoners were given the international established screening – instrument PHQ-D (German version). Only 73 prisoners (31%) completed the questionnaire. Of these 48% showed a alcohol-related problem, 20% were suspected to suffer from anxiety disorders, and 17 % to suffer from somatoform disorders. 47% showed patterns of depressive disorders (37% major depression, 10% depression n.o.s.). In a second step all depressive persons were interviewed by psychiatrists or psychologists: This was to ensure the diagnosis of a clinically relevant depression on the one hand, and on the other hand the rating on a special scale of the dimensions of suicidal thoughts and intentions.

## 157. Prisons as New Asylums

### 157.1. Dealing with Young Offenders in Germany: New Developments

Frank Haessler, *University of Rostock* (frank.haessler@med.uni-rostock.de)

*Aim:* To show different ways of dealing with young offenders in Germany.

*Method:* Official German statistics about suspects are described.

*Results:* In Germany, among all people suspected of having committed a crime (2 384 268), suspects were 12.7% juvenile (14 – 18 years) and 10,5% young adults (18 – 21 years). The placement of normal detainees and mentally retarded offenders is regulated by federal laws. These laws however, allow for different interpretations and can be

carried through differently by the federal states. Only 6 out of 14 federal states operate special hospitals for juvenile offenders. For that reason in Germany only eighty places for juvenile offenders in forensic hospitals are available. Part of the juvenile offenders convicted to therapy with restricted discharge do not get a placement in such hospitals. These delinquents are then incarcerated in forensic hospitals for adults, in closed wards of general psychiatric hospitals, or in closed wards of general departments of adolescent psychiatry. In Germany, the demand for places in secure units increased over recent years (50% increase of spots in the last 4 years).

*Conclusion:* Compared to countries with more advanced systems, Germany still lacks a differentiated system of dealing with juvenile offenders.

## 157.2. Prevalence of mental disorders in a German prison population - Part II: Criminological implications of a medical problem

Sebastian Schildbach, *Institute for Violence Prevention and Applied Criminology, IGAK, Berlin, Germany* (post@igak.org)

*Background:* The number of prison sentences which are imposed because of an unpaid fine (EFS) has recently increased in Germany. This is mostly attributed to the progressing poverty of society.

*Aims:* To determine whether EFS makes sense in the penal system. In addition, approaches will be developed, that show ways to reduce the frequency of transforming a fine into a custodial sentence.

*Method:* Relevant socio-demographic data of different prison-populations will be compared. The prevalence of psychic disorders will be considered and backed by a secondary analysis of the relevant literature.

*Results:* Their lack of financial resources and social competence lead to an incapability of EFS-prisoners to avoid their prison sentence via deferred payment or charitable work.

*Conclusion:* The negative effects of an EFS prevail over positive aspects, as short term prison sentences do not support reintegration into society. The expenses for imprisonment are also incommensurate with the unpaid fine. Other European countries such as France and Italy have already abolished the EFS.

## 157.3. Psychiatric Patients across Mental Health and Correctional System

Guntram Knecht, *North Hamburg Clinic, Germany* (guntram.knecht@k-nord.lbk-hh.de)

The demand for psychiatric long-term care in forensic institutions is continuously rising. The number of patients in our special hospital trebled during the last decade. In the same period, the number of beds and the average length of stay in general hospitals dropped significantly. Since neither the crime rates nor the epidemiology of major mental disorders did basically change, the hypothesis we have to focus upon is that detention is a new framework to impose psychiatric treatment on a difficult and less cooperative subgroup of patients. We present data and a risk profile of these typically chronic psychotic and multi-problem patients transferred from hospitals and prisons. Emphasis is put on their special needs, elaborated successful treatment strategies and the significance of assertive community aftercare to counterbalance the revival of asylums.

#### 157.4. Moral Behavior in Coercive Environments

Joachim Zeiler, *University of Hanover* (joachim.zeiler@vivantes.de)

Moral behavior is determined by complex individual characteristics, namely by value orientation and sense of psychic independence, on the one hand, and circumstances on the other. Coercive environments restrict moral choices. It is shown that individuals tend to seek safety and moral guidance by adherence to sub cultural groups when confronted with overwhelming external pressure. Insofar as the subculture serves as socializing agency it helps individuals to develop patterns of prosocial behavior. Even a criminal subculture appears to exemplify the basic function of shaping (and supporting) moral behavior and giving support to individuals who need help to stabilize their ego identity.

### 158. Prisons, Torture, and Human Rights in Different Cultures

#### 158.1. Prisoners and Mental Health: The Case of Enugu Prison, South Eastern Nigeria

Ernest Nnamdi Ogbozor, *Prisoners Rehabilitation and Welfare Action (PRAWA), Sabo Yaba, Nigeria* (ernestogbozor@yahoo.co.uk)

The United Nations Standard Minimum Rule (UNSMR) for treatment of prisoners clearly stipulates that sick prisoners who require specialist treatment shall be transferred to specialised institution or to civil hospitals where hospital facilities are provided. However, the situation is different in Enugu Prison, South Eastern Nigeria; mentally ill prisoners are remanded in prison with little or no medical attention. The continued detention of this category of prisoners in Enugu prison is a violation of international standard and the fundamental rights of the inmates. The aim of this study is to review and analyse the medical and legal implications of continued detention of mentally ill prisoner's in Enugu prison. A desk research, literature review of prisoners and mental health among remand prisoners was carried out. Meetings and interviews with key legal and medical experts and other stakeholders was reviewed and analysed. 48 civil lunatics and 67 criminal lunatics were on remand in Enugu prison. The inmates have spent between 2 months and 19 years in prison, with an average of 4years. Medical and legal analysis shows that the civil and criminal lunatics were detained in Enugu prison with little or no medical attention. The continued detention of the civil and criminal lunatics in Enugu prison without legal representation or medical attention is against international law and should be discontinued.

## 158.2. Stress in Prisoners: A Model

Nadja Brandstaedter, *Consulting Psychiatrist Stein, Austria*  
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Stress in prisoners is a major issue influenced by a series of factors documented in recent studies, such as earlier trauma, co-morbidity, cultural background and different aspects of the social background, such as earlier imprisonment, education and social status. Prison conditions interact with such factors, and both local law in most countries and international conventions regulate the treatment of prisoners to separate inadequate treatment or stress from the needs of criminal justice. Torture and inhuman and degrading treatment are stressors that can add to the already substantial stress of imprisonment, and are therefore seen as illegal in most countries, in spite of different realities. It might be noted that torture and other violations of the relevant UN conventions, must be added to the factor of imprisonment itself, a question frequently not discussed in the framework of torture. In this presentation, the stress both on the psychological level and on further parameters indicating stress and impairment in a series of pre-trial detention prisoners in an Austrian prison will be explored. While Austrian laws and practice in general comply with the abovementioned legal standards, even the situation of the exposure to the environment of pre-trial detention appears to impact on different levels immediately after the beginning of detention and during the detention process. Results from the study will be compared to the needs and special times of vulnerability in the process of imprisonment, and discussed in the framework of Austrian

legislation and implementation of justice. Even under the relative benign conditions in Austria, and in the case of pre-trial detention, stress must be seen as considerable, and discussed in connection with possible later trauma.

### 158.3. Human Rights and Law Enforcement

Churchill Ohaeto, *Barrister, Ibeneche, Nigeria* (c3rj@yahoo.com)

Without the rule of law, violations of rights occur; and where violations occur, rebellion is fomented. Violating human rights cannot contribute to the maintenance of public order and security, but can only exacerbate their deterioration. There is an age long argument that respect for human rights is somehow antithetical to effective law enforcement. We have seen in most developing countries the tendency of overwhelming force in quelling riots, putting down demonstrations or torture to extract information from detainees, or excessive force to effect arrest. This archaic way of thinking that law enforcement is war against crime, and human rights are merely barricades thrown on the way of law enforcement Agencies by lawyers, human rights Activists and organizations is not only expired but repugnant. When the law enforcer becomes the law breaker, the result is not only an assault on human dignity and law itself but creation of brier to good policing. This paper will attempt to dispel the above myth and contribute to the process of eradication of torture and ill treatment in custody by bringing law Enforcement system, monitoring NGOS and professionals into closer conformity with international standards of treatment of detainees and documentation of new cases of torture engendered injuries and post mortem examination of suspicious cases of extra judicial killings.

### 158.4. Human Rights and the Situations in Prisons in Russia

Konstantin Antsiferov; *St. Petersburg Rehabilitation Center for Victims of Political Repressions (SPRC), Russia* (antsiferov@inbox.ru)

Prison conditions should reflect international standards, such as the UN convention. The Russian Federation needs projects on the quality of prison conditions. This presentation focuses on a Humanitarian project in an investigation prison in Saint-Petersburg, Russia. It includes an overview on the Prison Kresty, the biggest prison in Europe, living conditions, the most common and important issues faced by prisoners, and the special project in the psychiatric department of the hospital. The challenges to work in such a large environment and the limitations of present resources are contrasted with the needs

observed in different groups of the prisoners, especially in regard to factors linked to mental health, are discussed as part of the presentation. Visual materials will be provided to offer an insight in the special situation faced in the prison.

## 159. Professional and Legal Barriers to Technologically Delivered Mental Health Care

### 159.1. What do We Tell Patients about E-Health?

Tracy D. Gunter, *University of Iowa* (tracy-gunter@uiowa.edu)

Technologically mediated communication has become commonplace. The internet, for example, provides users with timely access to large amounts of searchable data and has made simultaneous transmission of audio and video data cost-effective. It is therefore not unpredictable that both consumers and providers would seek to exploit the advantages of technologically mediated communication for service in the healthcare arena. In this session we will examine both the information and competencies needed by the patient (or consumer) to safely and effectively utilize these emerging technologies for health maintenance and disease management. We will then review the available outcome data in order to provide the practitioner with practical advice about what to tell patients inquiring about the appropriate use of these technologies.

### 159.2. Tortious Interference with Electronic Mental Health Records: Wrongs and Remedies

Danuta Mendelson, *Deakin University* (dmendel@deakin.edu.au)

Clinical records, including mental health records, whether paper or electronic, are created at each consultation and on a continuing basis. To be able to offer the best treatment, avoid the risk of misdiagnosis or prescription of inappropriate medication, electronic health records must retain integrity, completeness and accuracy over a long period of time. Whether they will retain these characteristics over time will depend as much on the care taken by their creator as on the stability of the technology (software and hardware) he or she employs. A major problem inherent in electronic mental health records is

breach of confidentiality through wrongful intentional interference with electronic networks on which electronic mental health records are stored, unauthorized access to web sites, and use of web site information relating to mental health of individual patients without license or permission. This paper will analyse cybertorts and common law remedies in the context of electronic mental health records.

### 159.3. Licensure and Other Barriers to Technologically Mediated Mental Health Care

Ross D. Silverman, *Southern Illinois University* (rsilverman@siumed.edu)

While the delivery of mental health care through technologically mediated means has increased over the past decade, offering many vulnerable populations new or improved access to critical health services, many legal and ethical obstacles and hazards must be traversed if such services are to enjoy maximum access and effectiveness. This presentation will discuss the legal and ethical concerns remaining for the delivery of telepsychiatry, and offer recommendations on how to balance the desire to increase access with the need for provider accountability and patient safety.

### 159.4. Professional Barriers to Technologically Mediated Mental Health Care

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

Although global access to information technology has dramatically increased, the growth of electronic health care has not kept pace. Technologically mediated mental health care promises access to quality care at a reasonable cost to all those who need it. The potential is greatest for improving the mental health care for the rural population living in underserved areas and making it feasible for specialized services such as child and adolescent and forensic psychiatry. In psychiatry, consultations by videoconferencing, electronic mail between providers and patients and electronic medical records are utilized increasingly. One study found that the major barrier to the use of telemedicine is the provider functioning as the gatekeeper. This means that the designer of technology has to keep in mind the ease of use for the provider and incentives to be offered. There is a generation gap among providers which bring into focus their ability and willingness to be adaptable and flexible. Guidelines in e-mail communication and reimbursement issues

have to be settled before mental health practitioners would enthusiastically welcome changes from face to face to cyberspace communication and treatment.

## 160. Programming Differentiated Care in Forensic Mental Health

### 160.1. Finding a Rationale for Differentiated Forensic Mental Health Care: A Review of the Literature

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In many forensic mental health settings, different offender types are treated alongside each other. Institutions vary regarding the extent to which specific treatment options are offered to these groups. Pompestichting, a forensic mental health institution in the Netherlands, set out in 2005 to differentiate treatment for personality disordered patients who have committed sex offences, PD patients who have committed violent offences, and patients who suffer from psychosis. An additional differentiation (longstay) was created for patients who pose a chronic high risk. Pompestichting prefers an evidence-based approach, so a rationale for the proposed differentiation was sought through a review of the literature. Findings will be summarized in the present paper. As will be shown, differentiation may need to be less rigid in practice than was initially assumed, especially with regard to sex offenders and violent offenders. It is also concluded that there is a paucity of studies regarding chronic high risk.

### 160.2. The Care Program for Psychotic TBS Patients: A Difficult Delivery

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A few years ago a trend of treatment for psychotic TBS-patients was developed in the Pompe Foundation. There was a need for further treatment of forensic psychotic patients. It was striking that the keystones of treatment were very similar to those of personality disordered TBS-patients: substance abuse, comorbid personality disorder and

psychopathy, as well as an appropriate atmosphere for treatment. Also, the perspectives of the patient and the professional were taken into account. Important aspects of the care program are: classification of phases of treatment, hierarchy of interventions and contacts with fellow-sufferers. The following new activities are included to the care program: risk assessment, methodology of Gordon, offender groups, contacts with other hospitals and sheltered housing and the importance of the treatment of substance abuse. The implementation in daily practice and some research questions are discussed in this paper.

### 160.3. Reports from a Dutch Forensic Psychiatric Hospital where Treatment Results are Zero %

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In the Netherlands there are about 1600 in-patients in forensic psychiatric hospitals. All these patients, who have committed serious crimes, have personality and psychic disorders. The intention is to rehabilitate those patients after treatment. Recent research indicates that for about 350 patients the results of the treatment will be unsatisfactory from the perspective of society safety. They must remain in a maximum security facility. A serious plight exists with these patients. Although they have been punished for their crimes, they are kept in custody for crimes they might commit. For this they pay with their precious civil rights: freedom. Within our assignment to protect society against criminal acts of our patients, we have the duty to: guarantee for each patient an optimal quality of life; within the restrictions of the necessary deprivation of freedom; provide a safe place for the patients; take care that they are deprived of their freedom as little as possible; continue the search for new treatment possibilities for each patient; keep updating risk analyses; and to develop a range of differentiations with regard to levels of restriction of freedom. This paper presents the author's approach in this specific field of forensic work.

### 160.4. Implementing an Intramural Care Program for Sex Offenders with Personality Disorders

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In the Pompestichting, a forensic mental health institution in the Netherlands, a care program for sex offenders with personality disorders was introduced in 2005. Central to the program is risk assessment and risk management. The program is directed at treating mental illness and reducing the risk of reoffending. Care and treatment, safety and security: are two services that are delivered, and the two sides of a scale that requires constant effort to keep in balance. The Forensic Service utilizes a multidisciplinary approach to providing assessment, treatment and rehabilitation services. Treatment requires the combined expertise of specialists from a variety of disciplines. The approach is based on a biological/psychological/social model. The communication between (nursing) staff and patients, as well as the attitudes of the staff members, the experience levels of the staff and communication styles. are also important in the attempt to change the interpersonal, situational and environmental risk factors. Devising a care program is one thing, but implementing the care program is another thing. All team members should have training and expertise in the assessment and treatment of these patients. For program management to function, staff from different disciplines must work together.

## 161. The Proliferation of Long Stay Units in the Dutch TBS System: Policy and Practice

### 161.1. Zero Tolerance Developments on Forensic Psychiatry and the TBS System in the Netherlands

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This presentation will focus on recent developments in Forensics after upheaval in society as a reaction to two serious incidents (rape and murder) caused by patients on furlough (2005). In the first place there is the question of how to handle the media; and the media-effects on the masses and the Members of Parliament and as a result the devastating first reactions of Civil Servants to get the responsible Minister out of trouble. This caused questions about the TBS system. The measures taken by the Minister were on the one hand to save the system, but on the other hand the costs included a huge reduction in outcomes (termination of treatment) and an increase in longstay confinements. The question will be: was this row and the result avoidable, or was this the start of a purifying process with inevitable outcomes. In 2006 a Commission of the Dutch Parliament conducted an inquiry into the TBS system and the results are encouraging. But the system will need another 5 years to recover from these blows. This presentation

will briefly list the suggested improvements in the context of Dutch Forensic Mental Hospitals.

### 161.2. Doctor's Dilemmas in Longstay Facilities

Marijke Drost, *Pompe Institute, Nijmegen, The Netherlands* (m.drost@pompestichting.nl)

A substantial number of longstay beds has been created in the Dutch TBS-system to reduce the waiting list for forensic hospitals. Some of these beds are located in a prison environment. The liberties and perspectives of patients transferred to the longstay units have been drastically reduced. Some politicians and media view longstay as a kind of life sentence. Mental health professionals still have the duty to provide high quality care and assess the health and security needs every two years. In this tension between professional duty and certain forces in society, some ethical questions arise, which will be discussed with examples from experience with longstay in the Pompe Institute of Forensic Mental Health.

### 161.3. Developments in Policy and Attitude Toward Forensic Mental Health in Germany

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In Germany, an enormous increase in the number of forensic inpatients can be noticed and a growing number of nonreleasable long-stay patients with chronic dangerousness (33%) is problematic. The debate on the topic of long-stay patients with little prospect of release in Germany was partly ideologically and thus not very helpful. Northrhine-Westfalia started to put these patients together in special units, but it was necessary to divide them into different focus groups: patients with intellectual disability, personality disorder, psychosis and sex offenders. Initial results of the empirical evaluation will be presented. Patients and staff are more satisfied, violence is reduced and the financial reduction for long-stay patients allows for an increase for other treatment areas.

### 161.4. 'Treatability': An Acceptable Criterion for the Dutch TBS-order?

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The authors discuss the acceptability of ‘treatability’ as a possible new criterion for imposing the Dutch TBS (entrustment) order. In recent years the TBS-system has been confronted with a worrying lack of capacity. It is a relatively expensive security- and treatment-order for mentally disordered delinquents, which is very frequently imposed but much less often ended. As a possible solution to limit the demand for TBS-placement and to enhance efficiency, it is proposed that the order apply exclusively to ‘treatable’ patients. The TBS-system is presented, in order to examine whether ‘treatability’ is compatible with the character and goals of the order. A comparison is made with the situation, in England, where the existing ‘treatability’ criterion is currently under discussion. The acceptability of this proposed criterion depends on questions of a semantic, psychometric and ethical nature. What is ‘untreatability’: a delinquent’s personal trait, a consequence of the system, a lack of treatment-effectiveness research or a combination of these (and other) factors? Can ‘treatability’ be predicted with an acceptable degree of certainty? Do forensic patients have a right to any treatment, or are practical and financial concerns grounds for deprivation? The conclusions are compared with those of a recent report by the Dutch national parliament, concerning the future of the TBS-system.

### 161.5. Implications of Long Stay Developments for the Actual Treatment of Forensic Patients in Germany

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On the 3rd of October the LWL- Zentrum für Forensische Psychiatrie Lippstadt opened a specialized ward for the accomodation and treatment of so called "long-term patients". Twelve male patients with severe personality disorders, sexual deviations and very bad legal prognosis who failed the goals of psychotherapy will be provided the chance to develop a new perspective of living a senseful life beyond discharge. A further aim was to separate those patients with a very unfavourable perspective from those who stand good chances to succeed in therapy. Treatment does primarily focus on developing a new point of view relating to a way of life under high security conditions. The emphasis is laid on several activities and work according to one's own interests. The presentation will portray the mix of patients and their history and show the treatment concept. All patients have the chance to change into the treatment programs, should a drastic improvement in legal prognosis occur.

## 162. Psychiatry and Criminal Responsibility in History I

### 162.1. Rethinking Mental Incapacity Defences in Criminal Law

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Mental incapacity defences are those defences which refer to the defendant's mental state at the time of the offence or the time of the trial. Together, the defences represent the way in which criminal law deals with mental abnormality. This paper offers a rethinking of the development of mental incapacity defences that focuses on developments in the concept of criminal fault, and on the role of lay understandings of mental illness in the criminal courtroom. Decentering the 'famous' cases which mark this history of these defences, this paper draws on a range of cases included in the Old Bailey Sessions Papers, which cover the eighteenth and nineteenth centuries. It is argued that these cases indicate mental incapacity defences formalised via a doctrine of incapacity. It is also argued that the cases show the importance of lay attitudes to and beliefs about mental illness in the construction of the defences, and attendant laws of evidence, that developed over this period.

### 162.2. Doctoring Criminal Responsibility in England: professional medical struggles, 1896-1922

Ivan Crozier, *University of Edinburgh* (ivan.crozier@ed.ac.uk)

Toward the end of the nineteenth century, a struggle emerged between English psychiatrists (as represented by the Medico-Psychological Association) and the British Medical Association over the M'Naghten Laws, and in particular over the extent to which the medical profession in England should support the law as it stood. Psychiatrists were largely advocates of change, and had proved to be critical of the M'Naghten Laws on many occasions since 1843. The BMA, however, was largely supportive of the law, and did not hope to interfere with this issue. Rather than being seen as a struggle between two professions, medicine and the law, this paper argues that psychiatrists were in as much of a struggle over their professional status with the BMA as with their attempts to alter the opinions of lawyers on the issue of criminal responsibility. This debate is mapped with particular attention to the various committees which met to discuss, and sometimes offer alternatives to, the M'Naghten Laws, and uses the minutes of the sub-committees of the BMA that met to discuss criminal responsibility and the relations

between medicine and law more generally in this period. It ends when these issues over criminal responsibility came to a head in the trial of Ronald True (1922).

### 162.3. Treatment as Punishment? Forensic Psychiatry in the Netherlands (1870-2005)

Harry Oosterhuis, *University of Maastricht* (harry.oosterhuis@history.unimaas.nl)

This paper provides an overview of the development of forensic psychiatry in the Netherlands from the late 19th to the early 21st century. If this branch of psychiatry established itself quite late in the Netherlands compared to neighboring countries, in the 20th century it became firmly anchored in the Dutch legal system mainly on account of the so-called ‘psychopaths laws’ (1925). The paper consists of two parts. The first part addresses Dutch forensic psychiatry’s struggle to establish itself in the period 1870-1925, where emphasis is placed on its interrelatedness with forensic practice, psychiatry’s professionalization, the influence of legal thinking and criminal anthropology, and the debates among and between psychiatrists and legal experts. The second part focuses on the enactment of the laws involved, which formalized special measures for mentally disturbed delinquents. From 1928 they could be ‘placed under a restriction order’, which implied a combination of sentencing and forced admission to and treatment in a forensic-psychiatric institution. The paper deals with the consequences of this legislation, the delinquents affected, and the (therapeutic) regime in forensic institutions. The goal of the Dutch legislation on psychopaths was ambiguous: if it was designed to protect society against assumed dangerous criminals, at the same time they were supposed to receive psychiatric treatment to enable their return to society. These objectives were at odds with each other and as a result discussions about collective versus individual interests as well as about the usefulness of this legislation kept flaring up. To this day forensic psychiatry is characterized by the intrinsic tension between punishment and security on the one hand and treatment and re-socialization on the other. Whether at some point one or the other prevailed was largely tied to the social climate with respect to law, order and authority.

### 162.4. How the Prisoner Met the Doctor: Changing Institutional Settings and Emergent Medical Diagnoses: 1760-1913

Joel Eigen, *Franklin & Marshall College* (eigen@fandm.edu)

Starting in 1760, a new form of expert witnesses appeared at London's central criminal court, the Old Bailey, to assert his claim that insanity was a medical condition. The Old Bailey Sessions Papers, verbatim transcripts of those trials, permit today's historians of law and medicine to glimpse the courtroom tactics that elicited and framed forensic-psychiatric testimony, particularly the range of imagery used by the specialist witnesses to address legal concerns of intention and culpability. Also on view in the testimony is indirect evidence of the changing forum in which the doctor met the prisoner: in private practice, the asylum, the prison, and the gaol. This paper will examine a series of trials heard in London from 1760 to 1913, the year when the Papers cease publication, in an effort to illuminate how changes in the institutional setting that served as the venue for mental examination were reflected in the courtroom testimony - and claims of professional 'ways of knowing' - of these emerging forensic specialists.

## 163. Psychiatry and Criminal Responsibility in History II

### 163.1. 'Legally Wrong or Morally Wrong'? Judicial Innovation and its Medico-legal Contexts in Australian Insanity Jurisprudence

Mark Finnane, *Griffith University* (m.finnane@griffith.edu.au)

In twentieth century Australian criminal law a distinctive departure from the M'Naghten standard rules developed as a critique of the discourse of reasoning and verdicts applying in the relevant English trials from the 1880s. The English verdict of 'guilty but insane' was criticised by the leading jurists as contradictory. And in a sequence of influential judgments the jurist Owen Dixon articulated an approach to the insanity defence that made room for a medico-legal discourse that was more akin to American than English courtroom approaches. This paper will explore the shaping and significance of this departure and its comparative judicial, medical and social contexts.

### 163.2. Redrawing Boundaries between Culture and Psychopathology: Medico-legal Debates Regarding Criminal Insanity in Dual Suicides in 20<sup>th</sup>-century Japan

Junko Kitanaka, *Keio University* (kitanaka@flet.keio.ac.jp)

While Japanese debates on criminal insanity since the 1900s have focused on people deemed a clear “danger” to society, this paper examines the criminal insanity of those who have received much more sympathetic treatment in Japan: individuals who have ended up killing a family member—but not themselves—in what is regarded as an attempted dual suicide. Cases of attempted dual suicide, especially involving a family member who is elderly and suffering from dementia, have grown increasingly common over the years. Against the tradition in Japan of seeing suicides, particularly familial dual suicides, as acts that are culturally “comprehensible,” psychiatrists have testified that such acts are instead products of psychopathology. Though psychiatrists’ views have frequently been challenged by legal experts who assert their own criteria for distinguishing between “comprehensible” and “incomprehensible” (and thus psychotic) behaviors, psychiatrists have nonetheless gained influence in arguing that people attempting familial dual suicides were in fact pathologically depressed. Examining landmark legal cases mainly from the second half of the 20th century, this paper examines changes in medico-legal discourse about familial dual suicides in Japan, and the role played therein by psychiatrists in redrawing the boundaries of normalcy and abnormality.

### 163.3. Psychopathic Personalities in German Psychiatry and Criminal Justice, 1880-1945

Richard Wetzell, *German Historical Institute, Washington, USA* (r.wetzell@ghi-dc.org)

This paper discusses the history of the concept of “psychopathic personalities” (referred to under various terms, including “psychopathische Minderwertigkeiten” or simply “Minderwertige”) and its impact on criminal justice and penal reform in Germany from the Imperial period through the Weimar Republic to the Nazi regime. Late-nineteenth-century German psychiatrists introduced the concept to refer to abnormal personalities situated on the border between mental health and full-fledged mental illness, especially those considered likely to harm themselves or others. The increasingly popular idea that many criminal offenders were psychopathic led to calls for the introduction of “diminished criminal responsibility,” a category that was absent from Imperial Germany’s penal code. It also gave rise to heated debates over the proper treatment of such offenders: Should they receive reduced prison sentences followed by medical treatment? Should punishment be replaced by treatment? Or should they be held and treated in hybrid penal-medical institutions? Should they receive determinate sentences or should their detention be indefinite, with their release dependent on the success of treatment? The paper argues that these debates provide an excellent window into how German psychiatrists and jurists approached the question of the nature and purpose of criminal justice and punishment—and how these debates were affected by Germany’s changing political systems, from monarchy to Republic to dictatorship.

### 163.4. Asylums, Jails, Poorhouses, and Sheds: Institutions for the Mad in Nineteenth Century North America

James E. Moran, *University of Prince Edward Island* (jmoran@upei.ca)

This paper explores the multiple institutions constructed for those considered as mad in nineteenth century North America, focusing specifically upon the jurisdictions of New Jersey, Quebec and Ontario. Drawing on legal, governmental, and institutional records, as well as a recent wealth of literature in the North American field, the paper aims to demonstrate that these responses stemmed from a broad range of understandings of madness and how it ought to be managed and treated. The relationship between these institutions for the mad was, moreover, based upon the colonial contexts of the jurisdictions under study, the migration of ideas about treatment and care from Britain and France, and the tensions among the institutions' creators, operators, and 'users'. During most of the nineteenth century, the primacy of the asylum in this web of institutional responses was uncertain, as an emerging psychiatric approach to madness was forced to negotiate a rich history of institutional alternatives.

### 163.5. Forensic Psychiatry in Modern Japan

Akiko Hyodo, *Japan Society for the Promotion of Science, Tokyo, Japan* (ahyodo78@hotmail.com)

The New Criminal Code of Japan (1880) formulated a new view of criminal individual. The New Code understood the criminal act as a necessary outcome of certain psychological traits of the individual. If the traits remained uncorrected, according to the new understanding, the individual would repeat the same or similar crime. To study such criminal minds became the responsibility of Japanese psychiatrists at that time, who identified criminal lunatics with habitual offenders. To protect the society from such criminal lunatics, Japan resorted to prolonged custody of them in mental hospitals or at their own home. Many of them lived under painful conditions; not a few committed suicide to escape the pain. Moreover, the notion of criminal lunatics was soon extended to those who had not committed crime but were under the risk of doing so. This paper will examine the close connection of law and psychiatry in Japan which was rapidly modernizing its medico-legal structure from the late nineteenth century.

## 164. Psychological Perspectives on Capital Punishment

### 164.1. The Role of Dangerousness in Justifying Death Sentences

Christopher Slobogin, *University of Florida* (slobogin@law.ufl.edu)

Only eight American states explicitly make dangerousness an aggravating circumstance justifying the death penalty. Research firmly proves, however, that capital sentencing juries in every death penalty state allow concerns about dangerousness to affect their decision. Furthermore, juries tend to equate mental disability with dangerousness, meaning that mental disability has become an aggravating circumstance in capital cases. Nonetheless, the Supreme Court has specifically rejected challenges to dangerousness as an execution predicate. Taking that stance as a given, this paper makes the philosophical case for severely limiting dangerousness as an aggravating circumstance in capital sentencing, and the pragmatic case for why it can virtually never be proven with sufficient certainty to justify execution.

### 164.2. Psychological Perspectives on Capital Punishment

Donald Judges, *University of Arkansas* (djjudges@uark.edu)

Recent developments have increased mental health professionals' role in the American capital punishment system. Scrutiny of those professions' efforts to reconcile the ensuing ethical conflicts is a heuristic device for examining social ambivalence about capital punishment itself. This paper continues that scrutiny in light of the professions' current ethical conflict surrounding involvement in national-security related issues such as interrogations and suggests that such ethical debates have become a surrogate for society's moral inquiry into the underlying practices themselves.

### 164.3. The Death Penalty and Mentally Retarded Defendants: *Atkins v. Virginia* and the APA Amicus Brief

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Bersoff (2002) strongly criticized the American Psychological Association for its position in the amicus brief filed in the U.S. Supreme Court case of *Atkins v. Virginia*, the case in which the death penalty was ruled to be cruel and unusual punishment as applied to defendants with mental retardation. It was Bersoff's contention that the APA's position was paternalistic, and contrary to previous attempts by APA to advocate for rights for persons with mental retardation. In this paper, I attempt to respond to Bersoff's concerns and contentions, and argue that APA's position was not only correct but also quite consistent with APA's continued advocacy for rights for persons with mental retardation. Developments in death penalty cases involving mental retardation since the *Atkins* decision are also discussed.

#### 164.4. Psychological Perspectives on the Death Penalty

James R. Merikangas, *George Washington University* (neuropsych2001@hotmail.com)

The death penalty has a long and various history, with the evolution of the political state and the emerging philosophies of human rights and natural law resulting in a changing balance between totalitarian regimes and free societies based on the rule of law. The Declaration of Independence of the United States of America states. "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain Unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men." "Unalienable" means that which cannot be taken away or sold; yet in the USA seven hundred men are awaiting their state-sponsored murder on death rows around the country. This presentation will report on some of the 200 men and women given comprehensive neuropsychiatric evaluations, including brain imaging and blood tests in the context of capital punishment in the USA. The concept of varying degrees of free-will, and therefore criminal responsibility will be explicated with clinical examples and case histories of murderers, including serial killers, impulsive killers, and those motivated by greed or patriotism. The arguments for and against Capital Punishment will be discussed from the perspective of neuropsychiatry, deterrence, vengeance, and the myth of "closure".

#### 165. Psychology of Resistance

### 165.1. Stigmatization: The Visible Rubicon in Mental Health Care Among Ethnic Minorities In America

Alice Ball Britt, *Minority Fellowship Program at the American Nurses Association*  
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This presentation examines the issue of mental health parity as it relates to ethnic minorities in America. Rhetoric about the lack of mental health parity in America, in general, has been a topic of furious debate. However, the assault of this clarion disparity among ethnic minority groups has penetrated the very core of these aggregate populations, which has threatened the viability of their continued existence as healthy productive individuals in society. It has been proposed that factors such as racism and oppression are exclusive stressors that offend the coping skills and psychological pattern of health among African Americans (Outlaw, 1993). Moreover, Gary (2005) suggested that minority groups suffer a double stigma: prejudice and discrimination coupled with a mental illness diagnosis. Consequently, minorities themselves impose barriers to accessing mental health care by choosing not to seek treatment. This presentation concludes with recommendations to attenuate the disproportionate impact of stigmatization of mental illness on minority groups and rebuff the social context of race and mental illness that has been encroaching upon minority groups in America.

### 165.2. Towards a Just Society: Ethical Ramifications of the Psychology of Resistance in Our Society

Olivette R. Burton, *New York City Department of Health and Mental Hygiene, New York, USA* (burtoethics@yahoo.com)

Psychoanalytic resistance is not a universal concept in American psychology. Probably half of the psychologists in the country are either cognitively behavioral psychologists or behavioral psychologists who do not even recognize resistance which has been somewhat illusive to define but which certainly encompasses drive defense, compromise, character formation and transference as a concept. There is scant discussion in the learned cognitive and behavioral psychological literature on the psychology of resistance and less on the ethical ramifications. To the extent that there is any discussion of this issue it is negative. This presentation therefore begins with a discussion of a concept which is accepted by one segment of the American psychological community; regrettably a community charged with identifying and developing mental health interventions. The presentation further discusses that the failure to address resistance causes society as a whole to practice its own form of resistance which contributes to a collectively

oppressive mental health state by not owning up to the uneven, social and political economic systems it has created and the resulting problems particularly for the weakest members of society namely the poor, homeless and ethnic minorities.

### 165.3. Reconstructing Rationality: Critical Economic Theory and (IR)Rational Reproductive Behavior

Pamela D. Bridgewater, *American University* (pbridgewater@wcl.american.edu)

This paper explores the role of rational economic behavior in the reproductive context among women in the United States. Specifically, it focuses on the actors in reproductive markets (adoption, gestational and traditional surrogacy, sale or donation of reproductive material) and considers the experiences of economically disadvantaged women versus upper class women. The author argues that strict application of economic principles such as rationality, efficiency and market failure requires a shift in who receives “most favored” economic actor status. This analysis supports the proposition that the desire for rational economic behavior and efficient outcomes necessarily demands a more critical view of the role today’s legal, technological and landscape play in shaping our presumptions about the motivations and experiences of women as primary actors in reproductive markets, whether consumers or suppliers. This could (or should) lead to market adjustments, protections and policy changes all informed by an accurate articulation of the correlation between reproduction decision making and economic well being. Finally, the author discusses how the class, race, sexuality, nationality and presumed altruism and sentimentality of women in reproductive markets actors led to inefficient reproductive markets and the maintenance of economic and social inequality

### 165.4. The perception of mental illness in a multicultural neighbourhood

Karin C. Persson, *Malmö University* (karin.c.persson@hs.mah.se)

Utilization of mental-health services in the borough of Rosengård in Malmö, Sweden, has in relation to estimated needs proven to be low. The population of Rosengård is heterogeneous; 84% has a foreign background, over 50 languages are spoken and it is an area with great strain on social resources. In depth interviews were conducted with people living and/or working in the area, exploring the perception of mental illness and trying to find reasons behind the imbalance of care utilization. Among other things, shame, stigma and the fear of being classified as mad, appeared to be hindrances to accessing services. Another reason is the varying viewpoints on mental illness, which

also determine the choice of treatment. Mental illness is for instance not always perceived as an illness but can be viewed as a natural crisis in life, possession by spirits or simply god's will, which consequently is a problem for the family or a religious leader to take care of. Methods of possible ways to give families support in their encounter with mental illness will be discussed. Most likely efforts have to be made on multiple levels of services.

## 166. Psychopathy and Risk Taxation in Juveniles

### 166.1. Predictive Validity of the Psychopathy Checklist: Youth Version for Recidivism with Female Adolescent Offenders

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Adolescent females have recently emerged as an important population in violence risk assessment and have sparked a debate regarding the downward and gendered extension of the Psychopathy Checklist – Youth Version (PCL-YV). This paper evaluates the predictive validity the three and four-factor models of the PCL:YV using a prospective average three-year follow up of male ( $n = 201$ ) and female ( $n = 55$ ) adolescent offenders. The PCL:YV was not a significant predictor of violent or non-violent recidivism for girls. Both versions of the PCL:YV were significant predictors for boys, however, the predictive power was due primarily to the behavioral features of psychopathy. The results do not support the use of the PCL:YV as a violence risk assessment instrument for girls.

### 166.2. Psychopathy Screening Device: validation on a Russian sample of juvenile delinquents with the emphasis on the role of personality and parental rearing

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The objectives of the present study were: 1) to validate the Psychopathy Screening Device on a sample of Russian juvenile delinquents; 2) to examine subgroups of delinquents with higher versus lower levels of childhood problem behaviors with respect to the Psychopathy Screening Device (PSD) subscales, personality traits, and parental rearing; and 3) to attempt to replicate the finding of Frick et al. that the PSD subscale measuring callous/unemotional traits differentiates subgroups of delinquents with different precursors for problem behaviors (predominantly biological versus predominantly social). A group of 250 Russian juvenile inmates was examined by means of the Psychopathy Screening Device completed by the staff at the correctional institution. The inmates completed the Antisocial Behavior Checklist (ABC), the Retrospective Childhood Problems (RETROPROB), the Temperament and Character Inventory (TCI) and the Egna Minnen Beträffande Uppfostran (EMBU) on memories of parental rearing behavior. A factor structure was obtained that is similar to that from the original studies by Frick et al. (1994, 1997). Results indicated different relationships between behavior problems, personality, and experienced parental rearing practices in the subgroups characterized by high versus low levels of callous psychopathic traits. The findings are discussed in terms of interactional processes between personality of the juvenile delinquents and parental rearing in the development of antisocial behavior.

### 166.3. Disruptive Behavioural Disorders and Psychopathy in Incarcerated Adolescents

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Psychopathic individuals exhibit aggression, as well as risk-taking and sensation-seeking behaviour. They are egocentric and self-centred, tend to be emotionally shallow, have diminished capacity for empathy, and express little remorse for their misdeeds. Research among adults has suggested that the syndrome is linked to severe social dysfunction, as psychopathic offenders account for a disproportionate amount of crime, commit more violent crimes and have higher rates of recidivism. Recently, studies have shown that

callous, unemotional traits in childhood increase the risk of future anti-social behaviour. This opens the door for prevention, as early detection and treatment of psychopathic tendencies in children may possibly combat the rise of serious and violent offending behaviour witnessed among youngsters in Western societies. However, the validity and applicability of the term psychopathy to children has not been fully determined, as the phenomenon has not yet been extensively studied in children. In this paper the relationship between the egocentric and callous-unemotional dimensions of psychopathy — in this study defined as social and emotional detachment — and the disruptive behavioural conduct disorders will be studied in a sample of incarcerated Dutch adolescents. More specifically the hypothesis will be elaborated whether delinquent youngsters displaying social and emotional detachment also exhibit higher levels of aggressive conduct disorder and hyperactive behaviour, and also had more contacts with the police early on, as compared to children with only impulsivity/conduct problems and those without conduct problems, as research among adult criminals has suggested.

#### 166.4.I am evil. Can Psychopathic Traits be Assessed in Children Through Self-report?

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The concept of psychopathy has proven useful in understanding and predicting adult antisocial behavior. In recent years research has successfully extended the construct of psychopathy to adolescents. The vast majority of studies up to date have supported the notion that psychopathic traits in this group express themselves in similar ways as they do in adults. The instruments currently available for measuring psychopathic traits in the pre-adolescent age group are however limited, both in number and suitability. Several authors have therefore called for the development of new assessment tools for young children. For that reason, our group has adapted the Youth Psychopathic trait Inventory (YPI, Andershed et al., 2002) for use in 9-12 year olds. In this lecture we will present data from two studies indicating that psychopathic traits can be assessed reliably and meaningfully through self-report in children.

## 167. Psychopathy: Types of Explanations and Ascriptions of Moral Responsibility

### 167.1. Are Psychopaths “Cut Off” from Morality?

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In considering whether psychopaths are morally, and ought to be legally, responsible, moral and legal philosophers have often focused on whether psychopaths are “cut off” from the realm of morality. Whether that is so depends on what we take morality to be and what constitutes being “cut off” from it. In this paper, three accounts of the relationship between agents and moral value and the legal implications of each will be considered. For Kantians, being cut off from morality is matter of being incapable of a certain kind of reasoning. For a Humean, the critical failure would be one of sentiment; a psychopath would be cut off from morality by virtue of an inability to engage with the concerns and feelings of others. Finally, there is another conception, owed to Aristotle that has recently been championed by Antony Duff. For Aristotelians, the moral person has certain reason-based capacities, which are themselves connected to the emotions. We are able to understand, and to pursue, the good only through a connection that is both cognitive and emotional. In this paper, each of these positions and their implications for our understanding of the moral and legal responsibility of psychopaths will be considered.

### 167.2. Psychiatric Classifications, Levels of Explanation and Psychopathy

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Robert Hare’s Psychopathy Checklist (PCL) has assumed a central role as a diagnostic tool in the study of a class of antisocial personality disorders. Moreover, PCL is used in forensic psychiatric assessments of offenders in different countries. The aim of this paper is to investigate from the standpoint of recent philosophy of science and philosophy of mind whether the notion of PCL is a plausible scientific construct. In the framework of a “modest reductionist” program in psychiatry, it will be argued that PCL is a satisfactory construct. First, it will be shown how recent philosophy of science and philosophy of mind have offered convergent considerations for the formulation of a weaker and more realistic program for the unification of psychology and neurosciences than the one

elaborated by neo-positivists. This program requires that a psychological construct is acceptable if it figures in a theory that can be explanatorily interfaced and that can co-evolve with theories concerning neurological mechanism. Second, it will be argued that the recent history of the use of PCL shows that this notion satisfies these requirements. Thus, at least from the epistemological perspective, there should be no reasons to oppose the use of PCL in legal and forensic contexts.

### 167.3.Character Development, Responsibility and Psychopathy

John McMillan, *University of Hull* (john.mcmillan@hums.ac.uk)

A number of philosophers have applied philosophical accounts of moral responsibility to psychopathy. Accounts that attempt to specify a set of cognitive and or affective capacities that are relevant to moral responsibility are often inconclusive or end up judging psychopaths to be morally responsible for their actions. This paper will argue that philosophical accounts of responsibility that are sensitive to the history of an agent's character development are likely to yield more interesting accounts of the responsibility of psychopaths. Galen Strawson has produced a powerful argument for the impossibility of moral responsibility that relies upon agents not being able to 'own' the factors that lead them to act in certain ways. It will be shown that a satisfactory answer to this form of scepticism will produce an interesting account of the responsibility of the psychopath.

### 167.4.Holding Psychopaths Responsible

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Psychopaths are deficient in the normal means of self-control as a result of emotional impairment, and it would be reasonable to think of them therefore as acting unfreely. However, it will be argued that this still allows for responsibility for the wrongful act — enough to ground moral reactive attitudes and to justify legal punishment, even if it fails to satisfy some more demanding notions of moral responsibility — on the account of responsibility in terms of “reactive attitudes” that many contemporary philosophers take from P. F. Strawson. The psychopath apparently lacks normal motivation to abstain from socially disapproved acts, and this might be said to make him unfree to the extent that it makes it difficult for him, in contrast to normal agents, to resist acting on his impulses. But if his wrongful acts are intentional and uncoerced, there still are grounds for attributing them to his will and reacting to them with attitudes of blame.

## 167.5. Links between Violence, Addiction, and Psychopathic Traits: Findings from a First Episode of Psychosis Community Sample

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Although there is evidence that those who suffer from psychosis are at higher risk for both criminal and violent behavior, few studies have looked at this relationship in a first episode community sample. In fact, it has been suggested that variables such as personality may mediate this relationship. One hundred first episode subjects with a primary diagnosis of psychosis were recruited. Results indicated a relatively high percentage had a history of trouble with the law (44.5%), verbal aggression (40.5%), or physical aggression (48.6%) and a significant number had a problem with substances. The relationship of the SRP-II to assess for psychopathy with these variables will be investigated. Implications for treatment will also be discussed.

## 168. Public Perception of Stalking

### 168.1. Interpreting Stalking Laws: Community Perceptions of Unwanted Interpersonal Communications

Susan Dennison, *Griffith University* (Susan.Dennison@griffith.edu.au)

*Background:* At a minimum, behaviours must have occurred in one protracted incident or more than once if not protracted to meet most legislative criterion for stalking. However, it is not clear how the law is to be interpreted with respect to protracted and repeated incidents.

*Aims:* The study aimed to examine the conditions under which a protracted incident or two repeated behaviours are sufficient to be perceived by community members as stalking.

*Method:* Using a between-subjects factorial design, the independent variables were intent, persistence, participant perspective and participant gender. Participants (N = 868) read a vignette depicting a person engaging in potentially harassing behaviour following the termination of a relationship.

*Results:* Of the four variables, only the manipulation of intent was a significant predictor of judgments of illegal behaviour.

*Conclusions:* The current study illustrated that when repetitive actions consist of a single protracted episode, or two episodes, it is generally not sufficient to identify behaviour as illegal.

## 168.2. How the Public Perceives Stalking

Aaron Cunningham, *Deakin University* (aaron78@alphalink.com.au)

*Background:* An individual's perception of what constitutes stalking is an integral part of determining culpability in charges of criminal stalking. However, it is not clear what factors may affect an individual's perception of what constitutes stalking conduct.

*Aims:* The current research aims to determine whether the public's perception of stalking-type behaviours can be influenced by framing effects, the gender of the participant, perpetrator and victim, and the context the behaviour is placed in.

*Method:* Participants made judgements concerning a range of behavioural vignettes that could be construed as stalking. The gender of the two persons featured in the vignettes was systematically varied. For half of the participants the surveys were presented in a civil liberty frame, for the other half the surveys were presented in a stalking frame.

*Results:* Significant interactions were found between framing, gender of participant, gender of initiator and gender of target.

*Conclusion:* The findings are consistent with findings from other framing studies and have implications for the interpretation of previous research and for lawmakers in their formulation of anti-stalking laws. These findings suggest that broadly framed laws that rely on perceptions of threat may lead to improper convictions and civil liberties violations.

## 168.3. Does the Experience of Physical and/or Sexual Intimate Partner Violence Influence Perceptions of Stalking Behaviors and Fear?

Maureen O'Connor, *John Jay College of Criminal Justice* (moconnor@jjay.cuny.edu)

The current study examined three different definitions of stalking victimization (typical U.S. legal definition; lay definition necessitating repetitive and disruptive behaviors; and,

self-definition). One hundred twenty-five mostly immigrant female urban college students completed questionnaires as part of a larger study focused on correlates of intimate partner violence (IPV). The revised conflict tactics scale captured male to female sexual and physical violence and an adaptation of a widely used stalking measure captured stalking behaviors. Using the same rating scale as the CTS permitted direct comparisons among physical, sexual, and stalking behaviors. Nine percent of respondents met the legal definition of stalking, 30% met the lay definition, and 3% self-identified as having been stalked. Women experienced high levels of violence overall -- 50% reporting some violence in the past year. Results revealed that women who met the lay or legal definitions of stalking experienced significantly more IPV than those who did not experience stalking. Women who felt fear after stalking experienced similar rates of IPV when compared to women who did not experience fear following stalking. Results suggest that although the frequency of experiencing IPV is related to experiencing stalking, self-perception and fear of stalking behaviors are not related to these forms of abuse.

#### 168.4. Experience and Pathways to Care of Women Victims of Stalking in Six European Countries

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Gian Maria Galeazzi, *University of Modena* (galeazzi@unimo.it)

*Background:* The Modena Group on Stalking is a network of researchers based in Modena (S. Luberto – coordinator- with authors), involving Belgium (G. Vervaeke, A. Groenen), the Netherlands (P. Emmelkamp, J. Kamphuis), United Kingdom (D. James, F. Farnham), Spain (M. Aebi, M. Lopez) and Slovenja (M. Goradz, A. Bucar). The Group has been funded by the European Commission Daphne program to combat violence against children, young people and women.

*Aims:* To outline the second research project of the Group, addressing pathways to care of women victims of stalking in the six participating Countries. A collection of fact sheets for helping professional and victims will be produced during the project.

*Method:* The investigators will collect data on stalking of women in the six Countries by an online questionnaire translated into five languages. The questionnaire asks about characteristics of the stalking campaign, its practical and psychological effects (through standardized rating scales such as IES-R, GHQ-28 and WHO-5 Wellbeing Index, plus an ad hoc coping scale). Respondents will also detail contacts with all Agencies they asked for help and satisfaction with interventions.

*Results:* Ten fact sheets were produced covering definition of stalking, prevalence, risk of physical violence, resources for receiving help and information, and other topics.

Collection of data from the online questionnaire will start in September 2006 and end in March 2007.

*Conclusion:* The fact sheets may be used for information and training activities. Analysis of data may show significant differences in terms of pathways to care and outcome for victims of stalking across countries. This will be useful to inform proposed harmonisation of services and guidelines for professionals and agencies dealing with this crime at the European level.

## 169. Quality of Forensic Mental Health Reports among Delinquent Youth

### 169.1. Quality of Forensic Mental Health Reports of Youngsters

Nils Duits, *Netherlands Institute of Forensic Psychiatry and Psychology, Amsterdam, the Netherlands* (N.Duits@dji.minjus.nl)

Juvenile forensic diagnostic assessments and advice for juvenile court as a basis for decisions can have far-reaching consequences for juvenile delinquents and society. Improvement of quality and guidelines are therefore needed. One can examine the quality of the diagnostic assessment for juvenile court from the perspective of utility; users must define what kind of quality they expect and professionals must define what is possible. With a clear concept of quality, an evaluation model and an organizational grip on the framework of the juvenile forensic system one can clarify quality and enable quality management. On the basis of a double concept mapping consensus method the quality of juvenile forensic diagnostic assessment for juvenile court has been clarified. This has enabled the development of an instrument for quality evaluation. This instrument is used for supervision and for quality evaluation of diagnostic files. Preliminary results of research will be presented.

### 169.2. The BARO.ch/de Screening for Adolescents with Antisocial Behaviour: A 2-year Follow-up

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*Objective* The BARO.ch is a semi-structured interview for detecting psychiatric pathology of juvenile offenders in the first contact with authorities. Furthermore, the BARO.ch gives indications for further penal and other sanctions.

*Method* The aim of the first study was to examine the psychometric properties and the feasibility of the semi-structured screening instrument BARO.ch. For this research the results of 125 delinquent juveniles were used. Two years after the first assessment, the juvenile court gave information about the recidivism.

*Results* The reliability and the interrater reliability ranged from good to very good ( $\alpha = .80$  and  $r = .84$ ) and the correlation between psychopathology according to BARO.ch and diagnosis according to the ICD 10 turned out to be significant ( $r = .79$ ;  $p < 0.001$ ). The recidivism rate was 67% for the juveniles for which the BARO.ch suggested a psychopathology and 71% for juveniles with a psychiatric disorder ( $n = 85$ ). Between the recidivist and non-recidivist, significant differences were found on socioeconomic variables such as 1) criminal history by siblings, 2) earlier contact with juvenile justice and 3) type of offences. We do not found significant differences on the Achenbach questionnaire YSR and CBCL between the recidivist and non recidivist but on the teacher version TRF.

*Conclusion* This study has shown that the BARO.ch has good psychometric properties. There are also associations between the psychiatric disorders and recidivism and between the BARO.ch analysis and type of offences. The results point to the importance in the choice of questionnaire used on this population.

### 169.3. The Use of FOTRES for Forensic Documentation of Youngsters

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The FOTRES (Forensic Operationalized Therapy Risk Evaluation System) is an instrument that attempts a further development of clinical risk assessment instruments and documentation systems. Its aim is to give additional differentiation, transparency and traceability of risk assessment and therapeutic progress as well as the illustration and documentation of an individual risk profile with high accuracy. Each of the more than

700 items is exactly defined and there are precise scoring rules. The FOTRES has been empirically developed over a period of several years and there has been and still is a constant adaptation to actual cases. Apart from this empirical validation of the system, long time studies with large samples are planned for statistical validation. A short overview on the instrument and its possible use for juveniles will be given.

#### 169.4. Quality of Psychiatric Expert Statements in Sex Crime Cases

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The quality of psychiatric statements in criminal cases has been a controversial subject in Germany over the last 30 years. Various studies in the 70s and 80s showed severe deficiencies in quality of expert statements. Despite the lack of quality, psychiatric expert statements proved to be highly influential in court decisions. In the German state of Mecklenburg Western Pomerania, a study was conducted to evaluate the quality of recent expert psychiatric statements. The study focused on whether improvements in quality have taken place as a result of findings in earlier studies. All cases of sexual crimes that came to the attention of prosecuting authorities between 1994 and 1998 in Mecklenburg Western Pomerania were analysed. Cases were only included in the study if charges were brought against the accused. In 19% of 864 cases, a psychiatric expert statement was ordered. The quality of the examined expert statements proved to be poor. Essential components, such as a sexual history of the accused, were missing in many psychiatric statements. Despite the insufficiencies that were found in expert's opinions on the accused's criminal responsibility, the courts acted in almost all cases on the expert's recommendations.

#### 169.5. Psychopathology and psychosocial problems in male adolescent sexual offenders

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*Background* A series of serious offenses caused juvenile sex offenders to be subject of a national debate. An important question remains how we can determine which of these boys are in urgent need for (psychiatric) help in order to prevent a deviant sexual

development or recidivism. One approach may be to use type of offence, such as group offenders, (solo)rapists and child molesters, as a possible indicator. In the present descriptive study it was investigated whether these groups differ in psychiatric and/or psychosocial problems.

*Method* One hundred and three (mean age  $14.9 \pm 1.6$  years) juvenile sex offenders were studied during referral at the Child Welfare Council. This studied group consisted of 57 group offenders, 28 (solo)rapists and 18 child molesters. The prevalence of psychiatric and psychosocial problems was measured by means of a semi structured interview (K-SADS-PL) and a questionnaire (VISK).

*Results* Preliminary results suggested that psychiatric problems were present in 60% of the total group, while the prevalence of psychiatric disorders such as depression, ADHD and the presence of symptoms of autistic spectrum disorders differed between subgroups. With a significantly higher prevalence of these disorders in the group of child molesters. Updated results will be presented.

## 170. Recovered Memories and False Confessions- Legal and Psychological Issues

### 170.1. Recovered Memories of Early Sexual Abuse

Eileen P. Ryan, *University of Virginia* (er3h@virginia.edu)

The issue of recovered memories of sexual abuse has generated controversy regarding their veracity. Prosecution of individuals based on recovered memories has important forensic implications. Issues and controversies surrounding recovered memories are discussed within the context of an actual case of the prosecution of a family member of an adolescent girl who alleged that she was abused as a 5-year-old and recovered the memory as an adolescent.

### 170.2. Neurocognitive Dysfunction and Low Intelligence in False Confessions

Thomas Ryan, *Consulting Psychiatrist, Staunton, USA* (tryan@ntelos.net)

Many criminal defendants are often questioned extensively with terminology they are incapable of accurately comprehending. Although appearing to the average person “on the surface” to be of adequate cognition, formal neuropsychological testing (inc. I.Q.) in many instances reveals a diffusely mildly impaired neurobehavioral profile with accompanying limited intelligence. These issues will be discussed generally, as well as with a particular case. The role of ruling out/in malingering and/or fabrication of neuropsychological symptomatology will also be discussed.

### 170.3. Factors in Determining Reliability of Childhood Sexual Abuse Memories

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Determining the reliability of childhood sexual abuse memories requires an assessment of a variety of factors. Most importantly, the assessment should be made by a professional who has experience and knowledge of child development and child sexual abuse. The information gathered during the interview of a sexual abuse survivor will most likely be the only source of evidence available. Due to the nature of sexual abuse, medical or corroborating evidence is unlikely to be present. Some of the factors to be considered in the assessment of the reliability of sexual abuse memories include, past or present behavioral and emotional indicators, the degree of detail in the memory, consistency over time, motivation for disclosure, and potential influences which may impact memories.

### 170.4.A Confession Induced, A Crime that Never Happened

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The case of commonwealth vs. William G. Havens, Jr., tried in March, 2006 in rural bland county, virginia, provides a lesson in criminal prosecution and defense of a twelve year old crime confessed but not actually committed, asserted because of false memory, either perceived or intentionally concocted by the victim due to mental disease or defect. Subpoenaed medical and psychiatric records of the “victim” established that the crime never happened and that the confession, induced from a retarded man after 3 ½ hours of interrogation and trickery by state police officers, was false. The case resulted in an acquittal by a 12 person jury after two days of trial. The case also established the importance of having psychological and psychiatric expert assistance and competent retained legal counsel, without which the retarded accused would have certainly have

been imprisoned for life. Finally, the case demonstrates that many confessions, obtained regularly by suspicious police tactics and trickery, need to be looked at by an attorney to see behind their mere “on paper” substance and content, and that a criminal case needs to be examined fully for actual innocence despite a confession to the alleged crime, no matter how heinous or innocuous the allegation.

## 171. Reducing Use of Coercion in Psychiatric Treatment

### 171.1.Reducing Use of Coercion: Vocational Training Needs of Nursing Staff

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Coercive interventions, such as seclusion and restraint are ethically sensitive approaches violating human rights during psychiatric hospital stays. The ethically competent qualified nurse has the skills needed to conduct coercive interventions with respect to patients’ humanity. The professional competence of nurses is the central factor affecting the quality of nursing care. The problem is that the vocational education of psychiatric nurses varies inside and between the European countries. The goal of the ongoing study is to elucidate qualified nurses’ educational needs in Finnish psychiatric hospitals. Firstly, patients’ opinions of development areas needed related to use of coercion will be described. Secondly, nurses’ perceptions of the ethical implication of current practice in the management of severely disturbed and distressed patients will be explored. Thirdly, the nurses’ knowledge level and attitudes concerning use of coercion will be surveyed. Lastly, based on the obtained knowledge, a curriculum for nursing staff’s vocational education will be developed. This curriculum will support psychiatric nurses’ ability to provide ethically appropriate and therapeutically effective interventions of high quality for management of in-patients in psychiatric hospitals. The content and structure can be disseminated in different European countries.

### 171.2.Psychiatric Patients’ Right to Appeal: Why Doesn’t it Change Anything?

Lauri Kuosmanen, *University of Turku* (lauri.kuosmanen@utu.fi)

In psychiatric care, quality assurance processes and improvement protocols are central parts of modern health care systems. By collecting information about patient satisfaction and complaints we can call more attention to the effectiveness of health interventions and client-centred care. In Finland, there are a number of different methods for appeals concerning care, and this is also supported by Finnish mental health legislation. Indeed, the number of complaints against Finnish psychiatric care has increased by 33% from year 2000 to year 2004. However, only 20% of these complaints led to consequences by authorities. At the same time, however, studies have reported patients' dissatisfaction in the areas of e.g. involuntary treatment and seclusion/restraint. This will raise the question of whether patients' improved possibilities to appeal have changed practices related to patients' self-determination and autonomy in Finnish psychiatric hospitals. More attention should be paid to the development of methods supporting patients' rights and personal freedom. Health care personnel's capacities to handle errors and adverse events together with patients and relatives should also be assured.

### 171.3. Increasing Mental Patients' Awareness of their Rights - Information Technology Applications

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Mental health disorders are major public health issues in many industrialized countries and are expected to become increasingly common in the coming decades. At the same time, web-based interventions for mental health care and health promotion may offer promising opportunities. Numerous web-based health sites and tools are being offered to the public for the treatment of mental conditions. More and more people are rapidly using these sites and tools, and web-based interventions for stress management and health promotion may offer promising opportunities. However, critical evaluation of barriers and supporting factors for implementation and using these tools in psychiatric care organizations is lacking. The purpose of this paper is first to describe the development process of an interactive portal (Mieli.Net) to support mental patients' awareness of their rights. Secondly, barriers and supporting factors for implementation of the portal in clinical practice will be described. The author's experiences have shown that there is a huge need to develop innovative methods to increase mental patients' awareness of their rights. At the same time, there are a number of barriers to the implementation of

information technology applications in clinical practice. Together with supporting factors these should be investigated to ensure a satisfactory implementation process in clinical practice.

#### 171.4. Evidence-based Change to Support the Realization of Patients' Rights in Psychiatric hospitals

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*Background* Patient education (PE) is a central right of psychiatric patients. However, there are a number of barriers and driving forces affecting the implementation of systematic patient education programmes.

*Purpose* To describe the development of a plan for evidence-based change to support the realization of PE in psychiatric hospitals.

*Methods* The systematic plan for change was developed in three phases. First, a literature review concerning barriers to the implementation of PE was conducted. Second, strategies for successful implementation based on previous literature were described. Third, organisational mapping was carried out.

*Results* Based on the literature, barriers to the implementation of PE are related to PE procedure, staff, organisation, clinical environment and patients. Multifaceted interventions are the most effective way to support implementation of PE. Organisational mapping showed that barriers to implement PE were lack of staff's motivation, skills and awareness on realisation of PE and problems in inter-professional collaboration. Driving forces to support implementation of PE were education for staff and feedback from patients.

*Conclusions and implications* Multidimensional aspects related to the implementation of PE should be considered during the implementation process. In the future, systematic development and evaluation of evidence-based implementation plans for different kinds of interventions targeted to support patients' rights are needed.

## 172. Refugee Children

### 172.1. Unaccompanied Refugee Children and Adolescents: The Glaring Contract between a Legal and a Psychological Perspective

Ilse Derluyn, *Ghent University* (ilse.derluyn@ugent.be)

Unaccompanied refugee children and adolescents are a vulnerable group: they live not only in a relatively difficult situation as minor refugees staying in another country, but also face other risks due to the absence of their parents, such as traumatic experiences, exploitation or abuse. The difficult living situation of these unaccompanied refugee children and adolescents might therefore threaten their emotional well-being, resulting in important emotional and behavioral problems. This ‘psychological’ perspective shows the necessity of a strongly elaborated reception and care system for these children and adolescents in order to meet their specific situation and needs. Nevertheless, the case study of unaccompanied refugee minors living in Belgium, as explored in this paper, shows that the legal perspective on these youths – considering them as ‘refugees’ and ‘migrants’, not as ‘children’ – is predominantly the starting point on which to build the care system. Moreover, this legal perspective contrasts sharply with the psychological perspective, such that these children and adolescents do not receive the appropriate support and care they need.

### 172.2. Lost Childhood? Long-term Effects of Organised Violence on Refugee Children’s Mental Health

Edith Montgomery, *Rehabilitation and Research Centre for Torture Victims (RCT), Copenhagen, Denmark* (em@rct.dk)

Cross sectional studies of adolescent refugee populations have documented a high prevalence of mental problems, but little evidence exists about the longitudinal course of symptoms and the influence of protective and vulnerability factors in exile. Most studies have confirmed that while mental problems are still prevalent years after resettlement in the country of exile, the level of such problems is considerably reduced and most children or youths function well. Based on existing longitudinal studies of refugee child populations in Western countries and the author’s follow-up study of 131 Middle Eastern refugee children nine years after arrival in Denmark, the relative influences of pre- and postdisplacement factors associated with mental health will be discussed.

### 172.3. ‘Cultural Sensitivity’ and Interventions for Children Affected by Organized Violence

David Ingleby, *Utrecht University* (j.d.ingleby@fss.uu.nl)

Only since the 1980's has systematic attention been paid to the psychological needs of children affected by organized violence. Initially, few workers in this field were worried by the fact that the children in question lived in societies very different from those in which child psychiatry and developmental psychology had taken shape. Models, research methods and interventions were assumed to have universal validity. In the meantime, however, much criticism has been leveled at this assumption of universality. Childhood is a social construction and to speak of ‘the’ child and ‘the’ parent-child relationship, or to assume universal ‘developmental tasks’ or ‘phases’, ignores a substantial body of research data. Moreover, interventions developed for (predominately middle-class) Western children may be quite inappropriate for children in other settings. In response to these criticisms, some attempts have been made to improve the ‘ecological validity’ or ‘cultural sensitivity’ of research methods and interventions. These often involve recruiting local people as collaborators. Yet these responses have been piecemeal; the assumption of universality remains dominant. When interventions are adapted to suit local circumstances, the changes made mostly concern the packaging rather than the contents. This issue cannot be viewed apart from the controversies surrounding ‘international mental health’ generally. Here too, an initial phase of almost missionary zeal was countered by serious doubts about the scientific, moral and political aspects of indiscriminately exporting Western interventions to the rest of the world. (Similar issues arise, incidentally, over mental health care provisions for migrant or minority populations). ‘International mental health’ makes grudging concessions to the critics, without significantly diverting the course of the mainstream. In this presentation the author will discuss the relevance of these wider debates to issues concerning children affected by organized violence.

### 172.4. Social Support in Unaccompanied Asylum Seeking Boys: A Case Study

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*Background* The situation of unaccompanied asylum seeking children (UASC's) is characterized by a substantial disruption of the social network and loss of parental

support, seriously jeopardizing their psychological well-being. However, little is known about the role of social support in the lives of UASC's.

*Methods* Qualitative and quantitative sources of information were combined to explore perceived social support (quantity and quality), social support needs and experiences and psychological well-being in 14 UASC's.

*Results* Asylum centre staff and the ethnic community were the most important resources of support. High importance was ascribed to social companionship as a way of coping. Despite pro-social efforts towards Belgian peers, this group provided hardly any social support. The screening revealed a high prevalence of emotional problems and post-traumatic stress symptoms.

*Conclusions* The provision of social support could enhance UASC's well-being through buffering effects (e.g., social companionship as avoidant/distractive coping) and main effects (acceptance by Belgian peers enhancing self-esteem). The asylum centre shows a great potential to stimulate UASC's psychological well-being by expanding the psychosocial function of staff members and community treatment.

## 172.5. Reception of and Care for Unaccompanied Minors

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The reception of and care for unaccompanied minors must, as a minimum, consist of (1) teaching minors how to live in a group or supervised housing in a tutelary flat, (2) individualized assistance, i.e. psycho-social and legal-administrative assistance, (3) school, training courses, and education, (4) leisure activities, and (5) material support. In this workshop the author explains, based on case-study, a method of working with unaccompanied minors. Minor-Ndako developed a method for the guidance of unaccompanied minors based on the model of resilience. This workshop will explain and expose this method.

## 173. Regulation as a Tool in Prevention of Work-Related Mental Health Problems

### 173.1. Perceived Health Consequences of Workplace Harassment and Stress: Lessons for Employers and Adjudicators

Jane Goodman-Delahunty, *University of New South Wales* (j.g-delahunty@unsw.edu.au)

Regina Schuller, *York University* (schuller@yorku.ca)

Employers charged with providing a workplace free from harm struggle to assess risks of injury from workplace stressors such as sexual harassment because the consequences are not visible, easily measurable, or widely-known. This empirical study assessed perceptions of workplace injuries by means of a 2 x 5 between-subjects experimental survey in which workers and students read a short vignette describing 5 types of stressful incidents and assessed the likelihood the duration of potential outcomes manifested (a) physically (b) occupationally, and (c) psychologically. Estimates of injuries were influenced by stereotypes based on the nature of the stressful event and gender of the target. Underestimates of injuries from sexual harassment are common, in light of well-documented sequelae in the occupational literature, suggesting the need for further education. Implications of findings for practitioners and policy-makers are outlined and gaps between the research literature and the law on compensation for workplace injuries are identified.

### 173.2. Quebec Unions' Duty to Represent Workers Seeking Redress for Psychological Harassment in the Workplace

Rachel Cox, *University of Ottawa* (coxrachel@videotron.ca)

As of June 2004, amendments to Quebec's Labour Standards Act created a right to a work environment free from psychological harassment for all workers. Non-unionized workers who suffer psychological harassment can lay a complaint with the Labour Standards Commission. However, if unionized workers are harassed on the job, their exclusive recourse lies with a grievance arbitration tribunal. At the same time, parallel amendments to the Labour Code created a statutory duty for unions to represent members seeking redress for psychological harassment. This study aims to investigate the impact of unions' new role in enforcing workers' right to freedom from psychological harassment. Methodology involves a review of the literature on unions' duty to represent their members as well an analysis of the emerging caselaw on this duty in the specific context of allegations of psychological harassment. The study will sketch a portrait of complaints against unions brought by workers seeking redress for psychological harassment. However, further research is no doubt necessary to grasp the broader impact

of unions' new role in enforcing workers' right to freedom from psychological harassment.

### 173.3. Evaluation of an Organizational Intervention to Prevent Mental Health Problems and Mobbing among Correctional Officers

Michel Vézina, *Université de Laval* (Michel.Vezina@msp.ulaval.ca)

The interventions target well-documented adverse work organizational factors, namely: high psychological demand, low decision latitude, low social support and low reward and their related mental health problems and mobbing in three prisons employing about 450 men and women. Pre- and post-intervention measures of psychosocial work factors, mobbing and health problems were done using self report questionnaire. A participative approach with an intervention team, including correctional officers and managers was used to determine what changes should be introduced to reduce adverse psychosocial work factors and the best way to implement these changes. The main interventions implemented were: new training program for recruits, pairing recruits with experience worker, increasing supervisor presence on the job, structuring communications to reduce role difficulties and perceived dangerousness, increasing participation in decision making, public communication campaigns and governmental social rewards. The effects of these interventions on work psychosocial factors, mental health problems and mobbing will be available by the end of the year 2006.

### 173.4. Sexual Harassment in the Police Service: Incidence; Consequences and Interventions

Jennifer Brown, *University of Surrey* (jennifer.brown@surrey.ac.uk)

Empirical data will be presented that charts the levels of sexual harassment evident in the British Police Service experienced by women officers using the same tracking questions since 1992. This reveals a U-shaped relationship with decreasing then rising frequencies. Interventions will be described that were believed to have contributed to the decline in the commission of overt harassment and suggestions offered as to why there has been an increase in subtler forms of harassment which may account for the increased reporting rates. Additional data from a cross cultural study of harassment will show the ubiquitous nature of harassment within the police occupational culture in European, Australasian and American police jurisdictions. Finally, it will be argued that for rates of harassment to be

eroded on a sustainable basis, greater efforts will be required to change the organisational culture within which it occurs. This will include discussion of the numerical balance of women to men and a demonstration that changing the numbers is, in itself, insufficient to reform the prevailing conditions in which sexual harassment flourishes.

## 174. Rehabilitation and Disability Prevention for Workers with Mental Health Problems

### 174.1. Management Disability and Return to Work Following Absence Due to a Mental Health Problem

Louise St-Arnaud, *Université Laval* (louise.saint-arnaud@sss.gouv.qc.c)

Work-related mental health problems are currently a major cause of absence from work, and this phenomenon has grown markedly in recent years. The lack of support measures during the process of recovery and professional reintegration can lead to a permanent incapacity for work and thus to marginalization and social exclusion. This purpose of this study is to get a better understanding of factors involved in return-to-work process (RTW) after being absent due to a mental health problem. In a more specific way, the goals of the study are: to identify and describe the factors that contributed to work impairment; to clarify interventions and various strategies used in the process of recovering capacities and to identify the role of the management disability in the professional reintegration process. This study is based on qualitative approach. Interviews were conducted with 37 Canadian civil servants who were or had been on a medically sick leave due to mental health problems. The results of this study emphasize the important contribution of work-related factors to the onset of mental disease. The occupational factors which played a role in the onset of the sickness must be considered in the treatment process so as to prevent reactive avoidance and provoke anticipation strategies and, once the employee returns, through changes in the work and support in the workplace.

### 174.2. Work Accommodations for Recently Employed People with Mental Illness

Marc Corbière, *Université de Sherbrooke* (Marc.Corbiere@USherbrooke.ca)

*Background* People with severe mental illness may require special accommodations in the workplace for ensuring their job tenure.

*Design* People with severe mental illness registered in supported employment programs (British Columbia, Canada) and recently employed were asked about the work accommodations implemented in their workplace to help them maintain their competitive employment. The Work Accommodation Inventory (43 items), conceived for this population, was administered by phone interview to assess the number and the type of work accommodations implemented. Two groups were compared: 1) people who lost their first job (N=15) and 2) people who kept their first job (N=35).

*Results* Logistic regression showed that 3 items were significant ( $p < .05$ ) to predict job tenure. The following work accommodations positively predicted job tenure: to be able to use vacation time/personal time for medical needs (odds ratio: 4.62), to gradually introduce tasks to allow them to become accustomed to their job (OR=14.12), and to be provided with feedback from their employer and/or co-workers (OR= 4.46).

*Conclusion* The implementation of work accommodations related to job flexibility and co-workers and employers support was significantly helpful for people with severe mental illness to maintain their competitive employment.

### 174.3. Work and Mental Health: Learning from Return-to-Work Rehabilitation Programs Designed for Workers with Musculoskeletal Disorders

Catherine Briand, *Université de Sherbrooke* (catherine.briand@umontreal.ca)

Despite the high costs associated with psychological health problems in the workplace, few studies have yet been published on the design and evaluation of return-to-work rehabilitation programs for workers with mental health problems. In fact, the best-documented return-to-work rehabilitation programs concern workers with musculoskeletal disorders. The Therapeutic Return to Work (TRW) program is one such program (Durand et al., 2003). It uses the disability paradigm to explain the multi-causality of work disability. Long-term disability at work is no longer seen simply as the consequence of an impairment, but rather as the result of interactions between the worker and three main systems (the healthcare system, the work environment and the financial compensation system). A return to work is thus influenced by a complex set of interrelated factors that must be taken into account in any interventions. Parallels can inevitably be drawn with the field of mental health in the workplace, where psychosocial and organizational factors are involved and must be taken into account in the return-to-work process. In the current paper, guiding principles will be derived from this program

and from evidence-based data on health in the workplace. These principles will make it possible to define the guidelines to be followed in transferring knowledge from one context to the other, the components of the intervention that are transferable, and the limitations and hazards of such a generalization.

## 175. Research Ethics

### 175.1. Research and Care: Could they Work Together in Today's Medicine?

Danielle Laudy, *Université de Montréal* (d.laudy@umontreal.ca)

Biomedical research aims to increase knowledge, to protect, soothe and cure future patients. In this view, research and care register within a common perspective of well-doing towards human beings. However, an ethical dilemma arises given that research places individual subjects at risk, both known and unknown, for the sake of a potential Public Good. From the Hippocratic Oath to Pellegrino's teaching, it is widely recognised that the clinician is involved in a commitment towards the Good of the patient who is sick and therefore vulnerable, who is asking for his help. The former uses his knowledge, know-how and skills in order to alleviate the suffering of the latter. Nowadays, with clinical research, clinicians are becoming more and more involved in research. Conflicts of interest arise and strong regulations have been established. Autonomy and protection of the research subject have attained world-wide recognition. The aim of this paper is to demonstrate that existing regulations remain unsatisfactory if one wishes to resolve physicians' conflicts of interests. Three very different situations, involving children, aging people and HIV positive persons will contribute to understanding why. A proposition about the clinicians' involvement during research will be submitted for discussion.

### 175.2. The Value of "Undue Inducement" and "Coercion" in Moral Debates about Human Subjects Research

Trudo Lemmens, *University of Toronto* (trudo.lemmens@utoronto.ca)

Challenges to informed consent have received much attention in the research ethics literature, as a result of the historical controversies that lie at the origin of research ethics.

Research ethics guidelines emphasize the need to avoid undue influence or coercion in research on human subjects. The use of these terms in the context of research involving vulnerable people, such as the poor and those in need of health care, has recently been criticized. Some authors have appropriately pointed out that “coercion” and “undue influence” are too easily and often uncritically used. They also suggest that the use of these concepts may obscure other underlying problems, such as exploitation. There are no concerns about undue influence and coercion, in this view, if ethics review boards have ensured that there is a reasonable risk/benefit balance and that research subjects will be better off as a result of research participation. While the meaning of these terms is more narrow than is often realized, these arguments reflect a lack of appreciation of the context-specific nature of meaningful consent and of the inherently subjective nature of risks and benefits. They also ignore the value of using such inherently vague terms in moral debates about research participation. And they reflect a naive and dangerous view of what research ethics review currently entails. In this paper, the author defends the use of these terms in a historically and culturally sensitive context.

### 175.3.A Conceptual and Ethical Review of the Balanced Placebo Trial Design for Antidepressants

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The recent work of Irving Kirsch, Alan Scorbria and Thomas J. Moore concludes that antidepressants have either “very small” but statistically significant pharmacological effects or they have larger pharmacological effects that are masked by placebo effects. If the actual drug effects are really that small, then their clinical effectiveness is questionable. Kirsch et al. suggest that we test this conclusion with a four arm “balanced placebo trial design” (hereinafter BPDT) using antidepressants, active placebos and the intentional deception of research subjects (Kirsch et al., 2002a). This presentation will analyze some of the conceptual, ethical and clinical issues that emerge from Kirsch et al.’s proposal to test the additivity thesis with a BPTD. The author avers that BPTD would not neutralize some of the psychological factors that can influence study outcomes (Kiene, 1993b at 62). It would, for instance, be as susceptible to the blinding error of experimental subordination as the standard trial design it aims to rectify. In sum, if BPTD does not exclude “known confounding factors” (cf. Freedman, 1987 at 8) then it will not isolate true drug effects. It is argued that this problem is intrinsic to BPTD and thus impedes its ability to reliably generate the intended knowledge.

## 175.4. Perspectives on Tissue Banks and Human Genetic Research Databases: Implications for Research and Regulatory Reform

Jennifer Fleming, *University of Queensland* (j.fleming@imb.uq.edu.au)

Unprecedented opportunities and challenges have arisen with the rapid international emergence of human genetic research databases (HGRDs). HGRDs provide large scale collections of genetic biological specimens, human DNA samples, cell lines and other tissue, linked with related medical information and other material to provide valuable genetic data. They offer exceptional support to advance genetic research including complex conditions in mental health, particularly the promise of new knowledge in the way our genes interact with the environment to advance new diagnostic and treatment regimes via pharmacogenomics. The sustainability and contribution of HGRDs and related genetic research, nonetheless calls for a revitalised debate on numerous ethical, legal and regulatory challenges. Empirical research examining perspectives of professionals involved in tissue banks, the public and actual donors is critical to ensuring a balanced debate. Recognising the paucity of empirical studies in this area to date, this paper will provide an overview of findings from the speaker's research work undertaken in Australia, drawing on comparative findings from international studies. This paper aims to offer an important contribution to a renewed debate and the potential for reform of global ethical and legal frameworks to support the translation of new knowledge to clinical applications and further scientific advances.

## 176. Resolving Family Conflict

### 176.1. New Approaches to Resolving Family Conflicts

Jana Singer, *Univeristy of Maryland* (JSinger@law.umaryland.edu)

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Over the past two decades, virtually all areas of family law have undergone major doctrinal and theoretical changes – from the definition of marriage, to the financial and parenting consequences of divorce, to the legal construction of parenthood. Family law scholars from around the world have analyzed and critiqued these changes from a variety of perspectives. But scholars have paid less attention to another important set of family

law developments – changes that signal a paradigm shift in the way that most family legal conflicts are resolved. These changes in family conflict resolution have transformed the practice of family law and fundamentally altered the way in which disputing families interact with the legal system. Moreover, the changes have important implications for the way that family law is understood and taught. Our objective in this panel is to examine the contours of this paradigm shift in family conflict resolution and explore its implications for family law scholarship, practice and teaching.

## 176.2.Reducing Conflict Among Multiple Parents

Melanie Jacobs, *Michigan State University* (melanie.jacobs@law.msu.edu)

Many children have as a significant presence in their lives more than two people who function as parents but current law recognizes only two legal parents. One major difficulty of recognizing multiple parentage is the tradition of parental autonomy. Moreover, the logistics of recognizing multiple parents presents another challenge. How will multiple parties share parental responsibilities without too much conflict? Recognizing multiple parenthood will likely require greater court intervention, both to legitimize multiple parental relationships and manage them. At present, the establishment of legal parentage entails all the rights and responsibilities of parentage. By delinking and disaggregating these rights and responsibilities, more than two individuals may hold the designation of “legal parent” yet each can make different contributions. A scheme of relative rights, dependent upon the adult’s relationship with, and contributions to, the child should enable multiple parentage to work. Putting in more means having more say. The author’s expectation is that carefully circumscribing the role of the relevant parties at the time of their parentage determination through declaratory judgments, coupled with built-in processes for mediation, can alleviate many of the logistical concerns of recognizing multiple parenthood.

## 176.3.Giving Parental Rights to “De Facto Parents”

Robin Fretwell Wilson, *Washington and Lee University* (wilsonrf@wlu.edu)

This paper will evaluate the movement in the US and elsewhere to confer parental rights on the live-in partner of a child’s legal parent, focusing in particular on proposals made by the American Law Institute in its Principles of the Law of Family Dissolution. This paper will evaluate recent studies that suggest that there are significant differences in the protective capacities of legal parents and other caretakers, as well as their desires to

exploit children. It will then consider how much reliance should be placed on studies when making policy decisions or proposing law reform.

## 177. Responding to Sex Offenders

### 177.1. Modeling Charging Agreement between the Police and Prosecutor in Sexual Assault Cases

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Pauline Brennan, *University of Nebraska at Omaha* (pbrennan@mail.unomaha.edu)

Sexual assault case processing has received considerable attention in the empirical research. The prosecutor's decision to file charges in sexual assault cases has been found to be influenced by a constellation of legal and extra-legal factors. Although prior research has contributed to our understanding of the factors that influence sexual case processing, it has primarily been viewed through the prosecutorial lens. This study conceptualizes the charging decision in a new way. This study examines the charging agreement between the police and the prosecutor in rape cases in two jurisdictions. Specifically, this study models the prosecutor's decision to file a forcible rape charge rather than dismiss the charge or file a less serious charge, controlling for the physical evidence available in the case, the seriousness of the offense, and characteristics of the victim and the offender. Results indicate that the charging agreement between the police and the prosecutor in rape cases is governed by a legal sufficiency framework in Philadelphia where a specialized charging unit receives cases after a decision to charge has been made and a trial sufficiency framework in Kansas City, MO, where a specialized unit makes the decision to charge and uses vertical prosecution from screening through disposition.

### 177.2. The Death Penalty for Repeat Sex Offenders: An Issue Reborn

Stephanie Boys, *Indiana University East* (sboys@indiana.edu)

A bill was introduced during the 2006 South Carolina Legislative Session that would permit capital punishment for repeat sex offenders of children under the age of 11. The bill illustrates a recent trend in the United States to add sex offenses against juveniles to a very small list of crimes that are death penalty eligible. Three states have already passed similar legislation. These bills are certain to reopen examination of a Constitutional issue that has lain dormant since 1977. In *Coker v. Georgia*, the United States Supreme Court held that imposition of capital punishment for rape is unconstitutional. The Court reasoned the punishment was disproportionate to the crime. Since this ruling, capital punishment has been legal only for murder and treason. A state law permitting capital punishment for sex offenders will inevitably reach the Supreme Court on appeal. These bills have been passed without regard to legal precedent or research to indicate whether capital punishment will have any deterrent impact upon sex offenders. The first section of this study presents a legal analysis of the potential constitutionality of imposing the death penalty for sex offenses in today's legal and political climate. Results indicate that these laws are unlikely to pass constitutional muster. The second half presents a theoretical examination of the potential ramifications of permitting capital punishment for sex offenders, and concludes that it is unlikely to act as a deterrent to repeat offenders.

### 177.3. Sex Offender Notification Policies and Community Behavior

Victoria Simpson Beck, *Indiana University East* (vbeck@indiana.edu)

In 1996, in the United States, Megan's Law was enacted at the federal level. Megan's Law required states to implement community notification procedures for offenders convicted of sexually violent offenses or crimes against children, or risk a ten percent reduction in federal anti-crime funding. Consequently, all states implemented sex offender notification procedures. Prior research has indicated that when individuals receive notification that a sex offender has moved into their community they are more likely to engage in protective behavior to prevent potential victimization to themselves and household members (Beck and Travis 2002). Research has not, however, considered the potential effect of state variation in sex offender notification procedures on protective behavior. This exploratory study presents data comparing a passive sex offender notification procedure with a more aggressive notification process. Study findings indicate: (1) an aggressive notification procedure is more effective in notifying community members; and (2) variation in notification processes did not influence protective behavior. Regardless of the method of community notification, when individuals receive notification that a sex offender has moved into their community they are significantly more likely to engage in protective behavior to prevent potential victimization. Policy implications are discussed.

#### 177.4. Female Sex Offenders: Retrospective Evaluation over 50 Women Charged and Evaluated for this Felony in the Chilean Medical Legal Service over a Period of 7 Years

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Paula Araya Herrera, *Chilean Médical Legal Service*

There is a lot of information about sex offenders; most pertains to males. Little research has been focused on female sex offenders. Women and men sex abuse perpetrators cannot be evaluated with the same assessment. This paper includes a retrospective study obtained through hard copy files from the Chilean Medical Legal Service data base, which includes all the reports from the expert evaluations on individuals charged on sexual abusing conduct. The report includes 50 women charged with sexual abuse during 2000 to 2006, over 2000 individuals evaluated in the same period, accused of this felony. This number represents 2 to 3 % of the universe. A description of female sex offenders' characteristics related to age, activity, relationship with the victim, victim's gender, type of abuse, participation in the felony (offender/co-offender), and offender's history of sexual abuse was provided. The aim was to draw psychopathological archetypes of female sex offenders. A design of evaluation guides for sex offenders emphasizing gender differences on perpetrators is proposed.

#### 178. The Review of Mental Health Legislation in Britain: The New Scottish Act

##### 178.1. Innovations in the Mental Health (Care and Treatment) (Scotland) Act 2003

Jacqueline M Atkinson, *University of Glasgow* (j.m.atkinson@clinmed.gla.ac.uk)

In Scotland, the new Mental Health (Care and Treatment) (Scotland) Act 2003 was part of a wider modernizing agenda of mental health services. This paper only considers civil aspects of the Act. The first innovation is that the Act is guided by ten principles which underpin the reforms (see paper by Lyons). The other major innovations are: changes to the criteria for compulsory treatment the Mental Health Tribunal for Scotland (See paper by Davie), compulsory treatment orders (CTOs) including community-based CTOs,

advance statements, named persons (to replace nearest relative), access to independent advocacy, and new provisions for protecting people at risk of abuse including new sexual offences. Some concerns for the impact on workload and services will be raised.

## 178.2. Why Does Scotland Have a New Mental Health Act and England Doesn't?

Jacquie Reilly, *University of Glasgow* (jr139g@clinmed.gla.ac.uk)

There has been a great deal of debate around reform of mental health legislation in the UK. In Scotland a new Act has been passed whilst in England a process which has been ongoing for eight years has resulted in the most recent bill being withdrawn. The aim is to examine the reasons behind the relative ease with which the Scottish legislation was passed and the problems confronting the English Bill, including a discussion of the political and social processes leading to these very different outcomes. Differences will be discussed under the following headings: Impact of devolution in Scotland; the public safety debate and the impact of the media. In conclusion, it will be argued that the government's emphasis on the public safety agenda in England has been largely responsible for their failure to introduce a new mental health law. The question arises as to whether there are any lessons which can be learned from the Scottish experience?

## 178.3. Uncharted Territory: The Mental Health Tribunal for Scotland

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This paper seeks to discuss the Mental Health Tribunal against the statutory background of The Mental Health (Care and Treatment) (Scotland) Act 2003 by looking at the catalyst for this major legislative and policy change and how the statutory scheme was developed. The presentation will focus on the fundamental changes in the new Act, such as orders for compulsory treatment in the community; the statutory right of all those involved with a patient to contribute to the decision making process with regard to compulsory measures of care and the role of the Tribunal in delivering these changes. The paper will also address the major challenges faced by the Tribunal in the first year of operation such as the varied expectations of professionals and the public generally regarding the role of the Tribunal; the practical difficulty of arranging Tribunal hearings within the very tight time constraints laid down in the Act; managing the balance between formality and informality; training three hundred members from disparate backgrounds

with a view to achieving consistency in approach to hearings and to what extent these challenges have been met. The paper will explore challenges which the Tribunal anticipates in the immediate future and in the longer term.

## 178.4. New Mental Health Legislation in Scotland

Donald Lyons, *Mental Welfare Commission for Scotland, Edinburgh, Scotland*  
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*Background:* The main provisions of the Mental Health (Care and Treatment) (Scotland) Act 2003 were implemented in October 2005. This introduced new procedures, principles and safeguards for compulsory treatment for people with mental disorder.

*Aims:* The Commission has the duty to monitor the operation of the Act and to promote best practice in its use. This includes promoting the principles of the Act. Through a robust monitoring system we are gathering large amounts of information about how the Act is operating. We are also visiting people who are subject to the Act and reporting on their care and treatment. We present our early monitoring work and our impressions of how this important legislation is working.

*Method:* The Commission is studying five priority areas - Care plans, compulsory treatment in the community, overrides of advance statements, services for younger people and use of emergency orders.

*Results:* These will be presented to the conference. Early data shows that emergency orders have diminished significantly and there have been some overrides of advance statements.

*Conclusion:* This is a major new piece of legislation and continued close monitoring is needed.

## 179. Risk Assessment in Specialist Populations

### 179.1. The Efficacy of Violence Risk Assessment Instruments in those with Personality Disorder and Mental Illness

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Are the factors that predict future violence in mentally disordered offenders independent of their diagnosis? We examined a range of instruments designed to predict future violence in three all male samples. The first sample had a diagnosis of mental illness (MI, mainly schizophrenia and affective disorders; N=668), the second a diagnosis of Personality Disorder (PD; N=98) and the third had co-morbid MI and PD (N=75). We followed the patients' criminal histories after discharge from medium secure units over at least a 2-year period (average=6.5 years). Reconviction rates for violent offences in the MI group were under ½ that of the PD group, with the co-morbid group lying in between. Our risk assessment instruments (VRAG, PCL-SV, and HCR-20), all showed significant predictive power (defined by ROCs) in the MI group and the co-morbid group. The AUCs for the PD group were well below that of the other groups and none differed significantly from chance. The results suggest that those with PD are far more violent than those without PD. However, the risk assessment tools currently in use do not appear to be able to differentiate which of these offenders with PD are the most likely to be violent.

### 179.2. Predicting Future Reconviction in Offenders with Intellectual Disabilities: The Predictive Efficacy of VRAG, PCL-SV and the HCR-20

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Accurate prediction of future reconviction, including those for serious crimes, has been shown to be greatly aided by formal risk assessment instruments. However it is unclear as to whether these instruments would also be predictive in a sample of offenders with intellectual disabilities (ID). We followed up 145 ID patients released from medium secure units (MSU) over at least a 2-year period (average=6.5 years) and compared these to an offender control group (N=996) matched in age and gender. Offence histories were obtained from the United Kingdom Home Office Offenders Index. Though the probability of reconviction was lower for those with ID we show that the Violence Risk Appraisal Guide (VRAG), the Psychopathy Checklist Screening Version; (PCL-SV), and the History, Clinical., Risk-Management-20 (HCR-20), were all significant predictors of

reconviction, and in many cases their efficacy was greater than in a control sample. For example, the predictive accuracy of the HCR-20 for any offence in the ID group (AUC = 0.82) was significantly greater than for the control group (AUC = 0.65). Similar results were obtained when only violent reconvictions were considered. The results clearly show the utility of these tools in predicting re-offending and violent re-offending in offenders with ID.

### 179.3. Risk Assessment in Offenders with Intellectual Disability: A Comparison across Three Levels of Security

William R Lindsay, *Dundee University* (bill.lindsay@tpct.scots.nhs.uk)

*Background* In mainstream offender samples, several risk assessments have been evaluated for their relative predictive validity. The present study extends this work to the field of intellectual disabilities.

*Method* Seventy three participants from high security, 70 from medium/low secure and 69 from a community setting were compared on static and dynamic risk assessments. The combined cohort evaluated the predictive validity for each assessment.

*Results* The VRAG, HCR20 H Scale and the EPS Internalising Scale discriminated between groups. The VRAG, all HCR20 Scales, the SDRS and both EPS Internalising and Externalising Scales showed significant AUCs in relation to the prediction of violent incidents. The Static 99 and to a lesser extent the RM2000S showed significant predictive relationships with sexual incidents.

*Conclusions* The VRAG, HCR20, SDRS and EPS would appear to have some value in the evaluation of risk for future violent incidents, while the Static 99 seems to have value in the prediction of sexual incidents. The EPS may also be valuable for the evaluation of the severity of symptomatology.

### 179.4. A Comparison of Six Risk Assessment Instruments for Violence among Released Prisoners

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Accurate classification of offenders into those who present risk of harm to the public underpins new service development and legislation in England and Wales. We compared

6 instruments used in the U.K (PCL-R, VRAG, HCR-20, RM2000v, OGRS, OASyS) to predict violent convictions among a sample of released male prisoners (n=1395) at a mean of 1.97 years. Forty-one percent were reconvicted, 11.5% for violence. All instruments showed significant predictive power (AUCs 0.65-0.72) but AUCs differentiated poorly between instruments. Multivariate analysis confirmed the OGRS (a purely actuarial instrument derived from demographic and criminal variables) performed best. Few items in the PCL-R, VRAG, or HCR-20 had independent predictive ability. These findings partly explain the limitations, or “glass-ceiling” effect, of static instruments around AUC levels 0.6-0.7.

### 179.5.A Meta-analysis of the Predictive Ability of Commonly Used Risk Assessment Instruments for Violence

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Actuarial prediction of violent recidivism using risk assessment instruments is increasingly common practice in management of offenders and patients with psychiatric illnesses. Choosing an instrument with high predictive accuracy has important implications for public protection. However, many studies which compare different instruments have unsatisfactory results due to diversity of study features, limitations of traditional statistical methods, and small numbers of participants in each study. We conducted a meta-analysis of 16 studies including 17,430 participants over a 17-year period from five countries. The effect sizes of the most commonly used instruments, PCL-R, PCL:SV, VRAG, HCR-20, OGRS, Matrix 2000v, LSI-R, GSIR and VSIR were examined and compared. We calculated Cohen d value for effect size of each risk assessment instrument to predict violent outcomes, which included violent recidivism of prisoners and physical aggression of psychiatric patients. We used multilevel models for the random effects of effect size when considering heterogeneity between studies and ranked the instruments by their effect size. The impact of study features on the effect size including type of participants, prospective or retrospective, time at risk, country, mean age and percentage of male participants were also examined and adjusted for. Effect sizes were compared between instruments.

### 179.6.Prediction or Management: An Integrated System for the Management of High Risk Violent Offenders

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The generally accepted notion that actuarial procedures out-perform clinical judgment has led to a highly simplistic view of risk assessment and management such that risk assessment in the area of dangerousness has become synonymous with violence prediction. Most of the widely used risk assessment protocols involve the actual or implied use of regression techniques for predicting a person's future behaviour. This approach has been very useful as a research tool for identifying salient factors that indicate risk but it has limitations in a clinical context. The idiographic nature of clinical work and the emphasis upon management of risk rather than prediction suggests the need for a close integration between the research and clinical traditions. This paper describes the integrated multi-agency systems of RAMAS and demonstrates by case examples how such a system can provide a detailed and responsive approach to managing violent offenders.

## 180. Risk Assessment of Violent Offenders

### 180.1. Prison Misconduct: The Accuracy of the PCL-R, the PCL:SV and the VRAG in Predicting Violent Infractions among Sexual and Violent Offenders in a Swiss State Penitentiary

Astrid Rossegger, *Department of Justice, Zurich, Switzerland* (astrid.rossegger@ji.zh.ch)

Assessing the risk of institutional misconduct is a substantial task of forensic risk assessment. Recent studies among US and Canadian prison samples have shown that the PCL-R, the PCL:SV and the VRAG may be used as tools to predict some aspects of violent behavior. In this study, the predictive accuracy of these instruments for predicting intramural misconduct of a prison population was investigated for the first time in a German-speaking country. PCL-R, PCL:SV and VRAG scores were assessed from a sample of 114 and 106, respectively, violent and sexual offenders in the largest Swiss penitentiary. Based on the collected data logistic regression models were estimated for in-prison misconduct. A moderate correlation was found between PCL-R score and unspecific infractions. Consistent with previous studies, the PCL-R was predictive for verbal, but not physical aggression. For the PCL:SV, significant effect sizes for verbal aggressive behavior were found in a sub-sample of sexual offenders. No significant results were found in a corresponding sub-sample of violent offenders. Our results show only a moderate effect between VRAG scores and institutional misconduct.

A significant effect size was found for the VRAG total score of sexual offenders and verbally aggressive infractions.

### 180.2. The FOTRES (Forensic Operationalized Therapy Risk Evaluation System)

Arja Laubacher, *Department of Justice, Zurich, Switzerland* (arja.laubacher@ji.zh.ch)

The FOTRES (Forensic Operationalized Therapy Risk Evaluation System) is an attempt at further development of clinical risk assessment instruments and documentation systems. Its aim is especially additional differentiation, transparency and traceability of risk assessment and therapeutic progress as well as the illustration of an individual risk profile with high accuracy. Each of the more than 700 items is exactly defined and there are precise scoring rules. The FOTRES has been empirically developed over a period of several years and there has been and still is a constant adaptation to actual cases. Apart from this empirical validation of the system, long time studies with large samples are planned for statistical validation.

### 180.3. Prediction of Violent and Sexual Offences: Replication Studies of the VRAG, the PCL-R and the PCL:SV in Switzerland

Thomas Noll, *Department of Justice, Zurich, Switzerland* (thomas.noll@ji.zh.ch)

In Anglo-Saxon countries, the Violence Risk Appraisal Guide (VRAG), the Psychopathy Checklist-Revised (PCL-R) and the Psychopathy Checklist: Screening Version (PCL:SV) are widely used as risk assessment instruments and have often been validated. In Switzerland, however, they are still rarely used. The aim of the present studies was to conduct a first-time evaluation of the predictive validity of the VRAG, the PCL-R and the PCL:SV for sexual and violent recidivism in Switzerland. Scores of 96 and 79 sexual and violent offenders in Switzerland were assessed. The scores were then compared to subsequent recidivism as shown in the official criminal records. Consistent with past research in the English language area, all three instruments yielded a satisfying predictive accuracy, thus demonstrating their usefulness for risk assessment of violent and sexual recidivism in the Swiss cultural and German language area.

## 180.4. Offence-oriented Intensive Therapy of Violent and Sexual Offenders in Switzerland

Jérôme Endrass, *Department of Justice, Zurich, Switzerland* (jerome.endrass@ji.zh.ch)

The Psychiatric-Psychological Service of the Zurich Justice Department treats approximately 160 violent and sexual offenders each year. The treatment consists of high-intensity individual and group therapy with up to 14 hours of treatment per week. A group of high risk offenders were treated in this intensive setting for five years. Though most of these high risk offenders are still incarcerated, there is clinical evidence for the efficacy of this intensive therapy program.

## 181. The Role of Animals in Mental Health and Law

### 181.1. Sexual Contact with Animals: A Study on Bestiality and Zoophilia

Andrea M. Beetz, *University of Erlangen at Nürnberg* (andreabeetz@web.de)

*Background:* The Kinsey-Data from the 1950s claimed that about 5-8% of American men and 3% of American women had at least one sexual experience with an animal.

*Aims:* The aim of this study - as well as the two other current studies that will be addressed - was to investigate the phenomenon of bestiality as it is practiced today among a voluntary sample.

*Method:* Data were obtained from 113 men who practiced bestiality. Questionnaires collected information on the sexual practices with humans and animals and also on personality.

*Results:* The majority of participants reported not only a sexual but also an emotional involvement with the animal - most often dogs and horses. Sexual practices with humans and animals vary widely.

*Conclusion:* Implications of the recent findings for the mental health mental health professions, forensic research, and law will be discussed.

## 181.2. Animal Assisted Therapy for At-Risk Juveniles

Kristina Saumweber Skarke, *University of Cologne* (k.skarke@web.de)

*Background:* Contact with animals in a therapeutic setting can promote emotional and social competencies, since especially for traumatized, socially disadvantaged, and disturbed children and juveniles it is often easier to engage in a relationship with animals than with other persons due to their negative experiences.

*Aims:* The goal of this presentation is to inform about the innovative and promising method of “animal assisted therapy” and its effects on the socio-emotional development of severely disturbed children and juveniles in a unique residential treatment program in Germany.

*Method:* The evaluation of such a program is one of the first in Germany and investigates its effects on social and emotional competence via standardized questionnaires, psychiatric evaluation, attachment assessment, interviews and case studies.

*Results:* Evaluation of this project started in 2005 and data from the group receiving animal-assisted therapy and a control-group in conventional therapy will be presented.

*Conclusion:* Animal assisted projects can enhance socio-emotional competence, the basis for the preservation or recovery of mental health, which represents a task of social work. In regard to the difficult reintegration of disturbed and traumatized juveniles, animal assisted work represents a very promising and adaptable method that has been rarely employed until now.

## 181.3. Animal Abuse and Interpersonal Violence

Alexandra Stupperich, *University of Regensburg* (alestup@gmx.de)

This presentation will provide an overview of current knowledge on animal abuse and its connections to the development of deviant behaviour and interpersonal violence. Research in this field suggests that animal abuse can be used as a predictor of further violent behaviour towards humans, and especially conduct disorder in childhood and antisocial personality disorders in adults.

## 181.4. The Influence of Animal-assisted Therapy with Dogs on the State of Mind of Children and Adolescents in Inpatient Child Psychiatric Treatment

Andrea M. Beetz, *University of Erlangen at Nürnberg* (andreabeetz@web.de)

Alexandra Stupperich, *University of Regensburg* (alexandra.stupperich@medbo.de)

Anke Prothmann, *University of Leipzig* (anke.prothmann@medizin.uni-leipzig.de)

Recent studies demonstrate that children and adolescents with severe behavioural disorders without sufficient therapy are at risk for the development of delinquency (Ricking & Neukätzer, Dahle). In psychopediatric treatment including animal-assisted therapy (AAT) the authors found disturbed interaction patterns of children with behavioural problems and assumed that animal-assisted therapy allows a specific training of communication skills, empathy and social competence at the beginning of the child's abnormal development. Using a pre-post design this study investigates the influence of AAT on the state of mind of children and adolescents who have undergone inpatient child psychiatric treatment. As a method for measuring the Basler Befindlichkeits-Skala (BBS, Hobi) was applied. This indicates alterations in the four subscales: vitality, intra-emotional balance, social extraversion and alertness as well as in the general state. Among 61 patients the results show highly significant increases in all dimensions of the Basler Scale. These changes were not ascertainable in a control group (n=39) without dog contact. Correlations prove that the lower the initial value was the more pronounced the alteration of the state. An effect size of 0.38 was measured for the non-directive animal assisted play therapy. The significance of these results for psychotherapeutic work with children and adolescents will be discussed.

## 182. The Role of Childhood-onset Neurodevelopmental Problems in Forensic Psychiatry

### 182.1. Collateral Interviews with Parents

Sara Lina Hansson, *Lund University* (saralina.hansson@gmail.com)

Björn Hofvander, *Lund University* (bjorn.hofvander@skane.se)

**Background:** In spite of methodological problems, parents often remain the sole available external source of information on childhood development. Adult forensic psychiatric work-ups pose specific problems in approach, interviews and interpretation.

**Aims:** To describe the validation of a parent telephone interview on Autism – Tics, AD/HD and other Comorbidities (A-TAC), and its use in a forensic context.

**Method:** Psychometric statistics from various clinical settings, including systematic interviews with parents of forensic psychiatric investigatees and treatment patients.

**Results:** The telephone interview is a promising source of information. Specific problems are encountered in forensic settings, such as marginalised families, poor language comprehension and parents with mental disorders. Very high prevalences of developmental problems with a considerable overlap across diagnostic categories are consistently reported in forensic groups.

**Conclusion:** Forensic psychiatric work should consider childhood development and approach this from various sources of information.

## 182.2. Neuropsychiatric Disorders and personality development in institutionalized adolescents

Thomas Nilsson, *Lund University* (thomas.nilsson@rmv.se)

Ola Ståhlberg, *Göteborg University* (ola.stahlberg@rmv.se)

**Background & aims:** Adolescents institutionalized due to behavioural problems are consecutively assessed for neurodevelopmental difficulties, psychiatric disorders, adjustment, cognitive skills and personality traits, with the aim of describing how these are related to the development of empathy and personality disorders.

**Subjects & methods:** Clinical data and Wechsler scales, Junior-Temperament and Character Inventory, Beck Youth Inventories, Youth Self Report and PCL-YV were assessed in 60 adolescents aged between 12 – 19 years, and another 40 will hopefully be included before Summer 2007.

**Results:** Preliminary results indicate: high rates of neurodevelopmental diagnosis (ADHD, Autism Spectrum Disorders and Conduct Disorder), a predominance of uneven cognitive test profiles indicating specific neuropsychological dysfunctions rather than global retardation, personality traits (especially temperament traits) significantly differing from normal controls, and discrepancies between personal function and self-representation.

**Conclusion:** The relationship between early-onset neurodevelopmental problems, deficiencies in cognitive capacity and empathy will be discussed in relation to deviating personality traits.

### 182.3. Character Development in Neuropsychiatric Disorders and Personality Disorders

Tomas Larson, *Lund University* (tomas@larson.net)

**Background:** Cloninger's personality model describes interpersonal variations in temperament and character. Temperaments are defined as reaction patterns to stimuli (harm avoidance, novelty seeking, reward dependence and persistence), while character describes conceptual maturity regarding self direction, cooperation and transcendence of ego boundaries.

**Aims:** To disentangle neurodevelopmental and conceptual problems in the severe personality disorders of forensic psychiatry.

**Method:** Statistical analyses of developmental problem constellations and personality measures from forensic psychiatric patients, other patient groups and the general population. Item-by-item content analyses of instruments.

**Results:** Severe personality disorders may be described as the combination of childhood-onset behavioural disorders, defined as reaction patterns (e.g ADHD and/or autism spectrum disorders), forming extreme temperament configurations and giving rise to character immaturity. Poor executive function and mentalizing abilities are hallmarks of character immaturity.

**Conclusion:** Forensic psychiatric work should consider both basic behavioural disorders and personality maturation.

### 182.4. Attribution of Autonomy and Accountability across Psychiatric Diagnostic Categories

Pontus Höglund, *Lund University* (pontus.hoglund@med.lu.se)

**Background:** Various mental disorders are thought to diminish responsibility and autonomy.

**Aims:** To describe different criteria sets for attributing responsibility and autonomy in subjects with cognitive and mental disorders.

**Method:** Interviews with clinicians, patients and other mental health professionals, assessing critical issues about the double-edged sword of autonomy and responsibility in subjects with different types of problems.

**Results:** A number of important differences in judgement on the possible diminution of autonomy-responsibility across situations and problems involved in autism, schizophrenia, ADHD, personality disorders, mental retardation and other diagnostic categories will be described.

**Conclusion:** Objective criteria for the attribution or subtracting of autonomy and responsibility are not easily defined, but pose a core problem for moral philosophers, decision-makers and clinicians alike.

## 182.5. Longitudinal Risk factors in Forensic Psychiatry

Christina Gustavson, *Lund University* (doctrine@telia.com)

**Background:** Various risk factors and prediction instruments have been proposed in forensic psychiatry, but rarely validated in clinical prospective, longitudinal study designs.

**Aims:** To identify positive and negative prognostic factors and to assess whether such factors can be used for predictions.

**Method:** Psychiatric diagnostic work-up (based on SCID-1 and special child neuropsychiatric inventories such as the ASDI), personality descriptions (according to SCID-2, PCL-R, TCI and KSP), forensic risk instruments (HCR-20) and biological markers (MAO-B, CSF monoamine metabolites, hormones) were collected from 100 offenders in 1998 to 2001, with a file-based follow-up of violent recidivism in 2005.

**Results:** Childhood behavioural disorders, psychopathic traits, aggression and previous criminality correlated with violent recidivism. ROC analyses of prediction yielded AUCs varying around 0.6, indicating overall poor prognostic values for individual assessments in spite of group correlations.

**Conclusion:** It is not possible to predict long-term human behaviour using psychiatric tools even if vague risk relationships may be described.

## 183. The Role of Political Factors and Public Perceptions in the Development of Mental Health Legislation I

### 183.1. Human Rights, Constitutionalism and Mental Health Law Reform in New Zealand

John Dawson, *University of Otago* (John.dawson@stonebow.otago.ac.nz)

This paper explores the manner in which a country's constitutional arrangements influence the content of its mental health laws. New Zealand (NZ) is a party to all major international human rights treaties and the country has a sound reputation for respecting human rights. But NZ has not incorporated an entrenched bill of rights into its constitution that acts as a constraint on the law-making powers of its Parliament. Nor do the NZ courts claim the authority to strike down legislation on human rights grounds. This paper discusses the implications of these constitutional arrangements for mental health law, particularly for legislation authorizing the use of community treatment orders (CTOs), or outpatient commitment. The argument will be made that NZ's constitutional arrangements are a vital part of the context within which CTOs have come to be the major vehicle for the delivery of involuntary psychiatric treatment in that country. Many of these observations apply equally to the Australian states, like Victoria and New South Wales, where CTOs are also used widely, and where no entrenched bill of rights controls the law-making powers of the state Parliament.

### 183.2. Fear Mongering and the Drafting of Mental Health Legislation

Richard O'Reilly, *University of Western Ontario* (roreilly@uwo.ca)

In 2000 the province of Ontario, introduced legislation to expand its committal criteria and introduce community treatment orders (CTOs). The legislative amendments were preceded by a strident public policy debate during which facts and logic were often ignored. The governing party and some proponents of legislative change inappropriately emphasized the public safety benefits of the new legislation. On the other side opponents of CTOs suggested that they would be used to "sweep the mentally ill off the streets." Even responsible organizations stated that introduction of CTOs would fill scarce hospital beds with non-adherent patients, whereas research literature shows that, if anything, CTOs reduce hospital utilization. The focus on public safety added to stigma and the disinformation damaged trust between partners who should serve the mentally ill. Hopefully jurisdictions considering legislative change can learn from the experience of Ontario and other jurisdictions that have recently introduced major legislative reform.

### 183.3.Experiments in Mental Health Legislative Reforms in Australia

Ian Freckelton, *University of Sydney* (i.freckelton@vicbar.com.au)

A series of different initiatives has been trialed over recent years in Australia's state and territory jurisdictions in relation to mental health law reform. However, little uniformity has been accomplished and few consistent approaches have been secured. While Victoria (alone) has initiated an experiment with enabling its mental health review body to grant community treatment orders and to review treatment plans, its orders have thus far had a limited impact on service culture. In some jurisdictions, patients at risk of dissipating their assets or endangering important relationships by reason of their symptomatology can be made the subject of involuntary inpatient status, but in others this is not so. There are important differences in different parts of Australia in such fundamental considerations as powers of clinicians to communicate information about patients with mental illnesses to family members, definitions of mental illness, and the role of community visitors. The author analyses a cross-section of the discrepancies and argues in favour of a consistent approach that implements Australia's obligations under relevant human rights instruments.

### 183.4.Media, Politics and Mental Health Legislation: The New York Experience

Henry A. Dlugacz, *New York Medical College* (HD@Dlugacz.com)

*Background:* Many aspects of the legislative process are highly sensitive to local politics and the influence of the media. This is particularly so in the development of legislation involving mental health law, for in few areas are myths and stereotypes so keenly in the fore and so uncritically accepted in the media, and exploited in local politics. This phenomenon can be seen historically. See, for example, the publicly reported reaction and legislative response to the 1843 *M'Naghten* case following the successful use of the insanity defense by the would-be assassin of British Prime Minister Peel, and the strikingly parallel media and legislative response in the U.S. to the insanity acquittal in early 1980's of John Hinckley following his attempted assassination attempt of president Reagan. These issues have played out in New York in two fascinating contexts: the debate over the need for out-patient commitment statutes as well as the debate concerning the wisdom of using civil commitment statutes to confine sexual offenders following the expiration of their prison term. The presentation will explore the confluence of these factors in the New York context.

*Aims* Identify prevalent misconceptions about the mentally disabled and how they influence media coverage and legislation. Identify how this process has occurred in New York.

*Method* Didactic but interactive lecture aided by PowerPoint slides.

*Results:* The results should be a greater understanding of the non-scientific influences which too often guide legislation in the area of mental health law. This greater understanding may help to foster a more rational approach to these difficult topics.

*Conclusion:* Media coverage of incidents involving the mentally disabled is strongly influenced by myths and stereotypes concerning the mentally ill. This skews medial coverage and in turn can negatively influence the legislative response.

## 184. The Role of Political Factors and Public Perceptions in the Development of Mental Health Legislation II

### 184.1. Mental Health Tribunals: Weighing Fairness, Freedom, Protection and Treatment

Terry Carney, *University of Sydney* (terryc@law.usyd.edu.au)

David Tait, *University of Canberra* (david.tait@canberra.edu.au)

Duncan Chappell, *New South Wales Mental Health Review Tribunal, Gladsville, Australia* (chappell@bigpond.net.au)

Fleur Beaupert, *University of Sydney* (fbeat8132@mail.usyd.edu.au)

People with serious mental illness warranting possible compulsory treatment are vulnerable and disempowered. Tribunal or court hearings serving as the gatekeeper to detention and treatment must balance rights to freedom, public protection and treatment needs in making decisions about mental health care and treatment. Participants should be treated with dignity and fairness, be fully engaged, and be helped to recover. Research on civil commitment suggests that these goals are often not met in practice. This paper reports on a 3 -year collaborative Australian Research Council funded research study of multi-disciplinary Australian mental health tribunals, with a particular focus on the jurisdictions of Victoria, New South Wales and the Australian Capital Territory. The paper will discuss theoretical issues and report some early findings.

## 184.2. Elevating Risk and Uniting the Opposition

Genevra Richardson, *King's College London* (Genevra.Richardson@kcl.ac.uk)

George Szmukler, *King's College London* (g.szmukler@iop.kcl.ac.uk)

In 1998, the Department of Health in England and Wales initiated a review of mental health legislation designed to achieve fundamental reform. After numerous reports and two draft bills the government has decided simply to amend the existing Act. All its more far-reaching plans had to be dropped in the face of united opposition from service users, carers and mental health professionals. At the heart of this opposition was a widespread concern that the management of risk had been allowed to dominate all other values. In this paper, the possible reasons behind this preoccupation with risk will be considered and the interplay between the three relevant government departments, their attitudes to research evidence, the role of public opinion and the implications of the European Convention on Human Rights will be examined.

## 184.3. The Failed Promise of Mental Health Law in Canada

Gilbert Sharpe, *McMaster University* (gpresutti@goodmancarr.com)

The evolution of the mental health care system in Canada has been defined by a transition away from institutionalization to a patient-focussed system of community-based care. Lawmakers have attempted to reflect this evolution in legislation covering mental health care, consent, capacity, and criminal law. However, recent court decisions and government actions are pushing mental health law back towards an emphasis on institutionalization. For example, under the Ontario *Mental Health Act*, the standard for admission as an involuntary patient in a psychiatric facility is the likelihood of “serious bodily harm” to the patient or another person. The review board and the courts have interpreted “bodily” harm to include emotional and psychological harm, significantly broadening the standard and potentially increasing the scope for involuntary admissions. In addition, despite court diversion programs that are intended to direct accused persons with mental illnesses out of the court system and custody, governments are spending mental health care budgets on increasing the number of forensic beds in psychiatric units and hospitals, thereby shifting institutionalization from jails to health facilities. This paper will explore these and other challenges to the current legislative framework and discuss how the application of mental health law is failing to live up to the promise contained in what was seen as progressive legislation. It will also consider what steps can be taken to restore that promise, particularly in light of the recent Report of the Standing Senate Committee on Social Affairs, Science and Technology, “Out of the

Shadows at Land: Transforming Mental Health, Mental Illness and Addiction Services in Canada” led by Senators Michael Kirby and Wilbert Keon.

## 185. Routes to Rights for People with Mental Health Issues

### 185.1. Vulnerability and Responses to Civil Justice Problems among Those with Mental Health Issues

Pascoe Pleasence, *Legal Services Research Centre, London, UK*  
(pascoe.pleasence@legalservices.gov.uk)

*Background:* A substantial body of evidence indicates that ill-health can both increase vulnerability to and be exacerbated by civil justice problems.

*Aims:* In this paper the experience of civil justice problems among those with mental health issues is contrasted with that of the general population. The impact of civil justice problems and the strategies that are adopted to resolve problems are also examined.

*Method:* The paper draws on data from the English and Welsh Civil and Social Justice Survey, a large scale nationally representative survey of people’s experience of civil justice problems. The data include details of civil justice problems, problem impacts, problem resolution strategies and mental health issues.

*Results:* The results set out the particular difficulties of those facing mental health issues in relation to civil justice.

*Conclusion:* The paper concludes that public legal education and legal advice can make a substantial contribution to efforts to address mental health issues. Also, it argues that co-ordination of services is key to countering the particular difficulties of those facing mental health issues in relation to civil justice.

### 185.2. Denying Mental Health Problems to Deny Rights to the Homeless

Caroline Hunter, *Sheffield Hallam University* (c.m.hunter@shu.ac.uk)

In England, Part 7 of the Housing Act 1996 provides a complex safety net for those who find themselves homeless. The Act is administered by local housing authorities. In order

to have a “right” to assistance, the applicant must overcome a series of hurdles, one of which requires the authority to be satisfied that the applicant is in “priority need.” One category of priority need is that the applicant is “vulnerable”. The Act provides no definition of vulnerability, and there has been a plethora of cases which have examined its meaning. Many of these cases have focused on whether those who have mental health problems can be said in the words of the case law to be “less able to fend for himself than an ordinary homeless person”. Authorities, in seeking to minimize their duties, have attempted to deny the vulnerability of those with mental health problems. This paper will examine the strategies that are used to do this including the way that expert medical evidence is used and how mental health issues are made ordinary and common place.

### 185.3. Wrongful Detention of Mentally Ill Persons

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

Recently in Australia there have been a number of cases where, under the Commonwealth Migration Act, the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) mistakenly detained persons with mental health problems. In one case, that of Alvarez Solon, a mentally ill woman who was an Australian citizen was detained and then deported to the Philippines. People with mental health problems who have a grievance against powerful government bodies such as DIMIA have difficulty asserting their rights: • They may not be aware of their rights; • They may have difficulty finding help to advise them of their rights and how to assert them; • When they try to assert their rights, they face a hostile reaction; • They find that legal proceedings are user unfriendly, culturally alien, lengthy, expensive and stressful. So far, none of the mentally ill people who have been wrongfully detained by DIMIA have successfully brought legal proceedings against DIMIA or the individual officers responsible for their detention. There has been a significant development in the case of Alvarez Solon. She and the Government have agreed to submit to have an arbitrator determine an appropriate level of compensation. The focus is on compensation and not on liability. The advantages of this process are that it will save time and money and Alvarez Solon will be spared the traumatic experience of being cross-examined in court. The hearing is subject to a confidentiality clause so the result of the arbitration will not be made public.

### 185.4. Hoarding your ‘Treasures’ and Losing your House: Legal Rights and Practical Interventions

Michele Slatter, *Flinders University* (mslatter@e-access.com.au)

Hoarding can compromise housing security across all tenures. In the United States and the United Kingdom it has been increasingly recognised as an issue in recent years. Anecdotally, the incidence of housing risk from hoarding is rising in Australia but the evidence base has not yet been assembled. However, a clear link between ageing and hoarding suggests that as the population grows older, hoarding will be acknowledged as a significant threat to the possibility of Australians ageing well and ageing in place. Not only will the number of cases increase but reporting is also likely to increase as medium- and high-density residential development replaces the ‘quarter acre block’ and the hoarding impinges more evidently and more quickly on neighbours. Mental health professionals are among those faced with managing the conflicting rights and expectations in such situations. This paper presents a review of the Australian data on hoarding and housing risk and the wide range of legal regimes that may be triggered by such situations. It examines the emerging ‘best practice’ protocols to see how they accommodate the relevant legal imperatives and community expectations. Finally it will consider strategies for community (legal) education aiming to promote rights and minimise distress.

### 185.5. Anti-social Behaviour Discourses: Pathologising the Poor

Judy Nixon, *Sheffield Hallam University* (j.nixon@shu.ac.uk)

The UK government has made tackling anti-social behaviour a priority in its discourses and though a wide range of legislation and policy introduced since 1997. In the development of the new politics of conduct a number of competing discourses have emerged in which binary oppositions are employed to symbolically differentiate the law abiding from the irresponsible. Retributive discourses emphasise self regulation, welfare conditionality and community obligations, reflecting an authoritarian populism which draws on overtly punitive interventions for the purposes of political expediency. More recently however, a pathologising element has been introduced into ASB discourses in which the causes of anti-social behaviour are attributed not just to fecklessness and irresponsibility but also to personal failure occurring as a result of developmental problems and/or personality/emotional disorders. This paper explores the way these emerging discourses have informed the development of interventions based on clinical treatment or rehabilitation models. Drawing on empirical data collected as part of a three year evaluation of ASB rehabilitation projects the paper gives voice to the experiences of service users referred to specialist ASB projects. Families working with projects were amongst the most disadvantaged in the country with a high incidence of behavioural and psychological problems noted in relation to both adults and children. The paper outlines the methods of work employed by rehabilitation projects and compares the outcomes

associated with these practiced based interventions and those achieved within the more disciplining framework of legal enforcement action.

## 186. Self-Destructive Behavior in Prison

### 186.1. Prevalence of Childhood Trauma and Relation to Aggression and Suicidal Behavior in a Population of Prisoners in Italy

Marco Sarchiapone, *University of Molise* (marco.sarchiapone@gmail.com)

A high prevalence of childhood trauma has been reported in subjects with a history of aggression, impulsivity and self harm behaviour, and all these psychopathological variables are reported as frequently present in the inmate population. The aim of this study was to analyze the prevalence of childhood trauma and its features in a sample of prisoners. Study participants comprise 300 inmates. The Childhood Trauma Questionnaire (CTQ), 35 item version, was administered to all subjects. Data on the history of violent acts, suicidal and impulsive behaviour were collected. The occurrence of childhood trauma among prisoners was significantly higher than in the general population. Emotional abuse and emotional neglect were the types of childhood trauma that were more common among prisoners. Less frequent were physical neglect, physical abuse and sexual abuse. Childhood trauma was associated in general with a higher incidence of aggression and suicidal behavior.

### 186.2. Components of a Comprehensive Suicide Prevention Program in Prisons

Annasseril Daniel, *Daniel Correctional Psychiatric Services, Columbia, USA*  
(AEDaniel@aol.com)

Suicide prevention in prisons is a collaborative responsibility of administrative, clinical and custodial staff. Each of these sectors in the prison organizational structure has relatively well defined roles although some of the responsibilities overlap. The presenter delineates critical administrative policies and procedures, elements of clinical decision making including screening, risk assessment, monitoring as well as selection and

administration of medications, and custodial staff's supervisory and monitoring roles. A cohesive and systematic approach is offered to address most risk factors with a view to preventing and/or reducing the frequency of serious self destructive behaviors. Training and program evaluation procedures are highlighted. Finally, the speaker's experience in a large correctional system for a period of five years between 2001 and 2006 will be shared with the audience.

### 186.3. Suicide Prevention in the Workplace

Heather Stuart, *Queen's University* (hh11@post.queensu.ca)

Suicides, and the mental health problems that give rise to them, exact an enormous toll on worker productivity and well-being. Workplace suicides and suicide attempts are significant for their psychosocial impact on co-workers. Whereas a suicide that occurs outside of work may seriously affect six other people in their close circle of family and friends, a workplace suicide may seriously affect hundreds, and these effects may reverberate through an organization for years. Certain occupations are at higher risk of suicide and the mental health problems associated with suicide behaviours; particularly law enforcement and correctional occupations where workers face high levels of day-to-day stress. The World Health Organization has recently developed a resource for employers to help them prevent worker suicides and promote a mentally healthy workforce. Drawing on the materials used by the World Health Organization in developing this resource, this presentation will review workplace suicide prevention from the broad perspective of worker mental health promotion and prevention and suggest guidelines for employers of correctional and law enforcement personnel to reduce the risk of suicide and psychosocial disability in their workforce.

### 186.4. Routine Administration of VISCI (Viennese Instrument for Suicidality in Correctional Institutions) in the Austrian Correctional System

Patrick Frottier, *JA Wien Mittersteig, Vienna, Austria* (Patrick.Frottier@justiz.gv.at)

**Background:** This research project intends to improve suicide prevention in the Austrian correctional system. The suicide-screening-instrument VISCI (Viennese instrument for suicidality in correctional institutions) was introduced to help to identify suicidal inmates.

First results of routine administration of VISCI in three Austrian jails or prisons are presented here.

*Methods:* Two jails and a correctional treatment unit took part in the first months of the implementation of VISCI: during intake, every inmate is assessed by the officer on duty by use of VISCI. Depending on the answers, a “traffic-light-model” helps to decide further preventive action.

*Results:* Of 400 inmates assessed by means of VISCI, 6.9 % showed a moderate risk of suicide (“yellow”) and 2.5% showed a high suicide risk (“red light”). More than 20 % answered that they had had contact with psychiatric services, that they took psychopharmacological drugs and that they had substance use problems. Six point one percent had attempted suicide before, 12.5 % had told someone else that they intended to commit suicide.

*Conclusions:* It is too early to decide whether VISCI definitely can help to reduce suicides in custody. However, it helps professional staff to focus interventions on subjects with the highest level of psychiatric needs.

## 186.5. Risk Factors for Suicide in Prisoners: A Systematic Review

Seena Fazel, *University of Oxford* (seena.fazel@psych.ox.ac.uk)

This paper will present the findings of a systematic review and meta-analysis of risk factors for suicide in prisoners. It will present the search strategy, discuss methodological challenges, and present preliminary findings. Most of the research reviewed has reported on demographic factors, followed by some studies that have described criminal history variables. Only a handful of studies reported clinical factors. Suggestions for further research will be made.

## 187. Sex Offenders I

### 187.1. Preventive Detention of Sex Offenders: The Progress of the Australian Experiments

Patrick Keyzer, *University of Technology Sydney* (Patrick.Keyzer@uts.edu.au)

In 2003, Queensland, a State of Australia, enacted legislation that authorizes the imprisonment of a person after their sentence is completed on the ground that they may represent a serious danger to the community if released. This unprecedented approach has, at the time of preparing this abstract, since been copied in two other States, New South Wales and Western Australia. This paper outlines the progress of these experiments: the failed constitutional challenge, the communication to the United Nations Human Rights Committee, the findings of a research report funded by the Criminology Research Council, and four years of cases under this regime. The implications of this approach for other countries are considered.

### 187.2. Sexual Homicide of Children: Looking at the Sex-Related Child Abduction Homicides

Kathleen M. Heide, *University of South Florida* (kheide@cas.usf.edu)

Sexual homicides involving children generate intense media attention and widespread public concern, despite their infrequency. Empirical research on this type of murderer is surprisingly scarce in light of the interest in this topic. Most studies have looked at sexual murderers of adult women, neglecting to look at those who kill children. This paper reviews the current research on sexual murderers of children, especially those who abduct their victims. Available literature suggests that sexual murderers of children tend to form a homogeneous group, matching several characteristics of the sadistic offender. For instance, compared to sexual murderers of adult women, they are more likely to premeditate their crime, use strangulation to kill the victim, dismember the victim's body, and hide the victim's body after the crime. Some sexual murderers of children will abduct their victim. These crimes, which are usually committed by strangers, are extremely complex to investigate. Following our review of the literature, we analyze three recent cases of sex-related child abduction homicides to discern patterns and to compare and contrast with child sexual murder where no abduction is involved. We conclude our paper with a discussion of policy and investigative implications in light of our analysis of these cases.

### 187.3. Considerations on the Refusal to Comply with the Constitutionally Accepted Wisconsin "Sexual Offender Predator Law"

George Palermo, *Medical College of Wisconsin* (palermogb@juno.com)

Three sexual offenders examined for Wisconsin's Chapter 980 Law expressed, over a course of interviews, their reluctance to undergo treatment as sexual offenders as required by the statute prior to conditional discharge from correctional institutions. Their argumentation, dressed in legal jargon, at times sensible and logical, demonstrates some shortcomings of the psychological examinations carried out in order to support their continued incarceration and the necessity for treatment. Ethical issues may be involved in the above.

#### 187.4. Treatment Outcome: Risk Band Analysis of Custody Based Sex Offender Programmes

David A Bright, *University of New South Wales* (dbright@psy.unsw.edu.au)

The NSW Department of Corrective Services, Psychological Programmes, Sex Offender Programmes, offers a range of treatment services to sexual offenders. The CUBIT (Custody Based Intensive Treatment) and CUBIT Outreach (CORE) are treatment programs for moderate to high, and low to moderate risk/needs offenders respectively. The overall goal of these programs is to reduce the likelihood that offenders will commit further sexual offences upon their return to the community (i.e., reduce sexual recidivism). The current pilot study evaluates the effectiveness of the CUBIT program in meeting this aim. The study utilises risk band methodology in which STATIC-99 recidivism estimates are compared with observed recidivism rates of treated offenders. Results show a marked reduction in sexual recidivism rates for treated offenders compared with STATIC-99 "estimated" recidivism rates. The results provide preliminary empirical support for the effectiveness of the CUBIT treatment program.

### 188. Sex Offenders II

#### 188.1. Risk Assessment and Expert Testimony with a Sex Offender Population

Albert J. Grudzinskas, Jr., *University of Massachusetts* (Al.Grudzinskas@umassmed.edu)

This session will utilize United States Supreme Court decisions regarding expert testimony to discuss the Court's impact on the use of clinical assessment instruments. The presenter will consider the line of federal evidentiary cases including Frye, Daubert, Kumho Tire, and General Electric v. Joiner and the Federal Rules of Evidence and their impact on the admissibility of expert testimony with respect to sex offender risk assessment. The presentation will explain how to utilize psychometric properties of various instruments to establish the necessary foundation for admissibility. An examination of the relationship between the holdings in Daubert, establishing criteria for admissibility and Joiner, requiring that the test use be related to the facts of the case being tried will help outline successful strategies to develop foundation testimony and relevance. The roles clinicians, who serve as experts must play in order to permit the introduction of credible psychological testing based conclusions, will be explained.

### 188.2. Pharmacotherapy in Paraphilia Treatment

Fabian M. Saleh, *University of Massachusetts* (SalehF@ummhc.org)

Paraphilic disorders are psychiatric syndromes characterized by recurrent and intense deviant sexual thoughts, urges or behaviors. Whenever cravings for socially unacceptable and unconventional sexual acts become intense and overpowering, paraphilic patients may pose a risk to the targets of their paraphilic focus. The primary objective of Dr. Saleh's presentation is to examine and review the differential diagnosis of sexual offending behavior. The rationale for the use of medications in this population will also be discussed. Finally, Dr. Saleh will talk about ethical and informed consent related issues.

### 188.3. Impulsivity in Fire Setting and Sex Offending: Are Men Burning to Orgasm?

Jeffrey Geller, *University of Massachusetts* (Jeffrey.Geller@umassmed.edu)

Since Stekel in 1924 (*Peculiarities of Behavior*) and Freud in 1932 (*International Journal of Psychoanalysis* 13:405-410) proclaimed a relationship between sex and fire-setting, there has been considerable confusion about the relationship between the two. This confusion was fueled by Lewis and Yarnell hedging in their seminal study, *Pathological Fire-setting (Pyromania)* (1951). Is there a relationship or not? Contemporary researchers and commentators are divided in their opinions. Overall, the two may co-vary with another factor, social skills deficits, i.e., both fire-setting and any sexual pleasure derived

there from are derivatives of basic inabilities to have wants and needs communicated and met in more socially acceptable fashion. While much of fire-setting is arson with criminal intent, what is the relationship between sex and fire-setting in pathological fire-setting?

#### 188.4. The Use of Risk Assessment tools with a Sex Offender Population

Gina Vincent, *University of Massachusetts* (Gina.Vincent@umassmed.edu)

The rate at which mental health professionals are called upon to make assessments of individuals' risk of harm to others is on the rise (Douglas, Cox, & Webster, 1999). Taking the matter a step further, the advent of Sexual Predator laws has challenged the profession to enhance the specificity of predictions for general violence risk to estimating the likelihood of future sexual offending. Risk assessment schemes traditionally have taken one of two forms, clinical or actuarial decision-making. Clinical decision-making involves unstructured, subjective predictions made by a decision-maker after combining all the available data. Actuarial prediction is more mechanical and 'involves a formal, algorithmic, objective procedure (e.g., equation) to reach the decision' (Grove & Meehl, 1996, p. 293). Due to the consistency and predictive acumen of actuarial tools, several researchers have argued persuasively for the superiority of actuarial decision-making to estimate the likelihood of future violence (e.g., Meehl, 1996; Quinsey, Harris, Rice, & Cormier, 1998). Though evidence of our ability to predict violence is compelling, sexual violence and sexual offending are another matter. This presentation will begin with a review of the clinical vs. actuarial debate, emphasizing the benefits and weaknesses of actuarial violence risk prediction for sex offenders. This will be followed by a brief review of what the science knows and does not know about the predictive validity of the actuarial tools used in practice with sex offenders. It will conclude by introducing the idea of structured clinical judgment and the Risk for Sexual Violence Protocol (RSVP) as the most viable option for sex offender risk assessment practices.

### 189. Sex Offenders III

#### 189.1. Objective and Individual Factors Related to Psychological Outcomes of Sexual Harassment in a Litigant Sample

Linda L. Collinsworth, *Millikin University* (lcollinsworth@millikin.edu)

Sexual harassment research has entered its second generation with well-documented evidence of negative victim consequences, including job, health, and psychological damage. One area that remains unexamined, however, is the process that leads to that harm. Fitzgerald, Swan, and Magley (1997) propose three types of contributors to the psychological, health-related, and organizational outcomes of sexual harassment, each partially mediated by the victim's subjective appraisal of her experience. These are (a) objective or stimulus factors (e.g., frequency, intensity, duration of the harassment), (b) individual factors (e.g., victimization history, victim's resources, attributions), and (c) contextual factors (e.g., organizational climate). This paper presents the results of two studies using two litigant samples: a group of approximately 1200 women employed in the financial industry and involved in a class action law suit, and a group of 85 women involved as plaintiffs in sexual harassment litigation. A series of hierarchical regressions explores the contribution of objective and individual factors to psychological harm; subsequent dominance analysis revealed that the magnitude of the experiences and the attributions made about that experience were the most important of the significant variables for Posttraumatic Stress Disorder (PTSD) symptomatology and general psychological distress.

## 189.2. Sexual Harassment Law: Are We Telling Victims How They Should Feel Instead of Recognizing Their Own Experiences?

Tricia L. Knight, *Consulting Psychologist, Milwaukee, USA*  
(tknight@knightandassociates.com)

Since 1986, the United States Supreme Court and the Federal Courts of Appeals have set forth multiple standards as to what constitutes a legally viable sexual harassment in the workplace claim. For example, not all sexual harassment in the workplace is legally actionable—only that which is “sufficiently severe or pervasive.” Only certain types of sexual harassment make it appropriate for the victim to quit his or her employment. Even if the sexual harassment is sufficient to be legally actionable, an employer may still avoid liability if it can show, amongst other things, that the victim did not respond reasonably to prevent or correct the harm done. What do these standards really mean? Do they accurately reflect the real life experiences of victims or do these standards serve to tell a victim that his or her experience is the wrong experience and he or she should have felt or experienced the situation another way? This paper addresses how well the body of federal law in the United States is recognizing the actual experiences of victims of sexual harassment in the workplace, focusing the discussion on three specific issues: (1) Is the objective standard adopted by the courts as to whether the sexual harassment rises to the level of legally actionable or constitutes a constructive discharge reflective of the actual

experiences of victims of sexual harassment? (2) Is the standard adopted by the courts as to whether the employer may avoid liability reflective of the experiences of victims of sexual harassment? (3) How can social science research on sexual harassment help to ensure that the law accurately reflects the experiences of victims so that the law is not merely telling the victims how they should feel.

### 189.3. Sexual Harassment and Post-Traumatic Stress Disorder

Theresa Beiner, *University of Arkansas at Little Rock* (tmbeiner@ualr.edu)

The American legal system requires victims of sexual harassment to report the behavior to a person in authority in their workplace or risk losing their legal claim. Many courts have considered delays in reporting harassment unreasonable under the legal standard. Lawyers and courts are either ignoring or unaware of one possible reason for this delay: victims of severe forms of sexual harassment or those who were traumatized significantly prior to the acts of harassment may be experiencing post-traumatic stress disorder (“PTSD”). This may well explain why some harassment victims do not report harassment or delay in reporting harassment. PTSD provides an evidentiary explanation for a victim’s reluctance to report sexually harassing behavior. Medical science explains that women or men who have been physically or sexually assaulted in the course of being sexually harassed may suffer from PTSD. While the common perception of sexual harassment among the public is that it involves fairly “minor” conduct, such as commenting on someone’s dress or asking someone out on a date, some cases do contain allegations of physical and/or sexual assault. In addition, PTSD can be triggered by less severe incidents for persons who have suffered from PTSD in the past (for example, have been sexually or physically assaulted or sexually or physically abused as a child). Evidence of PTSD should be admissible to explain the plaintiff’s behavior. While many cases mention that the target has been diagnosed as suffering from PTSD, few cases discuss how PTSD might affect actions of harassment victims. This presentation will discuss the potential use of evidence of PTSD in American sexual harassment cases. Looking at the requirements for the diagnosis and symptoms associated with PTSD makes it obvious how it might help explain the actions of harassment victims.

### 189.4. The Interplay of Social Science Research to Legal Decisionmaking in Sexual Harassment Cases

Louise F. Fitzgerald, *University of Illinois at Chicago* (lfitzger@uiuc.edu)

Research on sexual harassment, though only slightly more than 20 years old, is already notable for its richness and coherence. One of the most striking characteristics of this body of work is its consistency; in an area considered by its nature controversial, the empirical literature is notable for its lack of controversy. Even findings that might be considered counter-intuitive enjoy a consistency largely unknown in other areas of behavioral and social science and counter-examples, where they exist, are rare. Not surprisingly, much of this research has found its way to court, where controversy and argument are the order of the day and clashing “theories” abound. How does harassment research fare in this environment? What are its most valuable contributions and what its vulnerabilities? Are these vulnerabilities scientific or legal? In this paper, we address these questions, focusing our discussion on three areas of work, each well-developed scientifically but enjoying differing degrees of acceptance by experts and/or the courts: (1) the victim response literature, (2) the empirical connection between sexual harassment and Post-Traumatic Stress Disorder (PTSD); and (3) the voluminous literature on organizational climate. We then review ways in which such data can be helpful to triers of fact.

### 189.5. Finding One's Voice: Predicting Litigation Decision Making in a Class Action Sexual Harassment Lawsuit

Caroline Vaile Wright, *University of Illinois at Urbana-Champaign* (cvwright@uivc.edu)

Although researchers have a more solid understanding of the antecedents and consequences of sexual harassment (e.g., Fitzgerald, Drasgow, Hulin, Gelfand, & Magley, 1997), a number of misconceptions remain regarding how and why victims react to harassment in the ways that they do. Specifically, many have questioned why women fail to “use their voice” by filing formal complaints in response to their experiences. Using Lazarus and Folkman’s (1984) stress and coping theory as a framework, it becomes apparent that to understand victims’ responses to harassment, such as reporting and litigating these experiences, we must first identify the specific resources and constraints that influence their decisions. Researchers have proposed that a variety of factors influence the decision to seek institutional relief as a coping response to harassment, yet have failed to date to empirically test these proposals. The present study aims to address this gap in the literature by applying and expanding Fitzgerald et al’s (1997) Model of Harm to investigate the potential influence of various stimulus, contextual, and individual factors on the decision to pursue sexual harassment litigation. Specifically, the study attempts to identify (1) which factors influence victims to seek legal relief (Study One), and (2) which factors influence litigation persistence once a participant has begun (Study Two). Study One is based on a sample of female workers employed at a nationally based financial firm, who either participated in a class-action sexual harassment lawsuit against the company (“litigant” sample;  $n = 1,218$ ) or decided

not to participate (“non-litigant” sample;  $n = 465$ ). Based on binomial logistic regression, three variables were significant predictors of whether participants were members of the litigant as opposed to non-litigant group: organizational climate, PTSD symptomatology, and demoralization. Specifically, litigants were more likely to believe that the organization had a climate tolerant of sexual harassment, to report symptoms of posttraumatic stress disorder, and to feel demoralized due to their experiences. Organizational climate was the most important predictor in the model, completely dominating the effects of both PTSD symptomatology and demoralization. Participants in Study Two ( $n = 492$ ) were part of a two-year follow-up of the litigant group described in Study One. Multinomial logistic regression identified three significant predictors of litigation persistence: financial vulnerability, PTSD symptomatology, and education level. Participants who did not persist with litigation (i.e., were more likely to accept an early settlement offer) reported completing less formal education, were less financially vulnerable, and experienced fewer symptoms of posttraumatic stress disorder. PTSD symptomatology was determined to be the most important predictor in the model, completely dominating both financial vulnerability and education level. Theoretical and practical implications for the role of these factors in predicting litigation decision making are discussed.

## 190. Sex Offenders IV

### 190.1. Sexual and Domestic Violent Offenders: The Need for an Integrated Approach to Assessment and Treatment

Wendy Morgan, *London Metropolitan University* (w.morgan@londonmet.ac.uk)

It is widely accepted that domestic violence (DV) includes acts of physical, sexual and/or psychological harm committed against a current or former intimate partner. However, despite the clear recognition that sexual offences can, and do, regularly occur as part of a pattern of domestic violence there is a practical and theoretical tendency for DV and sexual offenders to be treated as distinct clinical groups. This is clearly illustrated by the development of parallel, as opposed to integrated, literature bases in three areas (1) typologies of DV offenders (2) multi-factorial theories of sexual offending (3) risk assessment measures for DV offenders (which may or may not include reference to the role of sexual offending). This presentation will discuss key findings from each field, outlining a number of areas where the current literature suggests an overlap and proposing areas where collaborative work may be of value (i.e. fruitful areas for theory

knitting). The benefits of such an approach from a research, risk assessment and treatment perspective will be discussed.

## 190.2. Empathy in Sex Offenders

Emily Blake, *The University of Kent at Canterbury* (eb64@kent.ac.uk)

Several theorists of sexual offending note a lack of empathy as a defining characteristic of sex offenders. Researchers have suggested that empathy must be absent in the offenders because the offence would not have occurred if the offender had an adequate level of understanding and concern for the harm he was causing. Marshall, Hudson, Jones and Fernandez (1995) proposed a four-stage model of empathy consisting of 1) emotion recognition; 2) perspective taking; 3) emotion replication and 4) response decision. To date my research has examined the emotion recognition stage of empathy in rape prone men. Participants viewed computer generated images of males and females expressing six different emotions; surprise, fear, anger, disgust, sadness and happiness and were asked to identify the emotion shown. The results suggested that for the most part there was no difference in accuracy between men who scored low or high in rape proclivity. For the most violent rape proclivity scenario however, men who scored highly were actually more accurate when identifying the emotions surprise and happiness. They were however significantly worse at recognising the emotion disgust. The results suggest that more sexually aggressive men are actually more sensitive to positive facial expressions than non sexually aggressive men.

## 190.3. What Survivors, Offenders and the Police Tell Us about Sexual Grooming

Sarah Brown, *Coventry University* (sarah.brown@coventry.ac.uk)

Sexual grooming is an under-researched phenomenon. The term is used widely in the clinical domain and has been adopted by others in recent years, including the public. Furthermore, innovative legislation has been introduced in England & Wales, in the form of the Sexual Offences Act 2003 (Home Office, 2003), to target offenders using sexual grooming. Despite this acceptance, the term is not well defined or widely understood, particularly in the public domain. This is problematic as the public are the most likely witnesses of sexual grooming behaviour. Without an understanding of this behaviour the public are ill equipped to identify and subsequently report this to the police. Furthermore, there is little research on the understanding of this behaviour by criminal

justice personnel. Thus, the implementation of this new legislation could be less effective than intended. This research attempts to increase knowledge and understanding of this phenomenon by considering adult survivors', police officers' and sexual offenders' perspectives of sexual grooming. Issues covered include vulnerability, entrapment, the victim's adjustment to child sexual abuse, education and protection. Implications for the prevention of child sexual abuse and the management of child sex offenders in the community will be discussed.

#### 190.4. Cognitive Distortions in Child Molesters: New Assessments

Theresa Gannon, *University of Kent* (t.a.gannon@kent.ac.uk)

Many researchers presume that child molesters hold distorted beliefs about children that are commonly termed *cognitive distortions*. Networks of related beliefs are hypothesised to act like schemas leading to misperceptions of innocent child behaviours as sexual. This view holds significant theoretical appeal. However, there is little supporting empirical evidence for this hypothesis. In this presentation, I present two novel studies developed to assess cognitive distortions whilst minimising impression management. The first study uses a type of fake lie detector, to try and increase honest responding on a questionnaire measure of cognitive distortions. The second study uses a lexical decision task, to examine child molesters' on-line processing of offence relevant stimuli. The results of these studies are intriguing and shed some doubt on the hypothesis that child molesters hold distorted beliefs about children that bias their social information processing. Have researchers overestimated the existence of cognitive distortions in child molesters? This possibility is discussed within current theory and treatment frameworks.

### 191. Sex Offenders V

#### 191.1. Predicting Recidivism in a Court-Referred Sample of Juvenile Sex Offenders

Amanda Fanniff, *University of Arizona* (fanniff@email.arizona.edu)

Judith V. Becker, *University of Arizona* (jvbecker@u.arizona.edu)

Despite the generally low rates of sexual recidivism found among samples of juvenile sex offenders, this population is perceived to pose a great danger to the community, a perception which often drives policy and treatment decision. The accurate identification of the highest risk youth is a critical goal that will allow legal and clinical resources to be more efficiently allocated. The presentation will include a review of the literature to date regarding predicting sexual recidivism. Data from a study of a court-referred sample of youth (N=297) will also be presented. Individual variables that are often assumed to be related to risk were not found to be associated with sexual recidivism in this sample (e.g., selection of child victims, penetrative offense). Additionally, the Screening Scale for Pedophilic Interests was not related to recidivism in this sample. Finally, a scale largely drawn from the J-SOAP-II was significantly related to both general and sexual recidivism. These previously conducted analyses relied only on the subsample that was not sentenced to a correctional facility, due to an inability to control for time at risk in the community. New analyses will be presented using the whole sample, controlling for time at risk.

## 191.2. Sexual Abuse through the Life-Span: The Effects of Age-at-Release on Recidivism in Sex Offenders

Howard E. Barbaree, *University of Toronto* (howard\_barbaree@camh.net)

C. M. Langton, *University of Toronto* (calvin.langton@utoronto.ca)

E. Peacock, *University of Toronto* (PeacockEJ@csc-scc.gc.ca)

The effects of age-at-release on recidivism was examined in a sample of 468 sex offenders released into the community for an average period of over 5 years. The sample was divided into two age cohorts (21-40 years of age; N=265) and (41+ years of age; N=203) at release from custody. Comparisons between cohorts revealed numerous potential confounds with age-at-release. Most importantly, the younger cohort gave evidence of more antisocial behavior, while the older cohort exhibited greater sexual deviance. Using a principal components analysis of actuarial items, we found factors we referred to as Antisocial Behavior and Sexual Deviance. These two control variables were entered as the first block in a Cox Regression analysis with age-at-release entered as a second block. The results of the Cox Regression suggested a model of age-related reductions in recidivism such that risk at a particular age-at-release was estimated to be 0.95 as a proportion of the risk in the previous year. The implications of reductions in sexual aggression with age are discussed in relation to (1) our understanding of the etiology of sexual aggression, (2) our use of actuarial risk assessments, and (3) public policy on the management of high risk sex offenders.

### 191.3.Children with Sexual Behavior Problems

Barbara L. Bonner, *University of Oklahoma* (Barbara-bonner@ouhsc.edu)

This presentation will describe a randomized clinical trial comparing two approaches to group treatment for children ages 6-12 with sexual behavior problems and their caregivers. The two treatment approaches, cognitive-behavioral therapy (CBT) and dynamic play therapy (DPT), were utilized in a 12 session treatment program with children and their caregivers. The CBT group was highly structured and was built around the Sexual Behavior Rules. The children acknowledged their inappropriate behavior, learned the sexual behavior rules, discussed sex development and received education, and learned prevention techniques. The DPT group was an open, relatively unstructured group in which the inappropriate sexual behavior was not mentioned by the therapists. The techniques used were reflection, interpretation, and group art projects. Pre and post testing of sexual behavior and general behavior problems were used with each group and the results were positive for each of the approaches. A two year follow up showed no significant difference in subsequent sexual behavior by caregiver report between CBT (15%) and DPT (17%). However, a recent 10 year follow-up showed significant differences in the two groups as reported by Child Welfare, the State Juvenile Tracking System, and the Oklahoma State Bureau of Investigation (for youth who are now over 18). The recidivism rate for inappropriate/illegal behavior for children in the CBT group was 2% and the rate for the DPT group was 10%. These figures support the fact that children's problematic sexual behavior is not difficult to modify and does not persist into adolescence and adulthood. Policies and programs that operate on the assumption that children will continue to have severe sexual behavior problems need to be examined and significantly modified.

### 191.4.What we have Learned about Recidivism: Clinical and Policy Implications

Judith V. Becker, *University of Arizona* (jvbecker@u.arizona.edu)

In the United States, various legislation has been enacted in an attempt to safeguard communities from juvenile and adult sexual offenders. These social control policies including lengthier sentences, transferring juvenile sex offenders to the adult system, registration and community notification have not been informed by social science research. Data are available on recidivism rates and the effectiveness of treatment modalities for sexual offenders across the life span. A review of those data will be presented and recommendations will be made for further clinical research and social

science research that might serve to inform policy makers and ultimately make our societies safer through prevention efforts, state of the art treatments, and community management policies.

### 191.5. The Multi-Modal Self-Regulation Theory: A Developmental Model of Sex Offending Behaviors

Jill D. Stinson, *Fulton State Hospital, Fulton, USA* (jill.stinson@dmh.mo.gov)

Sex offending behaviors are the result of a complex, multi-faceted process. Any new theory of sexual deviance must incorporate numerous causal mechanisms, including biological, developmental, cognitive-behavioral, and environmental factors. The Multi-Modal Self-Regulation Theory expands our current etiological conceptualizations to emphasize the importance of self-regulation and reinforcement contingencies in this process. Self-regulatory deficits are implicated in a variety of behavioral, emotional, and interpersonal disorders, including those characterized by sexually inappropriate interests and behaviors. While some treatment approaches address the role of regulatory goals in the maintenance of deviant sexual behaviors, we offer a unique perspective on the role of dysregulation and maladaptive regulatory strategies in the formation and initiation of these behaviors. Here, the core components of this model are explained, and relevant examples are given to illustrate the development of sex offending behaviors within this proposed framework. Results from a preliminary study are also discussed. Dysregulation is examined as a key variable in the development of paraphilias, antisocial behaviors, and disordered substance use in a sample of 95 sex offending men. A causal path analysis demonstrates that dysregulation significantly predicts both paraphilic and antisocial behaviors and explains shared variance between the two. Implications for cognitive and personality variables are considered.

## 192. Sexuality and Mental Disability: Unpacking Attitudes

### 192.1. Right to Sex in the Treatment and Civil Commitment of Sexual Violent Predators

Heather Ellis Cucolo, *New York University* (heatherellis@gmail.com)

This paper will examine the right of Sexual Violent Predators to have conjugal visits while civilly committed in a secure facility. The goal in treating sexual offenders is to rehabilitate them so that they can exist in the community and abide by the laws of society. A crucial element of that treatment is arousal reconditioning and relapse prevention. Through psychiatric analysis and theory I propose that the best way to rehabilitate certain offenders and change their arousal pattern is by engaging in consensual, age-appropriate relationships while committed. Those offenders that are legally married should have the opportunity to engage in conjugal visits with their partners. I will examine the link between recidivism and arousal reconditioning and how it relates to specific classes of offenders. Also of note is the right to age appropriate, consensual sex among homosexual men while in treatment. I will also comment on the right to sex in general civil commitment settings and the right to sex in prison.

### 192.2. An analysis regarding the Effects of Workplace Racial Discrimination and Harassment on Intimate Relationships and Sexual Function

Harold J. Bursztajn, *Harvard Medical School Program in Psychiatry & the Law*  
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Beata Zolovska, *Harvard Medical School* (beata\_zolovska@student.hms.harvard.edu)

Although the clinical and forensic community is relatively sensitive to the negative impact of workplace sexual harassment on sexual function, there has been relatively little attention paid to the impact of other forms of workplace harassment and discrimination on sexual function. We report our analysis of observations regarding the impact of perceived racial harassment and discrimination on nineteen African American individual plaintiffs in a workplace racial harassment case, which was eventually settled. Analysis of the cross-sectional data derived from personal interviews and written surveys of the workers revealed a high level of sexual dysfunction and intimate relationship breakdown, suggesting an effect of racial discrimination and harassment on intimate relationships and sexual dysfunction.

### 192.3. Caught in a Kafka Novel: Women with Mental Disabilities who have been Sexually Abused in Psychiatric Institutions

Deborah A. Dorfman, *Legal Advocacy WPAS, Washington, USA*  
(dougaldorfman@hotmail.com)

In 2000, the author was contacted by numerous female patients at a state psychiatric hospital in Washington complaining that they had been repeatedly sexually assaulted at the forensic unit at the hospital. After conducting an extensive investigation, it was discovered that in the hospital's own records, it was clearly documented that these women had been sexually assaulted and that the assaults were foreseeable but the hospital had done nothing to protect them from these assaults. Even worse was that these women had been blamed for their own assaults. The documentation in the records indicated that the staff knew that the women had been placed on a unit with men who had a propensity to be sexually violent and that they had been warned to stay away from them. This situation is sadly not uncommon. It is well documented that women with disabilities are sexually abused at significantly higher rates than women without disabilities. It is further well established that sexual abuse, harassment and assault against women in psychiatric facilities is pervasive. All too often the very people who are charged with the responsibility of ensuring that female patients have a safe treatment environment, are the very people who permit and perpetuate these dangerous conditions. The presentation will address how stereotypes and attitudes in the legal system and among care providers often perpetuate and support abuse of women with mental disabilities who have been sexually abused.

#### 192.4. Crime, Prostitution, Drugs and Insanity: Female Offenders' Resistant Strategies to Abuse and Domination

Brenda Geiger, *Bar-Ilan University – Western Galilee College* (geigerb@netvision.net.il)

Poor, uneducated, and illiterate Mizrahi women constitute the majority of the 220 female offenders incarcerated in the only female prison in Israel—Neve Tirza. Most of them (81.5%) have survived severe socioeconomic conditions and extreme forms of emotional, physical, and sexual abuse. Psychiatrists and criminal justice professionals have often described female offenders as passive victims propelled into crime as a result of their traumatic childhood and life course experiences. This qualitative study adopts a postmodern critical orientation and Foucault's bottom-up microsocial analysis of power to examine the trajectories of resistance of eight of these female offenders who break the silence to tell their life story. Analysis of narratives, and more focused in-depth interviews with these women deconstructs the dominant discourse that stigmatized female offending as the pathological consequence of a traumatic childhood. Using the sensitizing concepts of control, agency and resistant efforts and letting the data speak for itself this research uncovers these women hidden scripts of resistance and struggles against intolerable socioeconomic deprivation, and extreme forms of abuse inside and outside the family.

## 193. Sexuality, Psychiatric Institutions and Mental Health Policy: A Global Perceptive

### 193.1. Sex, Policies, and Mental Health Care Provider Attitudes in South Africa and the United States

Pamela Y. Collins, *Columbia University* (pyc1@columbia.edu)

Two recent studies revealed HIV prevalence rates of 9% and 29% among psychiatric inpatients in South Africa. North American studies have long demonstrated the vulnerability of people with severe mental illness (SMI) to HIV infection in the USA. People with psychiatric illness need adequate HIV education and care; yet, mental health policies, institutional practices, and provider attitudes toward sexuality can be a barrier to providing these services. Forty-six South African mental health care providers completed semi-structured interviews focused on perceptions of sexuality among people with mental illness and vulnerability to HIV risk. Institutional practices and policies as well as individual attitudes toward sexuality among people with MI presented challenges to implementing HIV prevention activities. Twelve mental health care providers in the New York City area completed the same qualitative assessment. This paper explores the similarities and differences in attitudes toward the sexuality of people with mental illness in these two very different cultural settings, the role of mental health policies in supporting or challenging providers attitudes and actions, and implications for addressing the HIV epidemic among people with mental illness.

### 193.2. Formal and Informal Regulation of Sexual Expression and Reproductive Behavior in Psychiatric Institutions in the United States

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In the United States, the sexual behavior of people with psychiatric disabilities presents formidable legal and policy challenges. Because of the societal stigma associated with mental illness and sexuality, many speculate that the difficulties patients often experience in meeting their sexual needs are directly related to legal and social constraints within the mental health system. To better understand this context, this paper examines the formal and informal efforts to regulate patient sexual/reproductive behavior in public mental health facilities. Specifically, existing state laws and policies regarding patients' sexual

behavior and reproductive rights to better understand the formal regulatory issues are reviewed. Also reviewed are case studies and research on clinicians' informal responses to patients' sexual/reproductive behavior to determine the extent that these informal responses reflect principles espoused in state law and policies. The findings indicate that the majority of formal and informal regulatory efforts are directed at prohibiting or severely limiting patients' sexual/reproductive behavior because of cultural views of people with mental illness as being asexual, sexually promiscuous, or incapable of normal sexual expression. The implications of this legal and regulatory context for patients' sexual health and psychiatric functioning are discussed.

### 193.3. The Meaning and Management of Women's Sexuality in Psychiatric vs. Community-Psychiatric Settings in Berlin, Germany

Hella von Unger, *Wissenschaftszentrum Berlin, Germany* (unger@wz-berlin.de)

*Background:* In Germany, the regulation of patients' sexuality is determined by the local policy of the psychiatric or community-psychiatric institution. No mental health act, national or state policy specifies the issue.

*Aim:* The current study explores how female patients' sexuality is perceived and managed in two different settings in Berlin: a psychiatric clinic and a community-psychiatric day care center.

*Methods:* An ethnographic approach is taken involving participant observation, interviews with female patients/users and interviews with mental health care providers in the two settings. Data analysis applies grounded theory procedures.

*Results:* Women's sexual activity has very different meanings in the different settings and to the different actors. These differences are illustrated with reference to the respective practices of the actors.

*Conclusion:* In the absence of national or state policies, psychiatric and community-psychiatric institutions develop their own local approaches to patients' sexuality which greatly affects the experiences of female patients/users in these settings.

### 193.4. Do Policies Regarding Sex Address HIV/STI Risk Protection in Two Brazilian Psychiatric Hospitals?

Milton L. Wainberg, *Columbia University* (mlw35@columbia.edu)

*Issues:* People with severe mental illness (SMI) are at elevated risk for HIV infection in Brazil. This study conducted formative research using ethnographic methods in two psychiatric settings in Rio de Janeiro and determined how sexuality and HIV prevention are addressed by current institutional policies and how these are enforced.

*Description:* The study consisted of 350 hours of ethnographic observations; 9 focus groups (6 with SMI of both genders, n=45; 3 with mental health care providers of both genders (MHCP), n=27); and 18 in-depth interviews with key informants (12 SMI of both genders; 6 MHCP of both genders). All data were transcribed, coded, and systematically analyzed.

*Lessons Learned:* Key findings relevant to sex and HIV prevention included: 1) Patterns of risky behaviors among patients are common; 2) MHCPs lack clarity about institutional policies, and expressed need for training and structured interventions; and 3) Policies require revision.

*Recommendations:* The current policies require revision to ensure addressing sex through a healthy sexuality, including attention to HIV prevention and the patient's reproductive rights. The ethnography showed that besides revising policies; interventions that increase staff comfort and skills in addressing patient sexuality and protective behaviors are needed.

### 193.5. Rational Responses to Passionate Acts

Francine Cournos, *Columbia University* (fc15@columbia.edu)

The HIV epidemic has spurred new efforts to address sexuality among psychiatric patients in a rational way. The epidemic has led to new research into the sexual behavior of people with severe mental illness, and the development of policies that govern psychiatric facilities that care for this population. This presentation will summarize the common themes that occur across cultures as presented by the previous speakers, covering both clinical and policy perspectives. The presenter will also demonstrate how interventions that address patient sexuality contain many other benefits, including improving communication and assertiveness skills, and assisting patients in gaining a better understanding of contraceptive choices and the demands of parenthood.

## 194. Social, Cultural and Psychological Constructions of Stalking

### 194.1. Culture, Courtship and Consequences: How Western beliefs about Romance Influence the Minimization of Stalking

H. Colleen Sinclair, *Mississippi State University* (cs534@msstate.edu)

Results from a program of research examining Western attitudes about stalking and perceptions of what connotes appropriate courtship behavior will be presented. The presentation will start with findings from a media coding project that involved the content analysis of a random selection of popular television and film for the presence of “scripts” that endorse the use of persistence in the face of romantic relationship obstacles. In particular, special attention is paid to the how often the use of persistent, and even aggressive, courtship tactics in instances of unrequited attraction (i.e. when the romantic relationship, and therefore romantic pursuit, is unwanted) are portrayed as successful and desirable. Next, results from survey studies linking the societal acceptance of courtship persistence ideals to attitudes that minimize the impact of stalking (e.g. stalking “myths” or stereotypes) will follow. Finally, experimental findings of how these courtship persistence ideals and stalking myths interact to affect perceptions of stalking cases will be discussed. It is argued that the Western romantic idealization of persistence in relational contexts contributes to a minimization of stalking as a serious crime, which can help explain, in part, why stalking cases involving former romantic intimates are treated lightly in public and legal arenas.

### 194.2. Lay Prototypes Underlying Perceptions of Stalking and Sexual Harassment

Maureen O'Connor, *John Jay College of Criminal Justice* (moconnor@jjay.cuny.edu)

Both stalking and sexual harassment can be characterized as a set of actions that lie on a spectrum of behaviors that can be interpreted as romantic by one person and criminal by another. Activities such as repeated sending of flowers, leaving of love notes, showing up at unexpected places can be romantic in one situation but fear-inducing in another. Given this, will the legal or psychological framework within which these behaviors are evaluated influence the degree to which raters will see the behavior as unlawful, fear-inducing, severe, traumatic, worthy of damages? Before assessing this question, we sought to find out how the average person defines these concepts. Prototype theory has relevance when it comes to classification and perceptions of individuals, situations and behaviors. We investigated how the average person defines these concepts using prototype theory and methodology. In a 2 (Scenario: trial, TV show) X 2 (Behavior: stalking, sexual harassment) between-subjects factorial design, participants described

either a typical trial about stalking or sexual harassment or a typical television movie about stalking or sexual harassment. They then completed a series of follow-up questions about their description, personal experiences, and demographics. Results have interesting implications for research, legal practice, prevention and intervention.

### 194.3. Testing a Relational Goals Theory of Obsessive Relational Intrusion and Stalking

Brian H. Spitzberg, *San Diego State University* (spitz@mail.sdsu.edu)

To date, most stalking research has been variable analytic, focusing on demographic, criminal history, and DSM-type diagnostic variables. What little theoretical research has been pursued has tended to focus on narrowly constructed hypotheses (e.g., just world hypothesis, behavioral routine hypothesis) or is grounded in a variant of attachment theory. An alternative theoretical approach, relational goals theory, draws from cognitive psychology and theories of relationship progression. Relational goals theory posits that a target individual becomes cognitively linked with higher-order goals, which when frustrated by rejection, elicit a cascade of obsessional forms of cognitions and emotions that disinhibit a resulting campaign of pursuit behavior that violates norms of appropriate courtship. This paper explicates the formal claims of the theory and examines the supporting research, and the implications of the theory for avoidance, deterrence, and intervention.

## 195. Special Questions in Sequels to Persecution

### 195.1. Alexithymia and Traumatic Effects of Torture and War

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Alexithymia (Sifneos, 1972) means 'no name for the mood' and has been defined by the difficulty of expressing feelings verbally and to access to appropriate fantasies. This might lead to the absence of emotional reactions in front of overloading feelings and traumatic stress (McDougall, 1978; Krystal, 1988; Soendergaard, 2002). The main assumption here is that individuals having suffered from extreme stress under torture tend

more to develop alexithymic attitudes than a control group without torture experience. Thus, torture experience may involve avoidance, characterised by the inability to reveal emotional states or to describe feelings. This assumption has been investigated in a sample of applicants of the Human Rights Foundation of Turkey and compared to a control group which has not experienced torture. All participants scored in the Toronto Alexithymia Scale (TAS-20) and answered to a questionnaire including socio-demographic data, items about social support, religious beliefs and ideas about torture. The main results of this research will be briefly presented and emphasized through clinical observations of patients being treated in the out-patients clinic for victims of torture and war of the University Hospital of Geneva. A better understanding of deep wounds inflicted under torture may contribute to the development of clinical and therapeutic approaches in this context.

## 195.2. Cognition During Sleep: A Therapeutic Intervention in Nightmares

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Controlled Studies on the treatment of nightmares by means of psychotherapeutic methods are rare. The aim of the present study was to determine the effects of gestalt therapy and lucid dreaming on nightmares. Thirty-two subjects with recurrent nightmares completed the study. All of them participated in a gestalt group therapy program (GT) over 10 weeks, 16 were additionally instructed in lucid dreaming (LD). Subjects were randomly assigned to one of the two groups (GT vs. GT+LD). The subjects completed sleep logs over 10 weeks. Actigraphic data were obtained at the beginning and at the end of the study for a period of two weeks each. Examinations with respect to sleep quality, nightmare frequency, anxiety, depression and quality of life were carried out at the beginning of the study, after 5 weeks, after 10 weeks and at a follow-up after 3 months. In both groups anxiety and depression were reduced and quality of life was improved after 10 weeks of therapy. Subjective sleep quality (PSQI), which at baseline had been deteriorated compared to normative data, was found improved as well for both groups at the follow-up ( $p < 0.05$ , Wilcoxon Test), but only the LD-group already showed significant improvement at the end of therapy ( $p < 0.05$ ). Actigraphic data showed a consolidation of the sleep-wake rhythm and a more pronounced differentiation between diurnal and nocturnal activity in both groups. Concerning nightmare frequency a significant reduction was found in both groups after the 10-week study period as well as at the follow-up ( $p < 0.01$ ), but for subjects having succeeded in learning lucid dreaming (12 out of 16) the reduction was sooner, higher and longer lasting. Cognition during sleep, i.e. lucid dreaming, is a learnable skill that can be used in coping with nightmares and is also able to improve sleep quality.

### 195.3. Methods of Torture and their Effects on Palestinian Ex-Detainees in Israeli Prisons

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A sample of 600 Palestinian ex-detainees from the West Bank and Gaza participated in the study. A comprehensive questionnaire was developed and used which consisted of several sections: physical, psychological, and short and long term effects. Also the Beck Depression scale (BDI), the Symptoms Checklist (SCL90) and the PTSDI test were used. The study targeted those ex-detainees who served sentences in Israeli prisons after the Israel claimed that torture was used less frequently against Palestinian political prisoners in compliance with the Landau Committee report and recommendations of 1999. However, results of the study illustrated that torture was still widely practiced showing practically no difference in use before or after 1999 and used in a systematic manner. The results showed a higher rate on the PTSDI for ex-detainees (31.2%); general population, (21.4%); on the BDI, 30% of participants indicated moderate to severe depression; on the SCL 90, most variables were higher than the means, especially the Obsessive Compulsive Disorder (OCD) 1.35. It was also noted that methods that may leave physical scars were avoided.

### 195.4. Migration, Deterrent Policies and Medical Ethics

Laurent Subilia, *University Hospital of Geneva, Switzerland* (laurent.subilia@hcuge.ch)

In the struggle to limit immigration, the policy of deterrence through forced precarity has been successful in lowering the number of applications for political asylum. However, the toll of this policy on the health of a fragile population is heavy with a severe rise in psychosomatic problems, psychological and psychosocial disorders. This fragility is revealed by the results of the medical screening of refugees arriving in Geneva: 61% have allegation of traumatic past, 18% allegation of torture, 20% fill the criteria for depression, 25% for PTSD and 15% for an association of both diagnostics. Strong social pressure is therefore applied on individuals who are not able to stand such stressful situations. As result, we see a rising need for psychological support and a growing number of psychiatric disorders leading to hospitalisation in psychiatric wards. The context of migration, illustrate in a caricatured way the implication of constraining and restrictive

measures used to solve a social problem. The temptation to use the same efficient policy to solve other social problems is now great. In this context, the general practitioner is directly confronted to the impact of these methods on the mental and physical health of marginalized patients, foreigners or nationals. His position is becoming more and more uncomfortable and raises ethical questions. Is it ethical to allow the medicalisation of the consequences of social measures, for example to propose non-voluntary psychiatric hospitalisation for auto- or heteroaggressive individuals who break down under heavy social pressure? Can the medical profession accept to see its therapeutical capacities limited by administrative and legal constraint? When should the medical profession denounce measures, which have such a negative impact on public health?

### 195.5. Forensic Documentation of Torture-The How and Why

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Since 1992 more than 500 alleged torture victims have been examined at the Kris- och traumacentrum (KTC) in Stockholm by a team of forensic specialists, psychiatrists and psychologists. The patients represent a small fraction of all asylum applicants during the period (more than 20000 annually). A huge amount of data on torture from over 40 different countries has been amassed. Among our patients about 60 are women. This report focuses on differences in circumstances and instruments of torture as well as bodily sequelae between different countries and regions. Also gender differences have been studied. Systematization of the data is necessary to analyze differences between countries and regions. Thus, the authors hope to increase the validity of their statements that are used in the process of asylum application.

## 196. The Spectrum of Trauma after War and Persecution

### 196.1. Culture Specific Forms of Symptoms of Posttraumatic Stress

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Based on the fact that diagnostic criteria for posttraumatic stress have been developed in Western countries and psychometric instruments might not be reliable and valid in non-

Western countries, 150 asylum seekers from Chechnya, Afghanistan and West Africa were administered a series of instruments including (1) the Hopkins Symptom Checklist-25 (HSCL-25), (2) the Harvard Trauma Questionnaire (HTQ), (3) the Impact of Event Scale (IES-R), (4) the Bradford Somatic Inventory (BSI), (5) the Clinician Administered PTSD Scale (CAPS-1) and (6) the Social Adaptation Self-Evaluation Scale (SASS) using diagnostic interviews as a criterion. Results showed considerable differences between the three examined cultures: (1) Afghans deplored the separation from family or friends back home and were strained by the lack of work possibilities, West Africans often felt lonely and also stressed by lack of employment whereas Chechnyans were reluctant to talk about strainful factors; (2) Afghans as well as Chechnyans considered security, being granted asylum in Austria and connecting with others as helpful, Chechnyans added the acquisition of language and local customs while West Africans often felt supported by religion; (3) Chechnyans were watchful and irritable whereas West Africans and Afghans primarily had nightmares or sleeping disorders; (4) Chechnyans had multiple somatic complaints (head, heart) and reported an increase in aggressive behavior, Afghans were mostly depressive, felt weak and tired and also had somatic symptoms (general pain, headache) while West Africans had symptoms specific for their culture such as “thinking too much” or “brain not working”; (5) Apart from traumatic events related to war pertaining to all three cultures, Chechnyans and Afghans reported gender specific reasons and the loss of distant relatives accounting for traumatic events while West Africans connected many of the stressful experiences to religious or political reasons.

## 196.2. Confronting the Past: Psychological Assistance to Victims in the Court and Education of Professionals

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This paper will present the activities of confronting the past in the non-governmental networks in Croatia and in the region and the connection with international and local juridical systems. In Croatia, as also in other countries of the region, victims of war crimes are called as witnesses to both local and international courts. Court procedures can be extremely stressful, as previously avoided or not yet processed memories come up during confrontation with the past and the perpetrators. Further, memories and the witnesses might be questioned by lawyers that could be hostile or not experienced in adequate interaction with survivors of extreme violence.

Also, this paper will give a representative overview of the work with victims of war crimes and support before, during and after the testimony at court, in the scope of the pilot project conducted by IRCT Zagreb in 2005/2006. Characteristic problems with which witnesses and potential witnesses are being confronted and the attention will be discussed in the framework of the importance of support to witnesses in order to prevent

retraumatization. The paper will emphasize the importance of connecting and exchanging in a network of different professions in contact with witnesses: we will show results and importance of joint education in the network on trauma, psychology of witnessing, and the legal and social framework where the trials are being held. The need of establishment of not an easy alliance between the legal profession and the helping professions will be pointed out.

### 196.3. The Controversial Nature of PTSD

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The controversial nature of PTSD as a specific diagnostic category has persisted in spite of its merits as a tool to make more precise diagnoses and to facilitate communication across professions and cultures. Cross-cultural studies have demonstrated its universality. However, the social context has influenced the definition of trauma as spelled out in criterion A for PTSD diagnosis in DSM-IV and ICD-10. This paper proposes that the event, simply adverse or predictably traumatic, and the disabling experience, acquires its true definition and character after its nature and meaning has been realized in the post-traumatic social milieu. The process is illustrated with the presentation of three clinical vignettes from different trauma (Vietnam war, victim of torture, Bosnia-Herzegovina-Serbia conflict) and post-trauma contexts. This concept is of considerable importance in legal claims for disability compensation and in psychotherapy, in which the objective is to redefine and transform the role of the experience and to change the self evaluation of the person in the changing social contexts.

### 196.4. Suicide and Extreme Trauma - an overview

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The issue of suicide after extreme trauma in war situations or genocide has been an issue frequently neglected in spite of its obvious importance. While some models assume a low rate of suicidality or at least completed suicide, that might be attributed to either the cultural backgrounds in countries with high exposure rates or to a shift in post trauma development of survivors from suicidality to other problems, recent publications indicate that suicide risk, especially in refugee groups, can be substantial. Refugees and holocaust survivors can be seen as the specific group with the highest documented risk. As part of

the presentation, models of taking one's life under extreme circumstances will be discussed with possible risk factors explaining the questions raised by the present literature. Intervention strategies will be analysed with regard to their practical applicability in different situations. Treatment situations in this context might differ and reflect special circumstances such as the work in prisons or in an ongoing unstable and dangerous environment.

### 196.5. The Influence of Traumatic Experiences and the Time of Being Exposed to Trauma on the Development of Personality

Agnieszka Turkot, *University Hospital, Krakow, Poland* (agaturkot@op.pl)

The group of people who were the subject of this study are Polish people deported to Syberia after the Second World War (1945-1956). They were divided into two groups: people born in Syberia and those who were deported there later. Both groups are representative because of their suffering from PTSD, but depending on the time of being touched by a traumatic experience, they have developed in different ways. It can be observed in the specific development of their personality, assessed using the MMPI. Results of this test are very interesting and show that people, examined years later (in 55 to 80 year olds) have developed in three ways. Depending on the time of exposure to trauma, their personality profile is associated with depression, anxiety or psychosomatic disorders. These three dimensions reflect defense mechanisms, ways of coping and the possibility of adapting to the experience of trauma. The moment of the traumatic experience determines the later development of personality.

## 197. Stalking, Domestic and Relationship Violence

### 197.1. Using Control Behaviours to Classify Domestically Violent Relationships: A Dyadic Approach

Nicola Graham-Kevan, *University of Central Lancashire* (ngraham-kevan@uclan.ac.uk)

*Background:* Johnson's typology (1995) of relationship aggression suggests that partner violence is not a unitary phenomenon, and that the frequency of use of controlling behaviours can be used to differentiate between domestically violent relationships.

*Aims:* To investigate Johnson's typology empirically to establish (1) whether a distinction based on level of controlling behaviours produces statistically distinct categories; (2) to investigate sex-differences in category membership.

*Method:* Study 1 investigated the Johnson's typology using a stratified sampling technique whereby three samples; refugee women, students and male prisoners, were compared using discriminate function analysis on the frequencies of controlling behaviour, physical aggression, fear, and injuries. Broad support for the high/low control distinction was found. In response to new analysis produced by Johnson (1999) the three samples used in study 1 were combined and classified using cluster analysis. Support was found for this dyadic classification. Study 2 assessed whether the dyadic typology would be found in a sample of 1350 respondents unselected for partner violence.

*Results:* StudyStudies 1 and 2 found support for Johnson's typology but study 2 failed to support claims of sex-differences in category membership.

*Conclusion:* Implications for theories and treatment of relationship aggression will be discussed.

## 197.2. Cross-cultural Differences in Physical Aggression between Partners: A Social Role Analysis

John Archer, *University of Central Lancashire* (jarcher@uclan.ac.uk)

*Background:* In developed western nations, both sexes commit acts of physical aggression against their partners.

*Aims:* To assess whether men's and women's violence against their partners varies according to the degree of gender empowerment in different countries.

*Method:* Effect sizes for sex differences in partner violence from 16 nations were correlated with gender empowerment and individualism; rates of female victimization from 52 nations were correlated with a number of national-level variables indicative of female emancipation.

*Results:* As gender equality and individualism increased, the sex difference in partner violence moved in the direction of lesser female victimization and greater male victimization. Indices of women's victimization were inversely correlated with gender equality and individualism.

*Conclusion:* The findings support a social role approach to variations in sex differences between cultures.

### 197.3. Investigating Former-Intimate Stalking and Its Correlates in a Prison Sample

Stefanie Ashton, *University of Central Lancashire* (sjashton@uclan.ac.uk)

The aim of the research was to investigate self-reported prevalence of stalking acts (measured using the Unwanted Pursuit Behaviours Inventory [UPBI]; Langhinrichsen-Rohling, Palarea, Cohen & Rohling, 2000) during or after relationship break-up in a sample of male prisoners not currently incarcerated for ‘harassment’ crimes (i.e. under Sections 2 or 4 of the England and Wales Protection from Harassment Act, 1997). Data were collected from two prisons in the South of England. Questionnaires incorporating a variety of scales were randomly distributed to sentenced and/or remand prisoners, who then volunteered their participation. Statistical analyses investigated the associations between stalking and; relationship aggression, including physical and verbal aggression (measured using the Conflict Tactics Scale [CTS]; Straus, 1979), dependency (measured using the Interpersonal Dependency Inventory [IDI]; Hirschfeld, Klerman, Gough, Barrett, Korchin & Chodoff, 1977), jealousy (measured using a modified version of the Sexual Jealousy Scale [SJS]; Nannini & Meyers, 2000), and attachment (measured using Bartholomew & Horowitz’s Relationship Questionnaire, 1991). Potential personality disorders of the prisoners were also investigated using the self-report International Personality Disorder Examination [IPDE]; Loranger & Satorius, 1997). Results are discussed and implications for future research and practice are suggested.

### 197.4. The Intergenerational Continuity of Family Violence

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The paper presents risk factors and parenting styles associated with continuation and discontinuation of the intergenerational transmission of family violence, emphasising the links between spouse abuse and child abuse. Community nurses collected data on 4351 families as part of their health visiting service. Of these families, 135 (3.1%) had a parent who self-reported a history of childhood maltreatment, 9 (6.7%) of which continued the cycle of abuse (*Maintainers*) and 126 (93.3%) who did not (*Cycle Breakers*). Of the remaining 4216 families (96.9%) without a parental history of childhood maltreatment, 18 (0.4%) maltreated their infant (*Initiators*) and 4198 (99.6%) did not (*Controls*). Overall, Maintainers, Initiators and Cycle Breakers had a

significantly higher prevalence of risk factors and poor parenting styles than Controls. A history of parental mental illness, substance dependency and a violent partner living in the house accounted for the majority of the variance (53% of the total effect). Young parenthood (under the age of 21 years) was also more prevalent for parents with a history of abuse in their own childhood. In terms of protective factors, financial solvency and social support distinguish those abused parents that managed to break the cycle of violence. Mediation analysis found that intergenerational continuity was explained to a greater extent (62% of the total effect) by the presence of poor parenting styles together with the above risk factors. This study provides an explanation for why only a minority of parents abused in childhood go on to maltreat their own infant.

## 198. Stalking, Victimology and its Association with Other Forms of Violence

### 198.1. Intimate Partner Violence and Stalking: Psychological Dynamics and Consequences

Mindy B. Mechanic, *California State University at Fullerton* (mmechanic@fullerton.edu)

Stalking and intimate partner violence (IPV) share a common nexus, i.e., the thread of coercive control as a mechanism for eliciting fear and gaining compliance from a victim. Stalking by current or former intimate partners has even been conceptualized as an extreme form of psychological abuse, notably domination and isolation. In the context of IPA, the consequences of stalking range from fear and emotional distress to clinically significant symptoms of mental disorders, such as PTSD and depression. Recent multivariate analyses predicting PTSD and depression among battered women found that psychological abuse and stalking contributed uniquely to the prediction of PTSD and depression symptoms even after controlling for the effects of physical violence, injuries and sexual coercion stalking. Other consequences of IPV-related stalking include diminished health functioning, physical injuries and even death. Physical injuries as a consequence of stalking victimization have been reported. In one statewide epidemiological survey, injury rates were *four times higher* among women whose stalkers were current or former intimate partners, compared to other types of stalkers (CDC, 2000). Interestingly, there were no reported injuries among women who were stalked by strangers, even when the group was restricted to those who perceived danger or life threat from their stalkers. Stalking has been recently implicated as a risk factor for lethal and near lethal assaults on battered women. In one study, being “followed or spied on” by the abuser in the 12-months prior to the lethal or near lethal incident resulted in a nearly 2.5

fold risk. Recent findings reported by Mechanic, Weaver & Resick (2007, in press) with a help-seeking sample of severely battered women found the stalking predicted the receipt of both minor and severe injuries. The purpose of the proposed presentation is to address the interconnections between stalking and other forms of intimate partner violence and to discuss the psychological dynamics and consequences of such forms of victimization experiences.

## 198.2. Adolescent Stalking: Offence Characteristics and Effectiveness of Criminal Justice Interventions

Rosemary Purcell, *University of Melbourne* (rpurcell@unimelb.edu.au)

Stalking is a prevalent crime, affecting an estimated 10% of adults at some time. Clinical evidence suggests that stalking also constitutes a salient problem among adolescents, however no empirical research has considered this form of offending in young people. The temptation to simply extrapolate potential correlates of adolescent stalking from adult samples is insufficient given obvious developmental differences in cognitive function, emotional and social maturity. It is necessary to ascertain whether distinct factors motivate and sustain stalking behaviour in adolescents, as well as whether common legal interventions for managing stalking in adults are effective in young offenders. In Australia, cases of adolescent harassment and stalking are managed by the juvenile criminal justice system, usually via applications for Intervention (Protective) Orders. Using 5-year, archival data of applications for IOs among adolescents, this study will examine the nature and motivations of adolescent stalking behaviour; the characteristics of victims and perpetrators; and the effectiveness of IOs in combating stalking among adolescents. The results will provide the first indication of factors that motivate adolescent stalking, and will assist the design of early intervention strategies that reduce stalking violence.

## 198.3. The Epidemiology of Stalking Victimization in Germany: Mental Health Aspects and Gender Differences

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*Background:* Population-based studies on the relationship between stalking and mental health outcomes in victims are scarce.

*Aims:* Using data from the Mannheim stalking study, the authors assessed associations between stalking victimisation and DSM-IV mental disorders in a community sample.

*Method:* A postal survey was conducted in a middle-sized German city (n=675). Measures included a stalking questionnaire and the Patient Health Questionnaire (PHQ, Spitzer et al., 1999).

*Results:* Victims had higher rates of any mental disorders and of co-morbid disorders, with the most robust associations identified for Major Depression and Panic Disorder. Victims also reported higher use of psychotropic medication. In this community sample, a higher percentage of women than men (17.3% versus 3.7%) fulfilled the criteria for stalking victims. The gender differences in the prevalence of mental disorders and use of medication identified in our study was ascribable to the higher prevalence of stalking victimisation in women. In contrast, the associations between being a victim of stalking and poor mental health outcomes were largely comparable across gender.

*Conclusion:* The study indicates clear associations between stalking victimization and impaired mental health, quantified at diagnostic levels in the general population. Furthermore, the experience of being a victim of stalking seems to act as a substantial mediator of the associations between gender and mental health outcomes in the community.

#### 198.4. Stalking Violence: An Analysis of the Etiology and Escalation of Risk using an Integrated Theory of Stalking Violence

Carleen Thompson, *Griffith University* (C.Thompson@griffith.edu.au)

Although violence does not occur in all stalking cases, the potential for stalkers to escalate to violence frequently elicits fear in stalking targets. Additionally, when such violence does occur, the psychological and physical effects on victims can be debilitating. Despite this, little is known about what causes stalkers to escalate to violence. Proposed in this paper is a theoretical framework for understanding the causes of stalking violence. Furthermore, the findings of an empirical study which aimed to investigate the key components of this framework will also be discussed. This study utilised a questionnaire design, whereby a survey was administered to approximately 1000 community members and university students. The self-report questionnaire measured participants' involvement in stalking-like behaviours and their escalation to violence. 'Non-stalkers',

‘non-violent stalkers’ and ‘violent stalkers’ were compared on key psychological, social and situational factors to test the proposed theoretical framework. Variables examined included romantic attachments, the need for control, attitudes that support violence, substance use and abuse, break-up context, anger and jealousy and the role of triggering events. The implications of these findings for the development of crime prevention strategies will be discussed. More specifically, the findings will be used to inform potential criminal justice responses, personal safety strategies for victims and interventions to ameliorate perpetrator risk.

### 198.5. Alberta’s Provincial Family Violence Treatment Program

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Alberta’s unique approach to address family violence has involved numerous government and community stakeholders to develop a coordinated response to ensure safe and healthy children, families and communities. As part of the commitment, the Alberta Mental Health Board (AMHB) invited partnering stakeholders to participate in a working committee to develop a Provincial Family Violence Treatment Program Framework. The framework governs a provincial program for perpetrators of family violence who are directed through the criminal justice system or Protection Against Family Violence Act for assessment, and, where indicated treatment. In 2005, the Alberta government approved the Alberta Roundtable on Family Violence and Bullying Report. In the same year, based on the results of a Domestic Violence Treatment Evaluation, Alberta Health and Wellness provided funding to AMHB to implement the Provincial Family Violence Treatment Program in five Alberta communities. Since September 2005, AMHB has been actively working with numerous provincial and community stakeholders to assist in implementing a program based on standards and best practices. The authors will present the approach to implementation and evaluation, focused on a commitment to strong collaboration with partners (including law enforcement, community treatment agencies, justice, victim services, AADAC) in developing provincial standards, processes, and protocols.

## 199. Standards of Care for the Treatment of Juvenile Offenders

### 199.1. Juvenile Sex Offenders – Treatment Approaches and Management Practices

Cornelia Bessler, *University of Zurich* (cornelia.bessler@kjdzh.ch)

Within their treatment juvenile sex offenders have to integrate the often contradicting worlds of the justice system and psychotherapy. Successful treatment of juvenile sex offenders therefore requires close cooperation between both systems. A personalised treatment plan must be developed for each individual young person, based on the findings of a comprehensive risk assessment. It should contain the individual treatment elements as well as the temporal sequence of the various interventions is established. Cognitive-behavioural therapy plays a major role within the treatment of juvenile sex offenders. It contains several interwoven elements, such as reconstruction of the crime, perception of cognitive distortions, prevention of relapse and development of an awareness of guilt and empathy with the victim. Interventions must be tailored to the developmental stage of the offender, who needs support based on his skills and abilities. The therapist should offer concrete assistance and orientation. When we deal with juvenile sex offenders, however, it is chiefly a matter of recognising that they are minors; youths who behave in a conspicuous manner and who may represent a danger to others and to themselves, but who also represent part of the common culture and society.

### 199.2. Psychological Assessment of Juvenile, Adolescent and Young Adult Offenders in Psychiatric Hospitals and Institutions for Withdrawal Treatment

Ulrike Rachvoll, *University of Rostock* (ulrikerachvoll@gmx.de)

Joerg Michael Fegert, *University of Ulm* (joerg.fegert@uniklinik-ulm.de)

*Aim:* As found in several studies a decreased functioning of executive systems in offenders is associated with antisocial and aggressive behaviour. Our aim is to differentiate diagnosis and treatment for the group of juveniles, adolescents and young adult offenders with regard to executive functioning, impulsivity and inhibition.

*Method:* Juvenile, adolescent and young adult delinquents accommodated in forensic psychiatry according to Criminal Code section 63 or 64 in the Federal State of Mecklenburg-Western-Pomerania were administered several neuropsychological as well as other different tests (personality concepts, intellectual ability etc.).

*Results:* By using data on executive functioning, personality and intellectual ability it was possible to differentiate between different groups of offenders.

*Discussion:* Executive functioning plays an important role for the successful completion of rehabilitation with regard to independence, professional reintegration and social integration of patients. A differentiated examination of this group of offenders may contribute to new ideas in established therapy programs, so that a subgroup with good prognostic parameters can be rehabilitated earlier. These results may also confirm former studies, which have emphasized the increasing of efficiency with an internal specialization and differentiation and better conditions for treatment and care in forensic psychiatries.

### 199.3. Recommendations for Treatment of Juvenile Sex Offenders

Michael Kölch, *University Hospital of Ulm* (michael.koelch@uniklinik-ulm.de)

In our study of psychiatric statements in sex cases we found severe insufficiencies in quality. The assessment of criminal responsibility of young offenders was in many cases not carried out by an expert in child and adolescent psychiatry and showed just as many insufficiencies in quality as statements about adults. Some of the offenders had already committed sexual offences when they were too young to be prosecuted. Their repeated crimes can partly be seen as a result of failures in care, education, treatment and therapy. Earlier therapeutic intervention may have helped prevent at least some of the crimes that were subject to psychiatric assessment. The findings of our study inspired experts to discuss standards in treatment of young sex offenders. Whereas promising approaches can be found in treatment of adult offenders, there is very little activity in developing treatment standards for juvenile sex offenders. Treatment is carried out following practical experience or adaptation of studies in adults rather than evidence-based treatment standards. Our group of experts compiled important general statements on diagnostics as well as recommendations for treatment plans, therapy components and general conditions for treatment. This paper should be seen as a first step towards treatment standards for juvenile sex offenders.

## 199.4. The Dimensional Approach to Treatment for Juvenile Forensic Patients

Patrick Frottier, *JA Wien Mittersteig, Vienna, Austria* (Patrick.Frottier@justiz.gv.at)

As the number of forensic patients has been increasing all over Europe we must assume, that the change of psychiatric care systems is to be considered as a major reason for this fact. Moreover, it is reasonable to assume that particularly seriously and chronically mentally ill patients are mainly those who are shifted from psychiatric institutions to the care of the correctional system. Even if psychiatric care in correctional institutions can neither qualitatively nor quantitatively reach the standards of communal or permanent psychiatric care, efforts to implement effective treatment in the correctional environment must be given high priority. The classical diagnostic manuals (ICD 10, DSM IV), however, have only limited relevance for decisions concerning the treatment of juvenile patients. Diagnostics which only rely on DSM and ICD can not provide guidance to what kind of treatment and support is necessary to rehabilitate juvenile offenders. The operationalized psychodynamic diagnosis (OPD) on the other hand has proven to be a valid instrument for decisions concerning therapy (focus of necessary efforts in therapy and limits of therapy) for these patients. The presentation will focus on the diagnostic system and present data on how the system is used for mentally disordered juveniles (guilty by reason of insanity) in the Austrian prison system.

## 200. Support for Children of Parents with Severe Mental Illness

### 200.1. 'There, but not there': Growing up with a Parent with Schizophrenia

Grant Duncan, *Massey University* (l.g.duncan@massey.ac.nz)

*Background:* Children of parents with severe mental ill health are known to have a higher risk of adverse psychosocial outcomes. There have been few qualitative studies, however, to reveal the life-experiences and needs of these children, in terms of the long-term impacts as they grow into adulthood, especially from a strengths-based perspective.

*Aims:* This paper presents qualitative findings from 23 adults who, as children, were raised in a household with a parent who was suffering from schizophrenia.

*Method:* Semi-structured interviews were conducted to elicit insights into the participants' childhood experiences in the family, the long-term effects on their lives, the coping abilities and strengths they acquired, and their thoughts on the social support that could have been provided for them.

*Results:* Themes that have emerged from these interviews include: insecure attachment, social isolation, coping strategies, problems in forming relationships later in life, and the need to be appropriately informed about the parent's mental ill health.

*Conclusion:* Mental health services can respond to the needs of children whose parents suffer severe mental ill-health by attending to family cohesion and safety, peer networks and age-appropriate information.

## 200.2.Children 10-17 years of age in Families with a Severe Mentally Ill Parent

Margareta Ostman, *Malmö University* (margarita.ostman@hs.mah.se)

Eight minor children of both genders, 10-17 years of age, in families with a severely mentally ill parent were interviewed concerning their experience of everyday life and their special needs for support. The analysis of the interviews was inspired by phenomenological methods. The analysis showed that children in families with a severely mentally ill parent experience feelings of fear, guilt, and loneliness in everyday life and they show a great consideration for the sick parent although the situation is unstable and hard to understand. The change of the parents in becoming ill is difficult to experience for the child. The children experience their family as stigmatized by others and lack support in communication with other adults. They also have a wish to communicate with others and when they have opportunities to talk this is relieving. The children all stress that support from the social network is enormously important to reduce the burden of the child. The children also point out that the situation in families when the parent is well is pleasant, and that they are very fond of their parent. The factors mentioned are all dependent on the age and gender of the child.

## 200.3.Perceptions of Children Living with a Parent with a Mental Illness

Elaine Mordoch, *University of Manitoba* (elaine\_mordoch@umanitoba.ca)

This grounded theory study examined the perceptions of children living with a parent with a mental illness. The aim of the study was to determine a substantive theory to

explain how children perceived the experience of living with a parent with a mental illness, how they managed this experience, what they found helpful and unhelpful. Data were collected by interview, participant observation and field notes. Twenty two children between the ages of six and sixteen were interviewed. Following the principles of theoretical sampling, ten of the children were interviewed twice. Art, story and puppets helped children to express their perceptions during the interview process. The analysis of the literature that deals with children of a parent who has a mental illness concluded that research studies have examined factors associated with the presence or absence of children's pathology and relied on diagnostic and behavioral measures. This study was conducted to understand the subjective experiences of children within the context of their lives. The findings have important implications for mental health promotion within nursing practice, education and research; as well as policy development to address the macro issues that affect these children and their families.

#### 200.4. Child Protection and Child Custody Issues when Children have a Parent with Mental Illness

David Hay, *Curtin University* (d.hay@curtin.edu.au)

With the end of institutional care, many more people with mental illness are having children. Should such children remain with the parents possibly to contribute to their care, or should they stay with other family members usually grandparents? Removal from parents involves many specific issues such as parental compliance with medication, use of illicit drugs and involvement of the child in parental delusions-*folie a deux*- and explaining parental mental illness to the child. You can still love your parent while refusing to do what they say when acutely ill. Australian initiatives on health promotion for these children, their families and such staff as case managers and teachers are described. Throughout the Western world there is increasing placement of such children in the longterm care of their grandparents which places additional stress on ageing and often ailing individuals. Our survey indicates the children feel secure in this situation but often worry about the grandparents, especially given some of the legal issues which arise even when there is not dispute over custody. Much more needs to be done to specify more precisely the longterm outcomes sought for these children, irrespective of with whom they live.

## 201. Tail Wags Dog: Government Bureaucrats Dictate Standards of Care

### 201.1. Justice by Duress in Order to Improve Care?

John L. Young, *Yale University* (john.young@po.state.ct.us)

Under the guise of safeguarding patients' civil rights as provided under a 1980 law, a team of investigators descends upon a state hospital and scrutinizes patient medical records of its choosing. Meanwhile the investigating psychiatrist interrogates his colleagues at the hospital, impugning their practices and qualifications. In order to increase the yield of faults from their searches the investigators deliberately strive to bully and upset their victims. Based on the experience of such scrutiny, it seems clear that the investigators were determined to impose their own idiosyncratic version of what the standards of care ought to be. Leaving the hospital, the team carried or had the hospital send after them boxes full of photocopied medical records for extended further review, promising that an "outcome" would follow sometime between 6 and 18 months later. Possible outcomes include forcing the hospital to work in a sort of receivership under a court-appointed special master as occurred in California. Something of value could come of the procedure, for example more systematic and practical treatment planning and better documentation, along with other potential improvements that would characterize most hospitals' situations most of the time. The ultimate question raised by this experience is whether the potential benefits are worth their costs, whether monetary or psychological and whether for patients or for the institution. Also an important question is that of standards for assessing the investigating experts' qualifications. Do such investigations in fact serve the protection of civil rights or might the investigative processes themselves undermine these rights?

### 201.2. Civil Rights or Civil Rites??—You Decide

Victoria M. Dreisbach, *Yale University* (Victoria.Dreisbach@yale.edu)

One function of the US Department of Justice is to investigate alleged violations of civil rights. In particular, the civil rights of patients being treated in government funded facilities may become a focus of inquiry. The Department of Justice has investigated health care facilities after complaints have been lodged alleging violations of established

civil rights or liberties. However once an investigation opens, *any subject related to patient care and treatment* may be critically reviewed – with the specter of future oversight looming indefinitely. The repercussions may adversely affect the physician, institution and standards of care. This presentation will focus first on the experiences of an attending forensic psychiatrist regarding the chart review and oral examination of the physician in discussing and defending the treatment rendered. A second part of the presentation will focus on a review of investigations, their outcomes, and whether the *rite of the investigation*, and the perpetuation of same, becomes the objective, rather than the protection of patient’s civil rights or upholding standards of care. No patients under this physician’s care had complained of civil rights violations or deviation from the standard of care. The documentation of care was appropriate and relevant. The explanation given by the Department of Justice examiners revealed that their focus was not limited to the investigation’s stated mission, the protection of civil rights and liberties.

### 201.3. Disrupting Clinical Care in the Name of Justice

Alexandre Carré, *Connecticut Valley Hospital* (alexandre.carre@p.o.state.ct.us)

Mental health work across the disciplines in both public and private settings has inexorably expanded to address an array of measures that are predominantly viewed through the prism of administrative concerns and considerations. As a result it has become increasingly difficult for mental health clinicians to address the clinical aspects of their work. Administrators have shared their subordinates’ experience as they find it more and more difficult to exercise in turn their support of the central human and clinical dimensions of caring by the line staff. The reality of this trend is demonstrated sharply by the experience of a recent visit that the U.S. Department of Justice paid to our public sector facility. During their visit, the investigators maintained a particular focus on how to articulate and document the treatment provided by a very competent and dedicated staff. The investigators insisted on following an idiosyncratic model that they supported. As they progressed in their effort, it became increasingly evident to us and to our staff that anything deviating from their schema was to be deemed unacceptable, or at best inappropriate. We had to conform to this model or suffer the unpleasant prospect and possible consequence of corrective measures.

### 201.4. Court-Ordered Transformation of Juvenile Correctional Facilities in California

Patricia White, *The California Youth Authority* (trish2shrink@msn.com)

Following settlement of the court suit *Ferrell v. Hickman (California Youth Authority)* in November 2004 a consent decree was signed in January 2005 with stipulations regarding the preparation of comprehensive remedial plans to deal with particular conditions within the California Youth Authority, now known as the Division of Juvenile Justice (DJJ) in the California Department of Corrections and Rehabilitation. Thereby the agency was placed in receivership and a special court master was appointed to oversee the agency's compliance with the provisions of the consent decree. This consent decree and subsequent stipulations require the DJJ to transform prison-like facilities into structured rehabilitative facilities characterized by a therapeutic environment, normative culture, and positive reinforcement in addition to negative sanctions, adequate rehabilitative and treatment services for all youth so that more youth are successfully re-integrated into their communities. This transformation must eliminate the current conflict-ridden, locked up and punitive prison culture and environment now existing. This presentation proposes to report on the progress to date in this endeavour. Needless to say, such a transformation from punishment to rehabilitation of juvenile offenders has been fraught with problems, frustrations, resistance and turmoil.

## 202. Terrorism, Social Justice and International Crime

### 202.1. Terrorism, Mental Injury and Victims Compensation

Yega Muthu, *University of Technology, Australia* (ymuthu@law.uts.edu.au)

Australia has made itself a focus for hostile terrorist reprisals (like September 11) through its close alliance with the US, and its involvement in Iraq. Therefore, lawyers need to prepare to advise victims of possible future terrorist attacks involving airplanes. The travelling public needs to be educated about the risks to which they are regularly being exposed. This paper will describe the way in which the courts have analyzed claims for mental injury pursuant to the Warsaw Convention whilst on board an aircraft for the purpose of deciding issues of compensation.

### 202.2. Evaluating International Criminal Justice

Sathis Palassis, *University of Technology, Australia* (stan@law.uts.edu.au)

This paper will examine select international crimes and identify how the international legal system addresses crime and justice issues pertaining to the commission of these atrocities. The purpose of the paper is to critically evaluate the content of international criminal justice including both direct and indirect justice avenues available for victims of international crimes. At the domestic level justice for criminal acts is not a new idea and has evolved differently within diverse legal systems contained in common law, civil law, former soviet law, as well as under Jewish and Shariah law. In international law, however, criminal justice is a much more recent and illusive concept. Before any evaluations of international criminal justice can be made, however, we need to examine more precisely just what exactly is meant by the term ‘international criminal justice’. Even though the concept of international criminal justice is still evolving it can certainly be said that as a minimum it includes criminal prosecutions holding as criminally responsible individuals that have carried out international crimes. Apart from prosecutions, however, what else should international criminal justice include?

### 202.3. Uses and Limits of Strategic Intelligence

Kenneth Busch, *Consulting Psychiatrist, Chicago, USA* (kbusch@metlife.com)

Why worldwide intelligence agencies fail to prevent terrorist attacks is a question that will haunt many for years to come. From its beginnings, intelligence agencies have recruited the best and the brightest individuals. Intelligence officers have difficult duties. They are placed in dangerous situations with their lives in jeopardy and work undercover in harsh regions of the world. When the action of an enemy is thwarted, their victory is likely to be masked in secrecy. When a breakdown leads to unexpected events, they are charged with intelligence failure. This presentation will focus on the structure and functions of intelligence agencies as well as indications and warnings of surprise attacks. It will highlight capabilities and limitations of strategic intelligence to terrorist threats, and examine the role of behavioral sciences to meet the many challenges ahead of us.

### 202.4. An Approach to the Psychiatric Formulation of Terrorist Behavior

Louis Soucy, *University of Ottawa* (lsoucy@ottawahospital.on.ca)

The purpose of this presentation is to review the literature around the Psychology of Terrorism, from the point of view of clinical psychiatry looking at the perpetrators rather

than the victims. The presentation will be organized in a formulation format considering biological, psychological and social determinants as they contribute to the predisposing toward, precipitation of and perpetuation of terrorist behavior. Understandably such a vast literature must be summarized for this presentation, however the goal is to produce a brief and cogent review that will improve understanding. Formulation is the process by which psychiatric/psychological symptoms are fully integrated into the understanding of the individual. A grid can be developed using rows with headings Biological, Psychological and Social, with columns pertaining to course and time such as Predisposing, Precipitating and Perpetuating. Terrorist behavior while evading precise definition, can be summarized as “the threat or use of violence as a means of attempting to achieve some sort of effect within a political context” Horgan, 2005. Intersecting these concepts benefits from assumptions that terrorist behavior is pathological and similar to other forms of violence and can illuminate our understanding of this complex phenomenon.

## 202.5. Violating Ethics: Health Professionals’ Role in the War on Terror

Amelie Perron, *University of Ottawa* (mperr020@uottawa.ca)

This presentation is about torture, power, and the breach of ethical conduct among health professionals in the War on Terror. Violations of ethical conduct have been widely recounted in academic and non-academic journals and reports. Faced with growing evidence that U.S. military and security services are actively engaged in the ill-treatment, torture and deaths of presumed terror suspects, details about the participation of physicians and nurses in such unlawful and unethical activities remain for the most part a “dirty little secret”. According to several authors, however, there is increasing evidence that US physicians, nurses and medics have been (actively or passively) complicit in torture and other unethical activities in Afghanistan, Iraq, and Guantanamo Bay (Camp Delta).

## 203. Therapeutic Jurisprudence and Courts

### 203.1. Therapeutic Models for Treating Dually Diagnosed Women in the Child Dependency Court

Jeri Beth Cohen, *Circuit Court, Dependency Division, Miami, USA*  
(judgejeri@yahoo.com)

The Miami Dade Dependency Drug Court was established in 1996 in Dade County Florida, in order to provide holistic intensive services and case management to dually-diagnosed parents who had lost their children due to abuse and neglect. The intent was to break the cycle of substance abuse, untreated mental illness and violence so that safe, stable and nurturing environments can be provided for children. Collaborative relationships among the court, child-welfare agencies, treatment facilities and early childhood development programs are designed to create an integrative program to assist families. Intensive court monitoring and therapeutic court interventions are designed to work hand in hand with treatment. Emphasis is on recovery, health care, parenting, employment and training. Parents are able to develop strategies to stay in recovery and regain custody of their children in the one year mandated by federal law. Very few cases are coming back into the system and children's mental and physical health and school attendance is improving markedly. Incidents of violence are decreasing and the cycle is being broken. Substance abuse and mental health issues drive the child dependency system. Dual-diagnosis is the expectation rather than the exception. Without a formal collaboration among the court, child welfare, and treatment it is not possible to address the myriad issues families in the dependency system present.

## 203.2. Therapeutic Jurisprudence in a Misdemeanor Drug Treatment Court

Gisele Pollack, *Broward County Court Judge, Fort Lauderdale, USA*  
(gispoll@bellsouth.net)

Drug courts represent the coordinated efforts of the judiciary, prosecution, defense bar, probation, law enforcement, treatment, mental health, and social services to actively intervene and break the cycle of substance abuse, addiction, and crime. The first misdemeanor drug court in the country was established in Fort Lauderdale, Florida, September 9, 2005, initiated by Judge Gisele Pollack. The court was established to address arrests exclusively for cannabis crimes. A participant's entry is strictly voluntary, enticed by the prospect of charge dismissal. Education and supervision are mandatory. Participants choose their treatment provider from a list of approved providers. At court status checks, compliant participants receive judicial praise and "All Star" status results in less court reporting requirements. Authority figure approval instills confidence, and serves to energize internal motivation for self-improvement. The judge uses "smart punishment" with participants who relapse and/or demonstrate lack of compliance, thereby encouraging behavior modification and program completion.

### 203.3. Entrenching a Therapeutic Approach to Criminal Justice - Where Do We Go From Here?

Sharon L. Van de Veen, *Provincial Court of Alberta, Calgary, Canada*  
(s.vandeven@just.gov.ab.ca)

This presentation will deal with steps which can be taken to entrench the therapeutic approach to criminal justice as an additional option added to the traditional adversarial system of justice in Canada. Proposed changes to the Criminal Code of Canada which would specifically authorize judges to postpone sentence in order to permit treatment programs to be completed, and allow judges to monitor an accused person's progress throughout such programs will be discussed. Changes to the Criminal Code of Canada authorizing court ordered reviews, post sentence, will be discussed and the author's practical experience both in the area of postponing sentence for treatment as well as monitoring the offender's progress will also be discussed. Steps being initiated by the Provincial Court of Alberta to entrench therapeutic jurisprudence including university education in the Faculties of Law and other multidisciplinary professions affected by this approach to criminal justice will be mentioned. There will also be a discussion of proposals to educate the stakeholders currently working in the area of problem solving courts and therapeutic jurisprudence in Alberta and the formal recognition of therapeutic jurisprudence and problem solving court processes either through specific legislative enactments, policy directives, or resolution by the Council of Chief Judges in Canada.

### 203.4. Developing Therapeutic Courts: The Role of the Judge

Michael D. Jones, *Maricopa County Superior Court, USA*  
(mjones@superiorcourt.maricopa.gov)

It takes but a single, determined judge to start and develop a therapeutic court. The judge's role in developing a new therapeutic court is, out of necessity, that of a leader. Articulating and explaining the goals and scope of a therapeutic court are important first steps for creation of a successful therapeutic court. Community support for a therapeutic court is vital; the judge must begin building the therapeutic court team. Judges rarely enjoy performing the functions of a public information officer, but a degree of community outreach is necessary. Modification of the traditional court adversarial system is essential. Transition of court proceedings from adversarial to a collegial or team approach can only be accomplished with the support of the bench. Once a team process is established, a judge is faced with the difficult challenge to maintain order and

case management of these non-adversarial proceedings, after the judge has been demoted to committee chair, or team leader.

### 203.5. The Impact of Problem-Solving Courts on the Community – Developing a Methodology of Evaluation

Nathalie Des Rosiers, *University of Ottawa* (Nathalie.DesRosiers@uottawa.ca)

The paper will report on an evaluation project of a Substance Abuse Court in Whitehorse Yukon (Canada) where community agencies have been involved in the design of a Substance Abuse Court. Many evaluation projects of Problem-Solving Courts have been conducted throughout the world. Most projects have evaluated the impact on the accused; several have also measured the impact on victims and on judges. While some projects measure the impact on the community in terms of crime rate, very few have attempted to measure the effects on the social work and advocacy communities. One of the concerns expressed in different academic sectors has been that problem-solving courts depoliticize debates about drugs, substance abuse, and domestic violence by moving such social issues into the realm of the judicial management of individuals. The Yukon evaluation project attempts to test this premise. It seeks to engage the respective communities in expressing their fears at the time of the design of the problem solving courts and to develop instruments to measure the impact of the problem-solving courts on their community power and potential. The paper will describe the methodological and ethical issues raised in this evaluation project and present some of the preliminary work undertaken.

## 204. Therapeutic Jurisprudence and Families and Children

### 204.1. An Interdisciplinary Approach to the Design of Unified Family Courts: Incorporating an Ethic of Care

Barbara A. Babb, *University of Baltimore* (bbabb@ubalt.edu)

*Background:* Family law decision making should reflect a behavioral sciences paradigm known as the ecology of human development and a therapeutic perspective. This paper

proposes that the ideal structure within which to decide family law matters is a unified family court. The general characteristics of this model will be discussed, including the jurisdiction, structure, staffing, procedures, and functions. This blueprint can serve as a basis for national and international court reform in family law.

*Aims:* To discuss and apply notions of preventive law and an ethic of care to court reform in family law in order to effectuate therapeutic family justice.

*Method:* To analyze in-depth the court reform efforts of selected states, including systemic strategic planning and extensive collaboration with community resources and organizations.

*Conclusion:* This interdisciplinary theory applied to the court reform process can result in court structure, practices, and outcomes that are holistic, therapeutic, and preventive and that demonstrate an ethic of care.

## 204.2. Family Systems and the Law

Robert G. Madden, *St. Joseph College of Social Work* (rmadden@sjc.edu)

Susan L. Brooks, *Vanderbilt University* (susan.brooks@vanderbilt.edu)

Family systems theory has become well established in the mental health disciplines, particularly the social work field. Legal professionals have been slower to recognize the value of this theory to enhance the effectiveness of legal practice. Over the past decade, however, increased legal publications have appeared that integrate systems thinking, both in terms of demonstrating a conceptual understanding of the theory and applying it to particular social problems. These developments have coincided with the growth of therapeutic jurisprudence. Family systems theory can provide a foundation for working with families in the legal system, reexamining legal structures and procedures, and supporting research regarding the outcomes of legal interactions. When the professional judgment of lawyers is based on insights from family systems theory, the result will be more therapeutic outcomes for all who are involved in the legal system.

## 204.3. The Therapeutic Divorce: A Collaborative Law Primer

Jennifer Zawid, *University of Miami* (jzawid@law.miami.edu)

This session will explore the potentially transformative effect that collaborative law – a process wherein the parties and their attorneys pledge to work together toward the goal of

reaching a comprehensive settlement of all issues without the possibility of litigation – can have on divorce and child custody cases. By simply participating in the collaborative process, the parties develop enhanced coping and problem-solving skills that allow them to avoid post-divorce litigation and to co-parent more effectively. The session will also discuss the benefits of collaborative law over other forms of alternative dispute resolution, most prominently mediation; and explore how a collaborative law practice can improve an attorney’s professional well-being by fostering better client and professional relationships. Finally, the session will consider the evolution and application of the collaborative law model outside the family court arena in civil disputes involving medical malpractice and other professional negligence claims.

#### 204.4. The Impact of Child Labour Legislation on Child Headed Households

Caroline Nicholson, *University of Pretoria* (caroline.nicholson@up.ac.za)

HIV/AIDS is devastating the SA population leaving many child-headed households. These households are often dependent on income generated by children for their survival. The SA labour laws are such that they severely limit the ability of children to find jobs. For this reason many are forced into the sex-trade and other unregulated areas of the labour force, denying them any protections and condemning them and their families to pervasive poverty, lack of education and a denial of human rights and dignity. This paper explores the value of laws that condemn those they purport to protect to a life without dignity.

#### 204.5. Addressing Harm: The Role of Victim Impact Statements

Annette van der Merwe, *University of Pretoria* (annette.vandermerwe@up.ac.za)

Victims in child sexual abuse cases, especially boys, often become perpetrators of sexual offences themselves in order to regain a sense of power. In the case of girls, they often end up in other abusive relationships or are isolated from intimate relationships. Despite the fact that there is a new focus on the victim (introduced by restorative justice movements and sanctioned by courts, draft legislation and a recent Victims' Charter in South Africa), the use of impact evidence in courts for sentencing purposes is still approached in a haphazard way. In addition, counseling services for victims are either nonexistent, are offered in an inconsistent way or are not readily accessible. Recent case studies indicate that when the judicial officer is educated via a well prepared victim impact statement about the harm caused by rape/ indecent assault of children, the court

has sanctioned counseling. This enabled the behavioural scientist involved to arrange therapy for the child. Judicial officers should thus also in this regard recognise the role that they can play in addressing victims' harm and contribute to curbing the long-lasting effects of child sexual abuse.

## 205. Therapeutic Jurisprudence and Health Law

### 205.1. Professional Education in Law and Medicine: Obstacles to Implementing a Therapeutic Approach to Professional Practice

Charity Scott, *Georgia State University* (cscott@gsu.edu)

Professional education in both law and medicine emphasizes certain kinds of knowledge, skills, and values for training future legal and medical practitioners. Such training often neglects the interpersonal skills necessary for effective problem-solving and good communication with clients and patients. Lack of such skills can diminish the quality of professional practice as well as impede resolution of conflicts that involve clients and patients. While both professions may include among their credos “above all, do no harm,” their approaches to training their future professionals often fall short of this ideal. Law students are given predominantly litigation-oriented models for solving problems; medical students are often drilled on science and diagnosis of disease at the expense of understanding their patients as human beings. With a limited toolkit of skills, it is not surprising that practice styles of legal and medical professionals often reflect the saying, “If the only tool you have is a hammer, you tend to see every problem as a nail.” This presentation will discuss how the principles of therapeutic jurisprudence might be adapted to improve both legal and medical education.

### 205.2. Sexual Trafficking: The Nurses’ Role in Prevention, Treatment and Policy Development

Diane K. Kjervik, *University of North Carolina* (diane\_kjervik@unc.edu)

Tasha Venters, *University of North Carolina* (tashav@gmail.com)

*Background:* Sexual trafficking occurs worldwide and is often invisible to the public and health care professionals. Nurses care for women and children who have been trafficked without knowing that trafficking is involved. The focus of this presentation is on international data regarding sexual trafficking from the health, ethics, law, socio-economic and policy domains. Roles that nurses can play to intervene in health care and policy development will be posed and evaluated in terms of feasibility and effectiveness.

*Aims:* To examine sexual trafficking and its health consequences. To review interventions that nurses and other health professionals can use to assist trafficking victims. To build effective policy aimed at stopping sexual trafficking using a therapeutic jurisprudence framework.

*Method:* Literature search and legal research

*Results:* A summary of information will be presented using PowerPoint both in narrative and numerically to demonstrate the scope of sexual trafficking worldwide with recommendations for nursing roles to assist victims of this crime.

*Conclusion:* Recommendations about nursing roles to promote these interventions and policy changes will be presented from a therapeutic jurisprudence perspective.

### 205.3. Therapeutic Jurisprudence and Public Health: The Potential for a Dialogue

Michal Alberstein, *Fordham University* (malberst@mail.biu.ac.il)

Nadav Davidovitch, *Columbia University* (nd2166@columbia.edu)

As implemented in various legal fields, such as mental health, criminal, and family law, therapeutic jurisprudence (“TJ”) is closely related to public health ideology. Like TJ, public health highly values prevention and uses multi-disciplinary understanding of the social, psychological, and cultural context to prevent illness and increase health. Although TJ and public health share many common principles, their interaction is relatively limited. Law is invoked in the public health realm mainly in the context of coercion, such as in vaccination, quarantine, disease notification, or environmental health regulations. But, the therapeutic potential of law is rarely considered. This paper will explore the philosophical, social, and cultural foundations of TJ and public health practices, in the author’s hope of starting a rich dialogue between these two fields.

### 205.4. Therapeutic Effects on Physicians and Other Health Care Providers of Assisting Patients in Dying

Kathy L. Cerminara, *Nova Southeastern University* (cerminarak@nsu.law.nova.edu)

Mental health issues often arise when a terminally ill patient seeks assistance in dying, either by refusing life-sustaining treatment or by seeking assistance in affirmatively taking steps to end his or her own life. Competence of the patient is one such issue, and American laws such as case law authorizing withdrawal or withholding of life-sustaining treatment and the state of Oregon's statute authorizing physician assistance in the suicides of terminally ill patients take great care to seek to assure patient competence. Another issue only recently achieving prominence is the psychological effect on physicians and other medical providers as they assist in such activities. Through a literature review, this presentation will highlight some of what is known about the effects on the mental health of physicians and other medical providers of assisting patients in achieving death, and will suggest areas for further study.

### 205.5. Reclaiming Futures: The Role and Impact of Therapeutic Jurisprudence in Empowering Women to Break the Cycle of Addiction and Crime

Suzette Brann, *Unlimited Horizons, Washington, USA* (zettesq@aol.com)

In 2001, 22.5% of all arrestees in the United States were female and 64% of them these had used an illegal substance at arrest. The nexus between the addiction to drugs and alcohol and criminality and its concomitant devastation on the lives of America's mothers, wives, sisters and daughters is undeniable. Moreover, women have historically failed miserably in court-mandated treatment because the criminal justice system did not address their particular needs with comprehensive, gender-informed services. This paper will examine the role of therapeutic jurisprudence (as exemplified in the problem-solving courts) in helping women reclaim their futures. It will also examine the role and impact of the court and the legal system as a social force that facilitates positive change in the lives of addicted women by using innovative therapeutic interventions, providing access to medical and other necessary ancillary rehabilitative social services and ensuring intensive judicial and community supervision.

### 206. Therapeutic Jurisprudence and Professional Education

## 206.1. Therapeutic Jurisprudence in Clinical Settings

Evelyn H. Cruz, *Arizona State University* (evelyn.cruz@asu.edu)

*Background:* There is a clear intersection between clinical methodology and Therapeutic Jurisprudence. Client-centered representation challenges law students to explore the client's perceptions of the legal system. Therapeutic Jurisprudence performs a similar function through emotional and psychological explorations of litigants' reactions to litigation. Therefore, Clinical educators would benefit greatly from incorporating Therapeutic Jurisprudence in the clinical setting.

*Aims:* To discuss how Therapeutic Jurisprudence can be interrelated with clinical education to improve client relationships and student learning.

*Method:* Visual and Written examples and group discussion

*Results:* Stimulate new ideas about clinical teaching and therapeutic jurisprudence crossovers.

## 206.2. Learned Empathy: A Testable Therapeutic Jurisprudence Approach

Clark Freshman, *University of Miami* (clark\_freshman@post.harvard.edu)

This presentation is on Learned Empathy informed by therapeutic jurisprudence. The paper poses a testable series of hypotheses about how greater empathy might promote more successful lawyering, dispute resolution, and mental wellness for lawyers and clients. Four related questions about empathy and lawyering are addressed: First, can we measure it? Second, how can we teach empathy? Third, is empathy associated with greater success by conventional measures, such as individual gains in negotiation? Fourth, is greater empathy associated with greater success through values of therapeutic jurisprudence? The author addresses how one might test these propositions using Ekman's measures of facial recognition of emotion and a one to two hour training CD he developed for improving such recognition. It is possible that the paper may include pilot data on the degree to which this tool improves empathy among law students, but this will depend upon the timing of institutional approval.

### 206.3. Therapeutic Jurisprudence: Training Effective and Competent Forensic Psychologists

Ida Dickie, *Spalding University* (idickie@spalding.edu)

A myth exists within the field of clinical psychology that traditional therapeutic goals can not be achieved within the context of the legal system. Part of this myth stems from the lack of graduate training that prepares psychologists to achieve therapeutic goals within the legal system. It is believed that the goal of promoting a healthy and positive lifestyle for an offender is not possible because offenders often do not willingly seek out assistance with this goal and furthermore, the legal environment is not conducive to building a therapeutic atmosphere. The myth also exists because of the belief that clinical and forensic psychology have very distinct and unique purposes; the former being therapeutic and the latter being adversarial or solely focused on answering a specific legal question and not assisting the offender in anyway. Psychologists have many roles within the legal system and therefore it is essential that graduate forensic psychology programs dispel this myth if effective forensic clinical practice is to be achieved. This can be accomplished by utilizing the therapeutic jurisprudence framework as a training model that not only outlines how the legal system can be used for therapeutic benefits, but also how forensic psychology can be practiced in a jurisprudent manner to assist the legal system. Such a model of training will propose how clinical forensic practice and the legal system can work in tandem towards the shared goal of reducing recidivism and protecting public safety.

### 206.4. The Therapeutic Implications of Estate Planning

Jessica L Cousineau, *Attorney, Tigard, Oregon* (jessica@scrye.com)

*Background:* The legal framework of Therapeutic Jurisprudence has been growing in the last 10 years. It is now being applied to many facets of the law, including Estate Planning.

*Aims:* This presentation will focus on what psychological impact planning for the future and drawing up the appropriate documents has on estate planning clients. It will show that by focusing not only on the legal implications of estate planning documents, but also on the psychological implications we can improve our clients' emotional well-being. It will also look at how estate planning attorneys can use the principles of Therapeutic Jurisprudence to guide their practice, so as to make their clients feel more comfortable during the process.

*Conclusion:* By carefully listening to their clients and utilizing the Therapeutic Jurisprudence to help guide their client interactions attorneys can help ensure their clients and client's families a less stressful time when use of the documents becomes necessary.

## 206.5. Implementing and Integrating TJ Approaches across the Legal Profession

Susan Daicoff, *Florida Coastal School of Law* (sdaicoff@fcsf.edu)

Therapeutic jurisprudence is either part of, or encompasses, a broader movement in the law towards maximizing the therapeutic potential of law and the role of lawyers. This movement, sometimes called the “comprehensive law movement,” includes related disciplines such as collaborative law, restorative justice, preventive law, and procedural justice. The profession is now experimenting with integrating these approaches into modern practice. Implementing these approaches to law and lawyering may be hampered by various obstacles within the legal profession. These include: the current emphasis of legal education, the current climate of private law firms, lawyers’ and judges’ perceptions of the mandates of legal codes of ethics, and the personality attributes of attorneys themselves. Overcoming these obstacles is explored. It is perhaps the most important challenge facing the law in the future, as it seeks to integrate therapeutic, comprehensive approaches throughout the profession.

## 207. Therapeutic Jurisprudence and Mental Health Law

### 207.1. Should Psychopathy Qualify for Involuntary Inpatient or Outpatient Commitment?

Charles LoPiccolo, *University of Miami* (clopicco@med.miami.edu)

Psychopaths have an influence on society far in excess of their numbers. The nature of the danger posed to society by psychopaths is vastly greater than that posed by the severely mentally ill. As a result, some nations have considered involuntary psychiatric interventions for this population. This presentation will describe the development and modern conceptualization of psychopathy. It then will examine the question of whether

psychopaths should be subject to involuntary hospitalization or preventive outpatient commitment. It will examine the historical development of legal approaches based on American and British legislative and Common law. It will discuss existing treatment approaches for this condition, and whether they can be expected to succeed on an involuntary basis. The author will then consider the social policy question of how society should deal with this population concluding that criminal justice rather than the mental health system should be relied upon.

## 207.2. Psychiatric Advance Directives: The Relationship between Decisional Competence and Treatment Procedures

Eric Elbogen, *Duke University* (eric.elbogen@duke.edu)

Psychiatric advance directives (PADs) presume competence to complete these legal forms, but the link between decisional competence and treatment preferences among people who actually complete PADs is unknown. In other words, are people with mental illness who possess greater levels of decisional competence more likely to document treatment preferences doctors consider appropriate? An analysis was made of PADs written by N=150 adults with psychotic disorders who were also administered the Decisional Competence Assessment tool for PADs (DCAT-PAD). Virtually all the PADs contained clinically useful information and none refused all treatment. Subjects with higher DCAT-PAD scores included more details in their PADs and were more likely to indicate reasons behind their preferences. DCAT-PAD scores were not associated with treatment refusals for particular medications or with the appropriateness of treatment preferences. Decisional competence appeared unrelated to specific advance instructions (e.g., refusing Haldol) but instead related to quality and quantity of information in PADs.

## 207.3. A Therapeutic Jurisprudence Perspective on Participation in Research by Subjects with Reduced Capacity to Consent

Bruce J. Winick, *University of Miami* (bwinick@law.miami.edu)

*Background:* People suffering from dementia, schizophrenia, and other forms of mental disability may not satisfy the usual requirements of competency to consent to participation in research.

*Aims:* This paper will discuss whether standards of competency in this context should be relaxed so as to allow consent to participation in research by the subject's surrogate or healthcare proxy.

*Method:* This presentation suggests that the debate has insufficiently taken into account an additional consideration -- the therapeutic one. An analysis of the therapeutic jurisprudence considerations that participation in research raises can further clarify the debate.

*Conclusion:* An approach will be proposed for dealing with this issue.

#### 207.4. A Drug Treatment Prison in Australia: Engaging Court-ordered Participants

Astrid Birgden, *Compulsory Drug Treatment Correctional Centre, Sydney, Australia*  
(astrid99@hotmail.com)

In August 2006 a new drug treatment prison was established under the *Compulsory Drug Treatment Correctional Centre Act 2004*. This legislation is unique in Australia. An interagency program of compulsory treatment and rehabilitation to repeat drug-related offenders is being implemented. The objectives are to: (1) provide ongoing judicial supervision, (2) treat drug dependency with the aim of abstinence, (3) prevent and reduce offending, and (4) promote community reintegration. The Compulsory Drug Treatment Order does not require consent and cannot be appealed. To manage the compulsory nature of the Order, various measures have been put in place to engage the participants. In particular, the Personal Plan stipulates conditions that the participant needs to comply with in order to progress from Stage 1 (closed detention) to Stage 2 (semi-open detention with community access) to Stage 3 (community custody). The Personal Plan, approved and supervised by the NSW Drug Court, is based on contingency contracting principles. A detailed clinical assessment determines participant treatment and rehabilitation needs, the individualised conditions of the Personal Plan are negotiated with the participant, and compliance with the conditions is rewarded rather than non-compliance sanctioned. Therapeutic jurisprudence measures of engagement and improved well-being are currently being administered through independent external evaluation. The presentation will detail staff, agency, and legislative strategies to enhance participant engagement.

#### 207.5. The Justice Obsession Syndrome and Other Anti-Therapeutic Effects of Procedural Law

Christian Diesen, *Stockholm University* (christian.diesen@juridicum.su.se)

Current procedural systems produce victims. Today's procedural rules, which are based on the patriarchal model of a tribal duel, are destined to produce winners who take it all, and opponents who end up as total losers. Some losers never accept the verdict and use the rest of their lives seeking judicial 'resurrection'. The hope that justice will be done one day becomes the central issue of their lives, as their arguments become more and more incomprehensible and paranoid. A comparative meta-study of procedural law shows that the traditional process, in civil as well as in criminal cases, produces many anti-therapeutic effects. This justice obsession syndrome may constitute a minor social problem, but it illustrates the defects of the current procedural process and reveals a history of repressive practice.

## 208. Therapeutic Jurisprudence and the Criminal Process

### 208.1. Therapeutic Jurisprudence and Readiness for Rehabilitation

David B. Wexler, *University of Arizona* (davidbwexler@yahoo.com)

*Background:* There is now substantial evidence that some rehabilitative programs 'work' and correctional departments are being urged to offer such services

*Aims:* Even if in place, however, such services will not bear fruit unless confined persons avail themselves of them.

*Results:* While there is some research on various correlates of help-seeking behavior, there has not been much work on the role of the law and lawyers on influencing such behavior.

*Conclusion:* This presentation will focus on how lawyers can work with clients to enhance a client's sense of justice and, relatedly, his or her interest in pursuing a rehabilitative path.

### 208.2. Crime Victims' Psychological Well-being Related to Police Interviews and Questions from the Prosecutor

Ulf Holmberg, *Kristianstad University* (Ulf.Holmberg@bet.hkr.se)

*Background:* The purpose of Therapeutic Jurisprudence is to execute legal procedures such that they promote the social and psychological well-being of the individual involved in a juridical action.

*Aims:* The aim of the present study was to investigate crime victims' psychological well-being related to their experiences of being interviewed by the police and questioned by the prosecutor.

*Method:* Eighty-three crime victims completed a questionnaire about their experiences from their police interviews and the questions from the prosecutor. To measure the crime victims' psychological well-being, the Sense of Coherence form and the Impact of Event Scale was used.

*Results:* PCA revealed that the victims perceived their police interviews and questions from prosecutors as marked with either humanity or dominance. Victims who perceived high humanitarian police interviews showed significantly greater psychological well-being than those who perceived low humanitarian police interviews. There were no significant differences in psychological well-being associated with questions from prosecutors.

*Conclusion:* A therapeutic jurisprudential approach in police interviews, characterized by humanity, relates to a psychological well-being that may promote crime victims' first step to working through traumatic experiences.

### 208.3. Dostoyevsky, Confessions and Therapeutic Jurisprudence

Amy D. Ronner, *St. Thomas University* (aronner@stu.edu)

In Fyodor Dostoyevsky's *CRIME AND PUNISHMENT*, Rodion Raskolnikov, who bludgeons to death an old woman has an overwhelming impulse to confess. The author, who has both a J.D. and a PH.D in English Literature, combines into this presentation her three passions: law, literature and therapeutic jurisprudence ("TJ"). Some criminal defense attorneys, who have welcomed TJ into their practice, have implemented a more holistic approach to their clients and aim to foster individual healing. TJ can also help in questioning and re-evaluating the approach that the traditional legal system has toward client confessions. The paper will show how TJ can shed light on Dostoyevsky's novel and help analyze the enigmatic Raskolnikov, who ultimately decides to take responsibility for his own actions by voluntarily inaugurating and participating in not just the legal process, but also his own spiritual regeneration and re-integration into society.

## 208.4. Therapeutic Jurisprudence and the Legal Response to Terrorism

Edgardo Rotman, *University of Miami* (erotman@law.miami.edu)

A key aspect of the psychopathology of today's terrorism is the total exclusion and dehumanization of the other, perceived as demonic and subhuman. A therapeutic legal response avoids the perpetuation of such pathology, encouraging instead dialogue, interpersonal communication and inclusion. This attitude can only be implemented through a criminal justice model that recognizes the dignity of terrorist offenders and conforms to due process safeguards incompatible with any form of torture. This paper will discuss a number of ways in which the legal response to terrorism is anti-therapeutic, and will make suggestions about how it can be reshaped consistent with international law and therapeutic values.

## 208.5. Prisoner Grievance Procedures: An Opportunity for Therapeutic Jurisprudence

Fred Cohen, *State University of New York at Albany* (fredlaw97@aol.com)

Prisoner grievance procedures are available in every American prison system and range in design from New York's due process model, with prisoner decision-makers to Ohio's strictly administrative review model. As a federal court Monitor in Ohio, the author is concerned with the resolution of prisoner complaints about mental health, medical and dental care finding no independent clinical input or inmate participation. Inmate complaints about clinical decisions affecting them are distinctive and should have a separate track to resolution. There must be some independent clinical review of the challenged clinicians' decisions and a participatory role for the grievant. Such a change should enhance inmate self-worth, increase inmate satisfaction beyond simply achieving the desired result, diminish inmate cynicism, and perhaps enhance the rehabilitative environment. While in the early stages of developing a model grievance process for clinical challenges, no comparable model or set of standards have been located.

## 209. Torture and Trauma in Major War and Conflict Areas

## 209.1. Survivors of Torture in Palestine - An Overview

Abdul-Hamid Afana, *Rehabilitation and Research Centre for Torture Victims (RCT)*,  
Copenhagen, Denmark ( hamid03\_ab@yahoo.com)

The violence encountered by the population of Palestinian territories is pervasive and is experienced in an environmental continuum that touches and affects all groups in the community. The permanent threat makes normal life and recovery difficult to nearly impossible. The special situation is unique, and requires special approaches to treatment and rehabilitation in a broader sense. In contrast to special trauma units in other countries, the aforementioned pervasive presence and continuity or ongoing exposure of extreme violence with a vast number of affected patients has led to the development of community oriented treatment programmes, that are available to all members of the community and also take care of the needs especially with regard to the different forms of trauma encountered. The Gaza Community Mental Health Projects and specialised centres have developed special strategies to bridge the difficult realities, help to recover from torture, attacks and exposure to the various traumatic situations encountered by all members of the population.

## 209.2. Culture, war and clinical symptoms in Kosovo

Feride Rushiti, *Kosovo Rehabilitation Center for Torture Survivors, Pristine, Kosovo*  
(krct\_org@hotmail.com)

Bayram Maxhuni, *Kosovo Rehabilitation Center for Torture Survivors, Pristine, Kosovo*  
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Thomas Wenzel, *University of Quebec at Montreal* (drthomaswenzel@web.de)

The war in Kosovo can be seen as one of the most destructive events in the recent history of Europe. The impact with regard to trauma and also recent stress through economical problems has created a challenge in the development of treatment structures and a national health care plan. As the impact of the war must be seen as long lasting, and severe, if studies in comparable war regions and an earlier study of the CDC (Center of Disease Controls) are taken into account, exact data are required for long term planning.

In a project founded by the Danish Refugee Council (DRC), the Kosovo Rehabilitation Center for Torture Survivors (KRCT), in collaboration with WPA, performed two studies

to explore both qualitative and quantitative (epidemiological) aspects of posttraumatic spectrum disorders, inclusive posttraumatic stress disorder, depression and different indicators of social functioning and general health (MOS, GHQ). Based on a representative sample, 1200 people were enrolled in the study.

The presentation gives an overview of the implementation and results of this study. The high rates of posttraumatic stress disorder (33 % in some regions), and depression (close to 38 % in some regions) indicate severe and persistent reactive symptoms in a substantial part of the population, with regional needs that will be discussed in the presentation.

### 209.3. Rehabilitation of torture victims as part of the public health program in Iraq

Suad Al Safar, *Al-Fuad Centre for Medical and Psychological Rehabilitation, Basra, Iraq* (suadalsafar@hotmail.com)

Al-Fuad Centre in Basra, Iraq, was established in 2005 with support from the International Rehabilitation Council of Torture Victims (IRCT). The aim of the centre is to develop holistic rehabilitation methods that are culturally relevant in order to support the large numbers of torture victims. The centre is to function as a training institution for the entire Iraq. As traumatic experiences do not only affect the individual but also the family and the community at large, awareness of the consequences of trauma needs to be part of the mental health program. To achieve this, knowledge gained through clinical work lays a foundation on which the mental health program is built. Knowledge has to be systematized to fill this function. Standardized instruments, treatment staff evaluations and the patients' subjective evaluations are systematically used. Clinical data collected as part of the daily routines at the centre thus forming a bank of experience from which a mental health program can be designed. The centre is working hand in hand with the Public Health department in Basra to train staff that engage in the medical and public health services. Moreover, the centre has started collaboration with the University of Basra to give input to medical and psychological curricula. To date, Al-Fuad Centre has received more than one hundred fifty victims for psychological and medical treatment. The centre tries to respond to the perceived needs of the victims, e.g. have ear amputees been helped with reconstructive ear surgery – initially abroad and eventually by Iraqi surgeons who received training as they accompanied the initial patients abroad. At the same time the perspective is broadened to include psychological and social aspects. Training conferences have been conducted with different professional groups, including police officers, teachers, journalists and the legal profession. GPs have been a central group receiving training regarding trauma and PTSD. About 300 professionals have so far taken part in different seminars and courses. A Mental health training program has been initiated in collaboration with the public health office in Basra.

## 209.4. Torture and the GCMHP

Ibrahim Abu-Nada, *GCMHP, Gaza, Palestine* (hamid03\_ab@yahoo.com)

The presentation provides an overview of the situation and activities of the Gaza Community Mental Health Programme. The Gaza Community Mental Health Programme (GCMHP) is a Palestinian non-governmental, non-profit organization established in 1990 to provide comprehensive community mental health services - therapy, training and research - to the population of the Gaza Strip. Since that time, the Gaza Strip - one of the most densely populated areas in the world, with two thirds of the population being refugees and 50% being younger than 16 years - has witnessed extreme forms of violence and suffering, due to Israeli occupation and military operations. This made the extent of mental health problems in the Gaza reach unprecedented levels. The main objectives of the GCMHP are to:

- Empower vulnerable groups in the society, especially women, children and torture survivors;
- Develop local human resources through mental health training programs;
- Provide humane and high quality community- based mental health services;
- Promote principles of democracy and human rights in the Palestinian society;
- Combat the stigma attached to mental illness in the Palestinian society;
- Influence the political and legal environment in and outside Palestine to respect Palestinian human rights and promote their mental well-being.

## 209.5. War Related Trauma in Kosovo

Bayram Maxhuni, *Kosovo Rehabilitation Center for Torture Survivors, Pristine, Kosovo* (krct\_org@hotmail.com)

Feride Rushiti, *Kosovo Rehabilitation Center for Torture Survivors, Pristine, Kosovo* (krct\_org@hotmail.com)

Ferid Ghani, *Kosovo Rehabilitation Center for Torture Survivors, Pristine, Kosovo* (krct\_org@hotmail.com)

Thomas Wenzel, *University of Quebec at Montreal* (drthomaswenzel@web.de)

The war in Kosovo can be seen as one of the most destructive events in the recent history of Europe. The impact with regard to trauma and also recent stress through economical problems has created a challenge in a range of important areas in the health care system. In this second presentation on a project founded by the Danish Refugee Council (DRC), the Kosovo Rehabilitation Centre for Torture Survivors (KRCT), in collaboration with WPA, the KRCT reports on the results of the second study based on a qualitative design to explore culture specific forms of traumatisation in survivors of the war that have been exposed to extreme events such as torture, rape, or witnessing sexual torture, killing of family members and general exposure to war related events. A team of Kosovar researchers conducted interviews with a sample of war survivors, creating categories of experienced subjective symptoms attributed to the impact of the war. Categories were compared to PTSD using the DSM-IV concept and definitions, yielding additional symptom groups not covered by the PTSD concept. Options for research and the culture sensitive extension of the PTSD concept are discussed.

## 210. Training in the Master's Degree in Forensic Psychology

### 210.1. The Training of Master's Candidates in Forensic Psychology: Introduction

Don Whitworth, *Roger Williams University* (dwhitworth@rwu.edu)

This presentation will discuss the growth of forensic psychology as a specialization in psychology and the arrival of new post-doc programs, specialization within ABPP, graduate tracks and concentrations, courses, journals, and books, most of which did not exist 20 years ago in any formal manner. Discussants will address the issues that determine why our society needs master's level forensic psychologists and what their role vis-à-vis doctoral level psychologists should be. The types of jobs, professional activities and clinical and research functions they may perform. will be examined. In addition, the discussants will address the issues associated with making the forensic master's distinguishable from licensed social workers or the generic master's in clinical and explores the question: "Is there a unique niche in the forensic mental health system for a master's level clinician?" Discussants will examine how this program will fill that niche and contribute to public sector forensic mental health.

## 210.2. Recruitment, Curriculum, & Training: Foundations for Building a Forensic Psychology Program

Garrett Berman, *Roger Williams University* (gberman@rwu.edu)

Programs in Forensic Psychology have traditionally trained students at the doctoral level. To date, there have been minimal discussions concerning the development and role of Master's level programs in Forensic Psychology. This paper focuses on a variety of issues relevant to curriculum and training in a Master's level program including course work, faculty, recruitment, and other logistical steps academics encounter when creating a new graduate program. Limitations inherent in the education of the master's level professional will be discussed as well as the essential needs inherent to master's level programs specializing in Forensic Psychology.

## 210.3. Masters-level Forensic Psychology Training: Clinical Practica

Matt Zaitchik, *Roger Williams University* (mzaitchik@rwu.edu)

An integral part of any graduate program in Forensic Psychology is the practicum. Practica may vary depending on the goals of the program. Masters-level practica will differ from practica for doctoral-level students in that most masters-level students will not have the benefit of pre-doctoral internships. Therefore, practica for masters-level students must provide practical, supervised experience in those areas that where students will be working following completion of the program. Practicum sites should provide training in: administration of psychological tests; conducting mental status examinations and intake interviews; group therapy; treatment planning; individual psychotherapy; and other tasks that masters-level clinicians will perform in forensic settings. Ideal practicum sites provide a number of these experiences with frequent supervision. Maintaining communication between the graduate faculty advisor and the on-site supervisor is crucial in ensuring the progress of the student and in intervening in a timely fashion should there be deficiencies. Care must be taken to avoid situations where students would administer psychological tests or provide clinical treatment without proper on-site supervision. An emerging model (Zaitchik, Whitworth, Berman, & Platania, in press) was developed to offer two tracks; a clinical and a thesis track. For thesis students, whose main focus is the completion of a research project, a clinical practicum is still recommended to inform research and/or to provide a background for those students who are contemplating matriculation to Doctoral-level programs.

## 210.4. Master's Level Forensic Psychology Professionals in Forensic Mental health Settings: A Survey

Frank DiCataldo, *Roger Williams University* (fdicataldo@rwu.edu)

The controversy about the professional independence and competence of master's level clinical and counseling psychologists has been argued since the second half of the twentieth century and may see a revival in the wake of the recent expansion of the forensic mental health system in the United States and the rapid development of newly established master's in forensic psychology training programs across the country. The surge in master's degree programs in forensic psychology has occurred in the absence of any research regarding the demand and employment of these newly trained forensic mental health professionals. This paper will describe a detailed survey of public-sector forensic mental health centers including court clinics, public and private hospitals, prisons, jails, detention centers, secure and community residential programs, outpatient clinics and assessment centers serving adult and adolescent forensic populations. The results will provide data about the prevalence of master's level psychologists employed in these sites, along with a detailed description of their degree of professional independence, clinical activities and duties and value within these settings.

## 211. Trauma and its Effects

### 211.1. Postpartum Mood Disorders: Systems, Treatment and Responsibility

Bernard Starkman, *Health Canada, Ottawa, Canada* (bernard\_starkman@hc-sc.gc.ca)

Postpartum mood disorders such as postpartum depression and postpartum psychosis can have serious and sometimes disastrous consequences for the mother, her child, partner and family. While increased attention has been paid to these disorders in recent years, much of the literature remains inconclusive about their causes. Similarly, the medical and legal systems are concerned to treat these disorders and to mitigate sanctions for the harmful acts of mothers who may be suffering from these disorders. But discontinuities in health care delivery and in the legal system may have the effect of frustrating these objectives. The practical problems of achieving these objectives are examined against the background of concerns.

## 211.2. The Health of Women Trafficked for Sexual Exploitation in Europe

Cathy Zimmerman, *London School of Hygiene & Tropical Medicine*  
(cathy.zimmerman@lshtm.ac.uk)

*Study objective:* To examine the physical, sexual and reproductive and mental health consequences of women who have been trafficked for forced prostitution.

*Sample:* A cohort of 192 women trafficked predominantly for forced prostitution attending post-trafficking services in seven European States were interviewed upon entry to services, and at two further time periods (mean 35 and 125 days, respectively).

*Outcome measures:* A semi structured questionnaire including a subset of the Harvard Trauma Questionnaire, subscales of the Brief Symptom Inventory, and questions to assess perceived physical health and experiences of violence was used.

*Results:* Physical and/or sexual violence during trafficking was reported by 95% of study participants. High levels of violence prior to being trafficked were documented. Injuries were reported by 58% of women. 56% reported symptom levels suggestive of post-traumatic stress disorder upon entry into care. Levels of depression, anxiety, and hostility were nearly two times greater than population norms. Depression and anxiety levels remained well above population norms after 125 days in care.

*Conclusions:* The sustained presence of multiple symptoms among survivors of trafficking suggests that women require urgent and longer-term assistance and should not be expected to make immediate decisions about participating in legal and/or immigration procedures.

## 211.3. The Peri-traumatic Dissociation in Relation to the Offence

Manuela Dudeck, *University of Greifswald* (manuela.dudeck@pop.uni-greifswald.de)

Dissociation and dissociative phenomena are marked by a loss of the integration of the normally integrated functions of (self) awareness, identity, memory, perception of one's environment and of bodily control. Various attempts to systematise the diverse dissociative symptoms have suggested a phase model of traumatisation, inter alia. In this system, the primary dissociation is considered to be the limitation of the field of perception as an immediate reaction to a trauma and which can probably be traced back to various neurobiological stress reactions. The secondary reaction following on from

that relates to a split between the ego as experienced and the ego as observed and is expressed at the symptomatic level in the form of various sensations of alienation. These include distortions in the perception of time and space, in the perception of one's own body (de-personalisation) and of the environment (de-realisation). This form of dissociative psychopathology is described by other authors as peri-traumatic dissociation. It has been pointed out that these phenomena can be caused not only by a trauma in the narrower sense (namely a threat to one's own physical and mental integrity) but also by extreme emotional situations of other kinds such as a crime. In line with this, various investigations have demonstrated that dissociative phenomena occur considerably more frequently among criminals and forensic patients than in the normal population and correspond approximately to the degree of dissociative psychopathology among psychiatric in-patients. However, there are no studies to date that have tried to quantify the dissociation immediately before, during and directly after the crime. The extent to which the concept of secondary (or peri-traumatic) dissociation can be applied to the committing of a criminal act by forensic patients, and whether links can be established to a dissociation related to personality structure, is to be demonstrated by means of a study of 19 forensic patients in psychiatric care

#### 211.4. From Fetal Abuse to Fatal Child Abuse

Claudia Klier, *Medical University of Vienna* (claudia.klier@meduniwien.ac.at)

*Purpose* Women experiencing unwanted pregnancies may try to harm the fetus. Support for this hypothesis is found in the research literature. In one study, as many as 8% of 112 normal pregnant women acknowledged an urge to hurt or punish their unborn children (Condon, 1987). A recent unpublished study identified two women who abused their fetuses, and another two who had reported an impulse to do so, out of a total of 104 pregnant women who were assessed prospectively (Brockington, 2003).

*Method* An assessment with a 20 year old woman accused of murdering her 8- month old child.

*Results* The interview with the woman revealed a history of physical abuse and childhood depression. When she became pregnant, she experienced depression and when the fetus started to move she repeatedly punched her abdominal wall. Birth was a traumatic event, with an emergency cesarean section and subsequent infectious complications. The child developed feeding problems and started to refuse food when five months of age. The mother resorted to forced-feeding by closing the baby's nose, thus forcing him to open his mouth. The baby died of a head injury after having been thrown to the ground.

*Conclusion* During mid-pregnancy, there were clear signs of depression and fetal abuse displayed by the mother. Neither of these conditions were noticed or reported by health professionals during prenatal care or after the birth. The possible association between

fetal abuse and child abuse had been documented before (Condon 1987). Screening for mental health problems and history of abuse should begin immediately after the expectant mother contacts a health professional for prenatal care. Mental health assessments should be performed as vigorously as medical check ups in order to prevent morbidity and mortality of mothers and their babies.

## 212. Trauma: The Underpinnings of Twenty First Century Neuroscience and Criminal Law

### 212.1. Addressing Child Custody and Kidnapping as a Form of Domestic Violence:

Cheryl Amana-Burris, *North Carolina Central University* (Burris@lmi.net)

The rights of children are often most vulnerable when the relationship between their parents is troubled or broken. The courts are typically the forum that seeks to determine how the best interests of the child are protected, while at the same time ensuring that children maintain a productive and nurturing connection with both parents.

In this presentation the author will address issues presented when there are national and international child abductions by parents. An examination is done of some of the laws developed to meet the needs of the parties which are necessary because child custody orders are never final orders. The author will also discuss some of the evolving data on the mental health implications for the children who are abducted by a parent.

### 212.2. Mental Health Concerns of Youth in Detention

Zakee Matthews, *Consulting Psychiatrist, Berkeley, USA* (zakeem@aol.com)

*Introduction:* The juvenile justice systems around the world face a significant challenge in identifying and responding to the psychiatric disorders of detained juvenile offenders. As the Treating psychiatrist to the California Youth Authority (CYA) at the Stockton facility, the author manages the psychopharmacology clinic at O.H Close and Chadjarian Schools, providing services to over 500 youth including evaluations, medication monitoring and consultation with staff.

*Aim/Goals* Describe the various components of the psychiatric clinics and youth access to care. Discuss the multiple concerns that arise with both youth and staff including the management of behavioral problems and psychiatric symptoms as well as medication compliance. Acknowledge the need to understand problems based in a psychosocial framework to better understand and address the needs of youth. Reassess juvenile delinquency by reviewing new findings in epidemiology, developmental psychiatry, and neuroscience. These findings offer the opportunity to reevaluate the problems of the recalcitrant and offer new insights into the treatment and successful rehabilitation of juvenile offenders.

*Method* Discuss the most frequently encountered psychiatric disorders seen in this (CYA) population such as the mood, psychotic and anxiety spectrum disorders including Posttraumatic Stress Disorder as well as Attention Deficit Disorder and substance abuse. Discuss staff difficulties and barriers to successfully treating this group and the lack of trained mental health staff. Review recent research papers which discuss a new approach to the understanding and treatment of juvenile offenders.

*Conclusion* Research indicates that a substantial number of youth in detention are in need of mental health services. Major issues that serve as barriers to successful treatment include inadequate access to treatment and the lack of adequately trained staff who can identify and treat juvenile offenders with mental illness. Mental health workers must be sensitive to the cultural and environmental factors that affect many of the juvenile offenders. The new advances in research in the areas of developmental psychiatry, epidemiology, and neuroscience are helping to provide a new framework upon which to view juvenile delinquency that strongly supports a therapeutic rather than a punitive approach.

### 212.3. Complex Disorders of Trauma and Torture: The Neurobiological Bases Examine Through Sleep Disorders

George Woods, *Morehouse School of Medicine* (gwwoods@comcast.net)

The neurological bases of stress-related disorders have been further quantified. The impact on the utilization of these findings on court proceedings has only begun to be understood. Disruptions of sleep architecture will provide specific methods of determining the extent of trauma-based disorders. Focus on the common disruptions of sleep architecture secondary to trauma will be identified and discussed.

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

John Burris, *Attorney, Oakland, USA* (Burris@lmi.net)

In wrongful death cases much attention is given to adults, however, many children suffer long-term effects of Post Traumatic Stress Disorders and other debilitating disorders related to the death(s) of a love one but rarely do they receive immediate and timely intervention. The author will draw upon his experience with many families where the police caused a death of their loved one. He will discuss the short and long terms effects of the death on the children, and what efforts if any were done to meet their needs. As a reference, the author will use his cases accumulated through 25 years of practice. He will also explore the available options for these child victims.

## 213. Treatment for Offenders with Mental Health Issues

### 213.1. Understanding and Responding to Women with Co-occurring disorders in the Transition from Prison

Patricia O'Brien, *University of Illinois at Chicago* (pob@uic.edu)

Incarcerated women are indicated for a high prevalence of co-occurring disorders, especially sustained and frequent drug use and manifestations of trauma (Browne & Bassuk, 1997; Ditton, 1999; Kubiak, 2005). From 1998 to 2003, a U.S. federally sponsored study generated knowledge on the effectiveness of comprehensive, integrated service models for women with co-occurring disorders and histories of trauma at fourteen separate sites. The paper describes the core set of services that have been identified as effective in treatment for women with co-occurring disorders in a variety of residential and non-residential settings. It then applies these findings to an experimental intervention with drug-affected women exiting prison. Major inputs in the intervention include a holistic clinical assessment, the "coaching" case management model, and a skills-building/support group intervention that has been found to produce promising results. Integration strategies from the Women, Co-occurring Disorders & Violence identify the importance of a gender-specific, culturally competent, trauma-informed and consumer-centered approach. The proposed study and consequent presentation will

identify how these strategies also may promote reintegration for women with co-occurring disorders exiting prison.

### 213.2. Meanings Attached to Mental Illness and Mental Health Services among Youth (and their Parents) Involved in a Post Detention Linkage Program

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

Despite significant mental health needs, rates of service utilization prior to and during justice system involvement tend to be low, particularly among African American and Hispanic youth. It is likely that multiple factors explain the low rates of service utilization. Attitudes about mental illness and mental health services may be one significant barrier to service access and participation. In this study, the authors examine the meanings attached to mental illness labels and mental health services by youth (and their parents) involved in a post-detention linkage program. Qualitative interviews were conducted with ten youth participating in a post-detention linkage program. Separate qualitative interviews were conducted with a parent/guardian for each youth. The work of this stage of the project was exploratory. Thus the authors began with open-ended inquiries to allow themes to emerge and to avoid premature closure. Dimensional Analysis was used to scrutinize interview data and examine the meanings attached to mental health problems and juvenile justice system involvement by youth and their parents and how these influence participation in treatment. Findings from this study enhance the understanding of barriers to treatment participation among this high need group. This can inform efforts to increase service utilization and potentially improve outcomes.

### 213.3. Diversion to Treatment for Offenders with Co-occurring Mental Health and Substance Abuse Disorders

Steven Belenko, *Temple University* (sbelenko@tresearch.org)

A substantial percentage of offenders with substance abuse problems in the United States have co-occurring mental health conditions, with estimates in the literature ranging widely from 15 to 60%. Access to treatment diversion programs is limited for many of these offenders. This paper reports findings from an evaluation of a long-term residential treatment diversion program for prison-bound drug sellers who also have substance abuse

disorders. Although the program was designed to screen out offenders with mental illness, our data indicate that, depending on the diagnostic definition, an estimated range of 40-60% of participants had co-occurring mental health disorders. Retention and recidivism outcomes are compared for participants with and without co-occurring substance abuse and mental health disorders.

### 213.4. Sparse Evidence: A Review of Research on Interventions for People with Mental Illness in the US Criminal Justice System

Jeffrey Draine, *University of Pennsylvania* (jdraine@ssw.upenn.edu)

Wendy Pogorzelski, *Georgia State University* (wpogorzelski@gsu.edu)

Amy Blank Wilson, *University of Pennsylvania* (amyblank@comcast.net)

Three types of intervention have emerged in recent years to address the intersection of mental illness in the criminal justice system: jail diversion, mental health courts, and specialized reentry services. The authors review the current empirical literature on these interventions in the US with the aim of conceptualizing useful directions for new research. Brokerage models of intervention, based on smoothing interaction between systems to gain treatment adherence as a goal of both the mental health and criminal justice systems, dominate the research. Intervention studies can do more to conceptualize mechanisms of change at individual and systems levels. If this aspect of the research were strengthened, the research would be more likely to capture the process of change, contributing to both theory and practice. Such research may spur greater innovation in intervention models.

### 213.5. Treatment Outcomes for Drug-Addicted Offenders in a Southern California Incarceration Alternative Program

Christine B. Kleinpeter, *California State University at Long Beach* (ckleinpe@csulb.edu)

The purpose of this study was to evaluate the effectiveness of enhanced services for drug court participants, which include specialty groups. The subjects in this study are current participants in a Southern California Drug Court. There are approximately 500 participants in Drug Court; two thirds are male. Subjects range in age from 18-60, with an average age of 33. The subjects were 45% Hispanic, 40% White, 10% African-American, and 5% Asian, Indian and Other. Methamphetamine, cocaine, and heroin are the most frequently reported drugs of choice, with a number also reporting alcohol and

marijuana usage. Subjects were given an opportunity to choose two specialty groups to enhance the drug treatment that is typically offered (i.e., education, relapse prevention). They chose from a selection of 8-week groups; for example, self-esteem, life trauma, mask of addiction, and parenting groups. The groups were evaluated utilizing a pre/post test survey method. The survey included 8 questions regarding knowledge learned (T or F), and 5 questions that measured how well the group treatment objectives were met by a likert-type scale (i.e., 1-5; 1=strongly disagree, 5=strongly agree. The results of the study are encouraging. Implications of the study for practice and policy will be addressed.

## 214. Treatment of Youth with Behavioral Disorders

### 214.1. Residential Treatment for Adolescent Sexual Offenders

Denise Ledi, *Alberta Hospital, Edmonton, Canada* (DeniseLedi@cha.ab.ca)

Counterpoint House is an eight-bed residential facility that provides treatment for adolescent males who are sexually abusive. Utilizing a multi modal, holistic approach incorporating relapse prevention, cognitive-behavioural, psychodynamic and psycho-educational principles provided by members of a multidisciplinary treatment team, the goals of the Counterpoint House program are to reduce the risk of re-offence, reduce recidivism, promote mental health and quality of life, and to promote successful reintegration into the community. Following a brief overview of the Counterpoint House program, a summary of our recidivism data is presented. is achievable

### 214.2. Evaluating an Outpatient Adolescent Treatment for Comorbid Substance Use and Mental Health Disorders

Ashli J. Sheidow, *University of South Carolina* (sheidoaj@musc.edu)

Although psychiatric comorbidity among substance abusing youth is high and dually-diagnosed youth are more than twice as costly to treat, almost no outpatient treatments have been empirically evaluated. A treatment for severe behavioral and emotional problems, Multisystemic Therapy (MST), was adapted (a) to be feasible for treating less acute problems, i.e., outpatient level of care; and (b) to specifically treat dual-diagnoses, i.e., mood/anxiety and substance use. A pilot trial randomly assigning 47 dually-

diagnosed adolescents to MST-Outpatient (MSTOP) or usual outpatient services (UOS) showed substantial improvements in both substance use and mental health symptoms for the experimental treatment compared to usual services. MSTOP youth reported 10% more improvement in internalizing symptoms at 1-month compared to UOS youth, 6% more improvement than UOS youth at 2-months, and a dramatic 33% at 3-months. Improvements in substance use were even more rapid, with MSTOP youth reporting 24% more improvement than UOS youth at 1-month and continued treatment gains over succeeding months. Further, biological indices confirmed drops in mean levels of marijuana for MSTOP ( $M = -16, -16, -18$ ) versus increases for UOS ( $M = +29, +11, +16$ ). The adaptation will be detailed, along with results from random regression analyses of the pilot data.

### 214.3. Mental Health Reform in Israel and its Potential Effects on Minors

Esti Galili-Weisstub, *Hadassah University Hospital, Jerusalem, Israel*  
(galili@hadassah.org.il)

After several years of conflict and lobbying, a law concerning mental health reform has been submitted to the Israeli Knesset. In the previous system, government has supplied free mental health services available to all, albeit with considerable waiting periods for out-patient treatment. Under the new law the medical plan insurance groups would be responsible for providing these services. All Israeli citizens are insured by one of the group insurance plans. Mental health professional working within the government clinics have opposed the proposed changes, whereas those in general hospitals and clinics working outside the government system support the changes. These policy changes, when implemented in other countries have had significant effects, not always positive, on the quality and extent of mental health services provided. There is ongoing discussion and disagreement as to the best way to protect the rights of children to receive adequate mental health services. This presentation will describe the present situation in Israel, the proposed law and the various positions held by professional organizations, families of patients and the insurers. There will be special reference to treatment rights and services for minority groups and immigrants. The effects of similar reforms in the USA and Europe will be reviewed. Implications and recommendations for the Israeli situation will be discussed.

## 215. Understanding and Managing Violence among Forensic Populations

### 215.1. Violent Offender Treatment Programme: The Development, Delivery and Future of Working with Mentally Disordered Violent Offenders

Gary Hughes, *University of Central Lancashire* (jgaryhughes2000@yahoo.co.uk)

Due to the paucity of empirically based treatment for mentally disordered violent offenders, the founding members of VERN (Violence Education and Remediation Network) developed the Violent Offender Treatment Programme (VOTP) a programme which reflects the high intensity, multi-modal cognitive behavioural approach recommended through meta-analytical studies. The treatment programme is a modular-based cognitive behavioural treatment programme consisting of ten modules that cover topics such as insight development / motivation, identifying personalised patterns of violence, ownership and goal setting; role of mental illness, personality difficulties in violent behaviour. Following the single site pilot programme the next stage is multi-site delivery and evaluation within high, medium and low-secure mental health settings to enable the evaluation of the programme in different security conditions and facilitate the necessary adaptations for each environment. VERN agreed upon the need for the programme to have different emphasis within the programme across the varying security levels i.e. greater relapse prevention component within low secure delivery settings. This paper will consider in detail the content of the VERN programme, how the programme addresses issues of risk, need and responsivity and finally examine the results of the programme having been delivered in both High and Low security settings.

### 215.2. Paranoid Processes: Their Contribution to Violence in Prisons

Adrian Needs, *University of Portsmouth* (adrian.needs@port.ac.uk)

True to their cognitive- behavioral origins, most current interventions that seek to reduce angry aggression by prisoners address a range of targets including cognitive biases. Evaluative studies have not reported consistent or unequivocal success. For particularly intractable, violence- prone individuals (including those identified as ‘control problems’ and those for whom violence serves largely instrumental purposes) there has been an increasing tendency to invoke additional concepts. These include several from the field of personality disorder. The present paper argues that further insights can be gained from developments in the understanding of paranoid processes. It is suggested that processes by which individuals influence and are influenced by the social climates of custodial environments should also receive greater attention.

### 215.3. Bullying Within Prisons: Typologies and Aggression Frequency

Jane L. Ireland, *University of Central Lancashire* (JLIreland1@uclan.ac.uk)

*Background:* Prison bullying research has advanced considerably in the past five years, with methods of measurement changing to reflect the specifics of forensic environments. To date the behavioural measure most commonly applied has been the Direct and Indirect Prisoner behaviour Checklist (DIPC/DIPC-Revised).

*Aims:* The current study aims to explore findings from a new scaled version of the DIPC (DIPC-SCALED) which will allow for an assessment of aggression frequency and more refined bully group classification.

*Method:* Five hundred and nineteen adult prisoners completed the DIPC-SCALED and a more traditional measure of aggression, the AQ [Aggression Questionnaire].

*Results:* The results outlined include the nature and frequency of bullying behaviours, an analysis of the DIPC-SCALED structure and its relationship to with more traditional measures of aggression. The results indicate a more detailed outline of bully group classification than previously reported.

*Conclusion:* The study concludes by highlighting the value of typologies based on aggression frequency but also points to a potential role for aggression motivation in forensic bullying research.

### 215.4. Cognitive Impairment and Sexual Offending: Management during Therapy and Factors in Offending

Carol A. Ireland, *Ashworth High Secure Hospital, Liverpool, UK*  
(carolireland@blueyonder.co.uk)

*Background:* This is a discussion paper, which will explore the potential impact of a range of cognitive impairments when working with sex offenders who present with these.

*Aims:* The paper will begin by briefly outlining the nature of cognitive impairment, along with some examination of the research examining the extent of such difficulties in sex offenders. It will then explore the impact of such impairments when engaging a sex offender in treatment. The paper will then examine the potential role cognitive impairment may play in the function of their offence. Finally, some general methods by which to manage and compensate for cognitive impairments will be presented. Whilst the focus of this paper looks at sex offenders, the issues presented in this paper are not

exclusive to this group and may be applied to offenders in general who present with cognitive impairments.

*Method:* Review of the literature.

*Results:* A number of suggestions as to the appropriate management during therapy and considerations when formulating offending.

*Conclusion:* The paper will conclude by identifying the need to consider the method of therapy delivery and formulation of offending when a sex offender presents with cognitive impairments.

### 215.5. The Identification of Implicit Theories (Schemas) Sexual Murderers: Implications for Treatment

Anthony Beech, *University of Birmingham* (a.r.beech@bham.ac.uk)

*Background:* Data will be presented on qualitative interviews with 28 sexual murderers. These data were subjected to grounded theory analysis. Here five implicit theories (ITs) schemas related to offending were identified: Dangerous world – where the individual concerned felt that he had been treated unjustly and abusively which resulted in feelings of anger and resentment which were taken out against his victim; Male sex drive is uncontrollable – where offenders reported that their urges were so compelling, and compulsive, that they led to rape and murder; Entitlement – where offenders reported an entitlement to sex; Women as sexual objects – where women were seen as little more than sexual objects; Women as unknowable – where women were viewed as deliberately deceptive. These ITs were found to be identical to those identified in the literature as being present in rapists.

*Aims:* To identify the motivations of sexual murderers with subsequent implications for treatment.

*Method:* Grounded theory analysis.

*Results:* Two theories were present, or absent, in such a way that three groups could be identified: 1) Presence of dangerous world and male sex drive is uncontrollable; 2) Presence of dangerous world, with complete absence of male sex drive is uncontrollable; 3) Presence of male sex drive is uncontrollable with complete absence of dangerous world. These groups were found to differ in motivation: Group 1 being primarily motivated to carry out fantasies around urges to kill, rape/murder; Group 2 were motivated by grievance, resentment and anger towards women; Group 3 were motivated to sexually offend but were quite prepared to kill their victim to avoid detection, or secure compliance, in the course of their sexual assaults.

*Conclusion:* The results are discussed in terms of treatment provision for this type of sexual offender.

## 216. Understanding Stalking

### 216.1. Stalking of Professionals: Findings and Preventative Strategies

Gail Erlick Robinson, *University of Toronto* (gail.robinson@utoronto.ca)

Health care workers are especially vulnerable to being a victim of stalking, most often from stalkers who are intimacy seeking, resentful or incompetent. They 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. Stalking occurs in both outpatient and inpatient settings. The limited literature on this subject 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. To assess the prevalence and consequences of stalking of physicians, the authors sent out questionnaires to over 1500 randomly chosen physicians in the Greater Toronto Area. Return rate was over 30%. Prevalence and types of stalking identified will be discussed. Increased awareness of this phenomenon and appropriate interventions could reduce escalation of harassing behaviours. Suggestions for management of stalkers in the healthcare setting will be discussed.

### 216.2. Treatment of Stalkers – Part of Threat Management

Werner Tschan, *University of Zurich* (wtschan@wb.unizh.ch)

An offence-focused treatment of stalkers helps protect victims. The treatment approach is based on an understanding of stalking as a pathological behavior related to attachment problems. Stalking consists of a large variety of different behavioral patterns from simple phone calls and e-mails to dangerous assaults and use of weapons – however, one aspect is essential for treatment interventions: stalking is always a relational offence. Treatment of stalkers is part of the threat management. Collaboration with other involved disciplines is therefore essential. The presenter discusses experiences and limits of therapeutic interventions.

### 216.3. Stalking – Threat Management by Joint Task Forces

Totti Karpela, *Helsinki Police Department, Helsinki, Finland*  
(totti.karpela@mielenrauha.com)

The government of Finland made a decision that Finland will be the safest country within the EU by 2015. One of the main target areas to focus was violent crime and especially crimes against women and domestic violence. The Helsinki police department is the largest police department in Finland with 1700 sworn officers. The uniformed patrol service has duties to prevent crime as well as an investigative duty with “mass crimes” such as domestic violence. The Helsinki PD has arranged stalking prevention and threat management courses and currently fights stalking and domestic violence in a united front with social services, victim support groups and other professional organizations. The idea has been to get all government and county agencies aligned. The Helsinki police department has regular meetings with staff trained in prevention of stalking crimes. In these meetings the police, department of corrections, social services, youth services, the church, schools, victim support groups and other agencies are all working side by side with single cases. The district attorney and social services have their own offices at the police departments so that the victim and the suspect get the attention they deserve. This year it has been proposed to establish a permanent national unit responsible for the prevention of intimate partner and domestic violence.

## 217. Unpacking the Concept of Competence/Capacity

### 217.1. Mental Competence - The Clinical Utility of a Legal Concept

Matthew Hotopf, *King's College London* (spjumhh@iop.kcl.ac.uk)

A central controversy over the extended use of mental capacity (for example as a test for involuntary treatment in mental health legislation) is its ability to deal with those aspects of psychopathology which do not relate to purely “cognitive” processes. These might include delusions, disturbances to affect or presentations arising from personality disorders. In this paper the author argues that these difficulties result from a mismatch between clinicians’ and researchers’ understanding of mental capacity, compared to its

use in a legal context. This will be illustrated by contrasting some key rulings in English case law, and the results of qualitative studies of practitioners' understandings of mental capacity relating to difficult treatment decisions including administration of ECT and the physical treatment of serious self harm attempts. It is argued that capacity is ultimately a legal construct which does not map closely to clinical variables including cognitive or psychopathological processes.

## 217.2. Capacity, the Law and Psychiatric Disorders

Genevra Richardson, *King's College London* (genevra.richardson@kcl.ac.uk)

Legal systems which respect individual autonomy have ultimately to develop criteria for the assessment of capacity. These criteria differ across jurisdictions but tend to contain similar features. This paper will consider the nature of these features and their application in the context of psychiatric disorder. The law's approach to capacity is thought by some to place too much emphasis on cognition and rationality, to display insufficient understanding of both insight and delusion and to attach insufficient weight to the role of emotion and personal values. In the light of these concerns the court's attitude to capacity and its application to psychiatric disorders will be considered with particular reference to the case law in England and Wales. Is the law's notion of capacity inherently inadequate to the task of identifying treatment decisions worthy of respect? Or does it have the potential to develop the richness necessary to capture the complexity of psychiatric disorders?

## 217.3. Mental Competence and Emotion

Louis C. Charland, *University of Western Ontario* (charland@uwo.ca)

When emotions are mentioned in the literature on mental competence, it is generally because they are thought to influence competence negatively; that is, they are thought to impede or compromise the cognitive capacities that are taken to underlie competence. The purpose of the present discussion is to explore the possibility that emotions might play a more positive role in the determination of competence. Using the MacArthur Treatment Competence Study as an example, it is argued that appreciation, a central theoretical concept in many contemporary approaches to competence, has important emotive components that are seldom sufficiently recognized or acknowledged. If true, this means that some leading contemporary accounts of competence need to be revised in order to make more adequate provision for the positive contribution of emotion.

## 217.4. Is 'Competence' Adequate to the Complexities of Human Psychology?

Tony Hope, *University of Oxford* (tony.hope@ethox.ox.ac.uk)

The legal concept of competence/capacity uses a rather simple model of human psychology, and a transparent notion of autonomy. What it means to 'respect a person's autonomy' is problematic when a mental disorder affects a person's values and decisions. Under what conditions should 'respecting autonomy' mean respecting the decisions that the person makes when mentally disordered, and under what conditions does it mean respecting the decisions they would make if not mentally disordered? One answer is to say that if the person is competent then the decision should be respected. This puts a lot of moral weight on the concept of competence. The current concept emphasises the intellectual ability to weigh reasons and come to a decision. But is this a sufficiently rich understanding given both modern psychological evidence about the human decision-making, and clinical evidence about the ways in which mental disorders can affect thinking?

## 218. The Use of Seclusion and Restraint in Psychiatric Settings

### 218.1. Dutch Seclusion Rates Internationally Compared

Wim Janssen, *Kenniscentrum GGNet, Warnsveld, The Netherlands*  
(wim.janssen@ggnet.nl)

In the Netherlands seclusion of psychiatric patients is a frequently applied intervention, but the use of seclusion in psychiatric practice is a contentious issue. Some Dutch authors stated that in the Netherlands more patients were secluded than in other countries. But they didn't support their conclusions with underlying quantitative data. Moreover the number of cases of applied seclusion is not exactly known in the Netherlands. The aim of this study is to describe Dutch seclusion rates and compare these data with published rates of other countries in and outside Europe. Firstly, literature with published seclusion

rates is reviewed. Secondly, the Dutch seclusion rates of the year 2002 and 2003 sampled within twelve psychiatric hospitals and the Dutch Health Care Inspectorate (IGZ) were compared with each other as well as with the reviewed rates. Thirdly, methodological issues are discussed. The reviewed studies show various methods of data collection and different timeframes as well as ways of expressing the seclusion rates. In the Netherlands for the studied years respectively 3.5 seclusions per 1000 inpatient days (338 seclusions per 1000 admissions) and 2.2 seclusions per 1000 inpatient days (275 seclusion per 1000 admissions) were found. It was not possible to compare the seclusion rates between countries or regions of countries because of the different ways of presentation of the results. Recommendations are made for further presentations. It is essential to have a uniform registration system for all the seclusions and restraint measures.

## 218.2. The Perspectives of the Patient and His or Her Family Using Seclusion

Jan Sitvast, *Kenniscentrum GGNet, Warnsveld, The Netherlands* (j.sitvast@ggnet.nl)

Interviews with patients showed that they experience seclusion as traumatic (Hoeksta et al, 2004). More recently psychiatrists' and nurses' perceptions of seclusion were researched. Conclusions are still unknown. Little is as yet known about how relatives of patients look upon seclusion of their kin. There is no systematic communication of the respective perspectives in clinical practice. The following questions are put forward: (1) How is a situation of crisis experienced from the perspective of the parties involved: the patient, his relatives on the one hand and the caretakers (nurses, the psychiatrist and others) on the other hand? (2) How is seclusion of the patient seen from the views of the same parties involved? These questions are investigated by using semi-structured interviews with all parties involved in so-called nested cases. The interviews are held in rounds and focus on one incidence of seclusion at a time. The presentation will focus on patterns of communication and how all parties involved have different or concurrent views on what happened during the time that elapsed from the moment that caretakers label a situation as a crisis through intervening with seclusion to the process of re-socialization of the patient into regular treatment on the ward. Based on the outcomes of this research recommendations can be made of how to use the experiences and expertise of patients and relatives in deciding what interventions are appropriate in individual cases.

## 218.3. Nurses' Perception of Secluding Patients

Karin van Gestel, *Mediant GGZ, Twente, The Netherlands* (k.vangestel@mediant.nl)

Joanneke van der Nagel, *Mediant GGZ, Twente, The Netherlands* (jo@dds.nl)

Seclusion is a commonly used measure of force in psychiatric wards in the Netherlands. To all those involved, secluding a mentally disturbed patient is an intense emotional experience. Little research has been done on this emotional impact.

*Goal:* This study aims to describe the emotions experienced by nurses during the process of seclusion and their need of sharing these feelings.

*Study design:* In-depth qualitative interviews about emotional perceptions concerning the seclusion process were held with several nurses working on a closed psychiatric ward at a Mental Health facility in The Netherlands.

*Results:* A wide variety of emotional perceptions or feelings were reported. These can be classified according to three main themes as well as to distinctive time-phases in the process of seclusion. Within the emotional response of nurses a stress-response-curve is identified, along with specific and dominant feelings for each time-phase. The need to share one's feelings with colleagues differs between persons.

*Discussion:* Whereas some emotional perceptions vary from person to person, certain patterns of feelings can be established in the process of seclusion. Reflection on these perceptions and their influence on the process of providing care can be an important means of improving quality of care and in reducing emotional burden for the staff.

#### 218.4. Prevention of Seclusion in an Acute Psychiatric Ward: A Dutch Project

Hans Hesta, *De Gelderse, Roos, Arnhem, The Netherlands* (h.hesta@degelderseroos.nl)

Justine Theunissen, *De Gelderse Roos, Arnhem, The Netherlands*  
(j.theunissen@degelderseroos.nl)

A 3 year project in one clinical ward of a Dutch Mental Institution aimed at closing the seclusion unit and diminishing other forms of restraint by at least 50% was successfully ended in 2005. In this presentation an outline of project design and scientific results will be given. The clinical teams changed their way of working in many ways: the changes of the intake, the treatment process, discharge and after care. After the end of the project the seclusion unit was rebuilt into an intensive care unit. The characteristics of this unit shall be presented. Finally the project continued with ambulant teams by forming a special team. Currently this method is being implemented throughout the institute.

## 218.5. Risk assessment, aggression and psychiatric disorder as determinants to seclude patients

Eric Noorthoorn, *GGnet and Mediant GGz, Twente, The Netherlands*  
(e.noorthoorn@ggnet.nl)

In the Netherlands seclusion of psychiatric patients is a frequently applied intervention in an effort to contain aggressive behaviour. The main body of literature on seclusion is focused on either the interaction between the nurse and the patient, or on aggression as important factors determining the application of seclusion. In an effort to reduce the use of seclusion 34 hospitals received governmental financial support, with the condition they use a uniform registration system for all seclusion and restraint measures. Collection of these data made it possible to relate aggression to seclusion and restraint measures to demographic and diagnostic data as well as to the setting. The current study looked into preliminary data of two psychiatric Hospitals in the Netherlands over a period of 6 months. The most important determinants proved to be age and sex of the patient, confirming the notion that men are aggressive more often than women. The data also show an increase of restraint and seclusion measures as a whole in comparison to data collected prior to the current study. In the presentation we will discuss the impact of several determinants on the total number of incidents, the number of aggressive incidents and the number of applied seclusions per 1000 inpatient days.

## 219. Values and Policies in Healthcare

### 219.1. Mediating Futility Disputes: The Limits of the Talking Cure

Ellen Waldman, *Thomas Jefferson School of Law* (ellenw@tjssl.edu)

The highly contested death of Terri Schiavo, and the distasteful political gamesmanship that accompanied it, gave new vigor, and new debating tools to those who would see a larger role for mediation in end-of-life decision-making. As substantive consensus regarding the meaning of futile care appears increasingly elusive, clinical ethicists have grasped at mediation as the procedural straw that will avoid an escalation of hostilities when tragic choices must be made. Classical mediation theory supports importation of a facilitative process into Schiavo-type disputes where emotions run high, trust is low, and substantive norms supply no ready answer. Indeed, facilitated negotiation is supposed to

function best in an environment of normative indeterminacy where one's best and worst alternatives to a negotiated settlement remain frighteningly unclear. Concern that a third-party decision-making might view the facts from one's adversaries' stand-point is thought to function as a powerful catalyst, encouraging parties to retain control over their dispute and work hard to achieve creative and mutually advantageous settlements. In the bioethics context, however, it is not clear that our theoretical assumptions are cashing out as anticipated. Disputants in end-of-life dramas are not necessarily playing to type. Rather, asymmetries exist in risk-aversion, power and investment in dispute–outcome yield negotiations that are markedly more one-sided than classical dispute resolution theory would predict. Using two case studies, this presentation will discuss the use of mediation in ethics consultation at the end of life- highlighting contextual features of futility disputes today that challenge mediation's promise to deliver therapeutic, yet principled resolutions.

## 219.2. Wasted Dollars in Pharmaceutical Research and Pharmaceutical Usage in the Healthcare System

Robert Bohrer, *California Western School of Law* (rab@cwsl.edu)

In mental health, as in virtually all areas of health care, one of the most difficult problems is the central dilemma of pharmaceutical policy: simultaneously providing adequate incentives for the development of innovative new pharmaceuticals and providing patients in need with adequate access to appropriate therapies. Critics from very different perspectives have identified a particular problem- that of “me-too” drugs (Marcia Angell 2004; Jerry Avorn 2004). This simply means that far too many drugs are developed that are variations on existing drugs, with usage driven by marketing, and far too few that are significant therapeutic improvements. In mental health, for example, this means many similar SSRIs for depression, the largest category of mental-health pharmaceutical usage, with very little to differentiate them, and no truly new approaches to the pharmaceutical management of depression since Prozac's introduction in 1990. While others have suggested radical changes in the drug approval process, presumably by legislation, this presentation will suggest that approaching the problem through an adjustment to the scope of pharmaceutical patents, in a manner arguably consistent with all existing patent laws, would be a more feasible and perhaps more effective approach to the problem.

## 219.3. Testing Fetuses for Down Syndrome: Implications for People with Disabilities

Robert Dinerstein, *American University* (rdiners@wcl.american.edu)

Recently, the *New England Journal of Medicine* reported on the development of a new test to screen first trimester fetuses for Down syndrome. The earlier, and more accurate, test for Down syndrome is likely to lead more women to choose to abort fetuses with this condition rather than carry those fetuses to term. For people with disabilities and their allies, including those who are generally pro-choice, the views of some (and perhaps many) people that such prevention of disability is unquestionably a good thing raises profound questions about the value of lives of people with disabilities. This paper will explore this specific issue as well as the tension more generally between prevention of disability and full inclusion of people with disabilities in community life.

#### 219.4. Bottled Happiness: Confronting Prescription Drug Advertising and the Desire to Believe

Marybeth Herald, *Thomas Jefferson School of Law* (marybeth@tjssl.edu)

Prescription drug advertising invades magazines, television, and e-mail. The commercial speech doctrine in constitutional law has moved to a free market model – almost always allowing advertising – based on the free speech premise that people will ultimately separate the wheat from the chaff in the marketplace of ideas. Yet recent research about the way humans make decisions leads to the insight that rational decision making is often undermined by cognitive errors. Our decision making strategies are complex. Heuristics or mental shortcuts that work for us in certain situations producing excellent and efficient judgments are sometimes misapplied in other situations, resulting in poor judgments. In reality, the commercial speech doctrine allows drug companies the power to create markets by preying on vulnerabilities in human judgment and that power can significantly impact the health care system, skewing demand and treatment options. The court decisions can be critiqued as ignoring the realities of cognitive biases, but the result of the court decisions is that the government must regulate the drugs and not the advertising. Knowing our vulnerabilities, however, allows us to adapt our decision-making strategies. Health care law should take into account the problems of cognitive errors to improve individual decision-making. This paper discusses suggested approaches for countering the biases created by drug advertising to enhance good choices by individuals.

## 220. Violence Risk in Children and Adolescents

### 220.1. Violence Risk and Psychopathology among Institutionalized Adolescents

Monica Gammelgård, *Vanha Vaasa Hospital, Finland* (monica.gammelgard@vvs.fi)

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The Structured Assessment of Violence Risk in Youth (SAVRY, Bartel, Borum and Forth, 2002) is a professional judgement tool that aims to estimate risk for severe violent behaviours in adolescence. The instrument is constructed as an aide memoir for clinicians and professionals who in their daily profession come into contact with youth displaying severe behavioral problems, taking the form of severe aggressive, acting-out behavior and violence. Results concerning reliability of the SAVRY have so far been most promising. However, results on the validity and reliability of the SAVRY mainly derive from studies carried out among boys in correctional settings. Associations between SAVRY violence risk estimates and psychopathology in youth are not well known. In this presentation, we will compare the estimates of risk of violence of 145 institutionalized adolescents with present or lifetime psychiatric diagnosis as according to the ICD-10 diagnostic classification. Further we will look into the associations of Savry risk estimates and the behavioural features of the adolescents as they are measured by the assigned nurses using the Child Behaviour Checklist (CBCL, Achenbach, 1991). Results on the violence risk estimates in adolescents in different settings, different diagnostic groups and different behavioural styles will be presented.

### 220.2. Reliability and Predictive Validity of the SAVRY (Structured Assessment of Violence in Youth) in a Dutch Population of Young Offenders

Henny Lodewijks, *Renray Judicial Juvenile Institute, Leylstad, The Netherlands* (hlodewijks@renray.nl)

A number of risk assessment instruments for adolescents have been developed in recent years. Currently, the author is working to validate one such instrument in The Netherlands. This instrument SAVRY (Structured Assessment of Violent Risk in Youth) was originally designed by Borum, Bartel and Forth and translated into Dutch. The SAVRY consists of 30 items: 10 historical risk items and 20 dynamic individual and social risk and protective items. These dynamic items are extremely important for treatment planning to reduce recidivism. The paper investigates the reliability and predictive validity of the SAVRY of one cohort young offenders for serious incidents during their stay in a justice juvenile institution and for another cohort for delinquency after release. In general it was found that the reliability and validity of the SAVRY for institutional violence and violence after release were good. Of interest was the predictive power of the dynamic items over and above the historical items, indicating a reversed importance of historical and dynamic items in risk assessment for adult and adolescence populations. Moreover, the importance of incorporation of protective items in adolescent risk assessment instruments was clearly demonstrated.

### 220.3. How do Staff Members Anticipate Risk of Violence in Adolescent Forensic Treatment?

Johanna Berg, *University of Turku* (johanna.berg@turkuamk.fi)

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In forensic settings, where aggressive behaviour is frequent, safe aggression management is essential and this can be done by anticipating violence risk in the units. The aim of this study was to explore how staff members anticipate risk of violence in adolescent forensic treatment. Staff (n = 58) in four adolescent forensic units were interviewed using semi-structured interviews. Staff were asked to describe how they anticipate aggressive outbursts. Results were analyzed using qualitative content analysis. The preliminary results showed that knowing the adolescent and close teamwork helped anticipating violence. Early behavioural signs, like being tense, were important predictors of violence. On the other hand, staff anticipated and intervened before behavioural signs occurred, for example by observing peer group behaviours or by following highly a structured day programme. Anticipation was considered the most effective way to manage violent behaviour and it seemed that experienced staff used anticipation more. Anticipation of violent behaviour should be part of the aggression management process in forensic units. In order to gain this ability, new staff members should be trained in techniques using anticipation in challenging situations. In order to make anticipation a

skill thoroughly mastered by the staff, ward leaders should ensure continuous evaluation of practices.

#### 220.4. Risk Taxation in Minors: Reflection on Myths and Evidence

Robert Vermeiren, *University of Leiden/ Curium* (r.r.j.m.vermeiren@curium.nl)

Risk taxation has long been an important topic in forensic psychiatry. In adults, much research has been done on the topic, and several instruments for use in forensic practice have been published. For that reason, in forensic practice and related research, including measures of ‘risk taxation’ has become obligatory. In the field of youth forensic psychiatry, the same tendency can be observed. However, only some instruments are available, while research on the methodological characteristics and predictive validity is rather scarce. This is not surprising, since inherent limitations hamper the development of clinically applicable instruments for minors. These limitations will be elaborated in this lecture.

#### 220.5. Savry Characteristics in Delinquent Boys with Violent and Non-Violent Crimes

Elena Dozortseva, *Moscow City University for Psychology and Education/Serbsky National Research Center for Social and Forensic Psychiatry* (edozortseva@rambler.ru)

Dmitry Oshevsky, *Serbsky National Research Center for Social and Forensic Psychiatry*

In the study risk factors of violent behaviour described in SAVRY (Structured Assessment of Violence Risk in Youth, Borum, Bartel, Forth, 2000) were explored in order to find those factors, which are most specific for boys who committed severe violent crimes. The main group consisted of 93 boys from 14 to 18 years old, perpetrators of violent crimes (murder, severe bodily harm, robbery) compared with 28 male delinquents who committed non-violent crimes (theft). A significant difference ( $p < 0.05$ ) between the groups was found in a number of factors. Anger control problems as an individual trait, family violence in the life history including both abuse and neglect experienced by the juvenile himself and his witnessing aggression at home, early beginning of committing violent acts and combination of aggression towards others and himself (suicide attempts, self-injuries) are characteristics of the violent group. Besides, lack of protective factors (especially of attachment and emotional bounds, of social

support) distinctly distinguishes this juveniles' category. All these factors proved to be most informative for differentiation of violent and non-violent juvenile perpetrators.

## 220.6. Violence Risk Assessment in Pre-trial Mental Health Evaluation of Youngsters: The Search for Relevant Factors for Clinical Judgment

Nils Duits, *Netherlands Institute of Forensic Psychiatry and Psychology, Amsterdam, The Netherlands* (N.Duits@dji.minjus.nl)

In the Netherlands independent forensic psychiatrists or psychologists are asked by the examining juvenile judge or prosecutor to make a pre-trial forensic mental health evaluation. In this context, a transparent assessment of the risk of violence recidivism is important. An exploratory research revealed however that three out of four evaluators do give too little or no argumentation about the risk of violence recidivism. In this light, the results of two studies are presented. One study examined which risk factors of the SAVRY (Structured Assessment of Violence Risk in Youth) could be found in report files and which of them correlated with a clinical judgment of high risk of violence recidivism. The other study examined the specific clinical aspects of violence risk assessment in the setting of the pre-trial mental health evaluation. Risk assessment instruments have been developed and tested in treatment and not in report settings. These differences are discussed and recommendations for improvements and future research in 'real life' will be made.

## 221. Violent Behavior: Homicide

### 221.1. An Examination of the Credibility of Canadian Offenders' Accounts of Instrumental and Reactive Homicides

Barry S. Cooper, *Correctional Service of Canada, Vancouver, Canada*  
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John C. Yuille, *University of British Columbia* (jcyuille@interchange.ubc.ca)

*Background:* Despite the reality that the credibility of offenders' accounts of homicides has important implications for the criminal justice system, little research has investigated this area.

*Aims:* To examine the credibility of Canadian offenders' accounts of instrumental and reactive homicides via Criterion Based Content Analysis (CBCA).

*Method:* As part of a larger investigation of eyewitness memory, 150 Canadian male violent offenders were interviewed about their memories for perpetrated instrumental and reactive acts of violence. CBCA will be employed to examine the credibility of the participants' accounts.

*Results:* Accounts of homicide from the larger categories of perpetrated violence will be identified. Via CBCA, the credibility of instrumental and reactive homicides will be examined.

*Conclusion:* Discussion will focus on the implications of the research to the criminal justice system (e.g., in terms of police interviews, the credibility of offender/witness accounts at trial, assessing credibility in the context of risk assessments).

## 221.2. Eat your Words: A linguistic Profile of Psychopathic and Non-psychopathic Homicide Offenders' Accounts of their Crimes

Mike Woodworth, *University of British Columbia at Okanagan*  
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Stephen Porter, *Dalhousie University* (stephen.porter@Dal.ca)

Jeff Hancock, *Cornell University* (jth34@cornell.edu)

Limited previous empirical research has investigated the linguistic attributes of psychopathic individuals. For example, Williamson (1991) found that compared to non-psychopaths, psychopaths provided more contradictory and convoluted responses to answers. Further, Louth, Williamson, Alpert, Pouget, and Hare (1998) investigated the acoustical characteristics of psychopaths speech patterns and found that they tended to speak in a quieter and more rapid manner than non-psychopaths. The current study will be the first to use sophisticated linguistic programs to analyze the self-report of psychopathic and non-psychopathic homicide offenders (N = 52) while describing their homicide offence. Preliminary linguistic analysis of interview transcripts revealed several significant differences in the language of psychopaths versus non-psychopaths. Psychopaths' language involved twice as many terms related to eating, approximately 58% more references to money, and 55% fewer references to death. Affect and cognition terms did not differ, although these initial analyses did not differentiate between self

versus other-directed affect. Additional analysis is currently being conducted to further parse apart this result. Explanations and implications of the current results will also be discussed.

### 221.3. Geographic Profiling of Stranger Murder

D. Kim Rossmo, *Texas State University* (kr13@txstate.edu)

Geographic profiling is a strategic information management system used in the investigation of serial violent and sexual crime, including stranger murder. Such crimes are difficult to solve and pose significant challenges for police agencies. Their nature results in an investigative process that has to consider large populations of suspects, leading to resource problems and information overload. One of the tactics that can be employed by police in such cases is geographic profiling, an investigative methodology that analyzes an offender's hunting behaviour and target selection. This process uses the locations of a connected series of crimes to determine the most probable area of offender residence. This is accomplished through the production of probability surfaces ("jeopardies") that are integrated with street maps of crime areas. The presentation will cover: (1) geography of crime theory; (2) crime site typology; (3) how geographic profiling works; (4) its relationship to other behavioural science investigative techniques (linkage analysis and psychological profiling); (5) case examples; and (6) investigative strategies.

### 221.4. That's what Friends are For: A Comparison of the Qualities of Single- and Dual-Perpetrator Murders

Stephen Porter, *Dalhousie University* (stephen.porter@Dal.ca)

Mike Woodworth, *University of British Columbia at Okanagan*  
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Marcus Juodis, *Dalhousie University* (marcus.juodis@dal.ca)

To date, there has been no investigation of possible qualitative differences between homicides committed by perpetrators acting alone versus those who acted with an accomplice. In this presentation, the findings from the first empirical study of single-versus dual-perpetrator homicides will be described.

This study involves a thorough examination of the official crime descriptions of 124 Canadian homicides, 84 involving a single perpetrator and 40 involving two perpetrators. The crimes are being compared in terms of perpetrator motive, instrumental/reactive violence, sadistic violence, gratuitous violence, sexual elements, and victim characteristics. Further, the contributing role of psychopathy as measured by the Psychopathy Checklist-Revised (PCL-R; Hare, 2003) in the two types of homicides is examined. Preliminary findings suggest that dual-perpetrator homicides are associated with a higher level of instrumental aggression (i.e., premeditation, external gain) than single-perpetrator homicides. Further, murders by single perpetrators were significantly more likely to display sadistic and sexual violence than murders by dual-perpetrators. Single perpetrators were more likely to target female victims, whereas dual perpetrators more often had targeted male victims. These findings will be complemented by a brief case presentation of a homicide investigation in which two of the contributing authors provided consultation to police regarding the crime scene evidence and suspect interviewing strategies.

## 222. Visual Evidence

### 222.1. Towards Virtual Litigation?

Anne Wallace, *University of Canberra* (Anne.Wallace@canberra.edu.au)

For well over a decade now, academic commentators and technology prophets have been foreshadowing fundamental changes to the conduct of civil litigation as a result of the impact of developments in information and communications technologies. The advent of ‘cyber courts’ and ‘virtual litigation’ are some of the more futuristic predictions. This paper assesses the impact of technology on civil litigation in Australia to date and examines some of these forecasts in light of these developments. While both courts and litigants are embracing modern communication techniques, both in terms of their interactions with their ‘clients’ and with the broader public, there has not yet been a rush to replace the physical courtroom environment with a virtual paradigm. The current preference in our justice system for hearings to be conducted in a face-to-face physical arena suggests that, for the time being, the conduct of civil litigation is likely to remain centered around a physical courtroom. However, it is likely that courts will make increasing use of technologies in the conduct of litigation in ways that may have a profound effect on interactions in the courtroom environment. A number of issues are identified that would benefit from further research as courts expand their use of these technologies.

## 222.2. Persuasive Effects of Digital Visual Displays in Court: An Overview

Neal R. Feigenson, *Quinnipiac University* (Neal.Feigenson@quinnipiac.edu)

Digital visual and multimedia displays are proliferating in law. From digitally enhanced photographs and videos, neuroimages, and computer simulations, to interactive evidence presentation systems which permit the juxtaposition of excerpts from deposition videos, transcripts, and documents, to PowerPoint slide shows illustrating entire opening statements and closing arguments, advocates are presenting their evidence and argument in new and potentially highly persuasive ways. To date, however, there has been relatively little empirical research on or theoretical examination of the likely effects of these kinds of visual displays on legal decision makers' judgments. In an attempt to offer a framework for thinking about this, the author distinguishes between two (sometimes overlapping) functions of courtroom images: to depict the real (descriptive images) and/or to explain it (diagrammatic images). Differentiation is also made between displays used during the evidentiary versus the argumentative phase of trial. Drawing on both specific experimental studies (including studies of effects of computer simulations and PowerPoint displays) and general findings from vision science and cognitive and social psychology, the author uses the descriptive/diagrammatic and evidence/argument dynamics to analyze the judgmental benefits and risks of various kinds of courtroom visual displays.

## 222.3. Gruesome Visual Evidence: Photographs of victim injuries and the potential for bias

David A. Bright, *University of New South Wales* (dbright@psy.unsw.edu.au)

The legal systems in Australia, the United States, and other common law countries assume that gruesome evidence can exert a prejudicial influence on jury verdicts. Emotional reactions to the grisly visual details may inhibit logical and rational decision processes and impair jurors' ability to deliver a verdict based only on the probative value of evidence in a case. Jurors who attribute weight to gruesome evidence in determining their verdict separate and apart from the probative value of the evidence, violate core assumptions of the justice system, such as the defendant's right to a fair trial, the jury's role as "finders of fact", and the defendant's right to be considered innocent until proven guilty beyond reasonable doubt. This paper will present the results of several studies which have examined the influence of gruesome visual evidence in both criminal and

civil contexts. Results suggest that gruesome visual evidence can exert a biasing influence on mock juror decisions, and that this influence is mediated by emotional reactions such as anger and disgust.

#### 222.4. The Influence of Multimedia on Jury Understanding of DNA Evidence

Jane Goodman-Delahunty, *University of New South Wales* (j.g-delahunty@unsw.edu.au)

This study applied principles of cognitive and multimedia learning theory to well-documented difficulties experienced by jurors in understanding expert evidence about DNA. After answering a short quiz on their existing conceptions about forensic uses of DNA, participants were assigned to mock juries, and reviewed selected case excerpts in a homicide trial in which DNA evidence linked the suspect to the crime scene. Expert evidence was presented without instructional media or in multimedia sequences containing stipulated factual information on “Forensic DNA Technology” and/or “Random Match Probability.” The juries deliberated and then completed a second quiz to determine any change in their DNA knowledge. Analyses focused on jury responses to the expert evidence and the presence of any “CSI effects.” Results are reviewed in terms of the facilitative and persuasive impact of the multimedia, and implications for courts and legal administrators charged with developing policies on visual evidence.

#### 222.5. Demonstrative Exhibits in Court

Christina Studebaker, *ThemeVision, Indianapolis, USA*  
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Drawing on her experience as a jury consultant and social scientist, the author will comment on the use of demonstrative exhibits and animations in civil cases and criminal cases such as white collar crimes. In these cases, demonstrative exhibits have played a central role in communicating complex information and large volumes of information to the triers of fact. Jurors often cite demonstrative exhibits as one of the most important or helpful items they relied upon to make their verdict decision. Judges have also commented on how demonstrative exhibits conveying general trial theme concepts or an integrated timeline are better methods of communication than oral argument alone or demonstrative exhibits consisting solely of text.

## 223. What's in an Act? Looking at the New Developments on National Legislation

### 223.1. Do You Understand? Interpreting Advocacy in Mental Health Services in England

Asha Day, *East Midlands Development Centre (CSIP), Mansfield, UK*  
(asha.day@eastmidlands.csip.nhs.uk)

Schemes set up to facilitate or improve communication between health professionals and users revolve principally around interpreting and advocacy services. Each type of service has a different background and emphasis, but the terms are often used interchangeably. The two are interrelated but distinct – each has a different role and purpose; therefore professionals must not confuse the two roles. Each is intended to improve access to services for people from black and minority ethnic communities. They make very different demands of their workers and require different sets of professional experience, training, skills and interests. Interpreters in the East Midlands (England) have found that there is no accredited training on mental health legislation and interpreting. To add to this there is no acknowledgement that when interpreters have interpreted the legal aspects of detention, a record is kept of these details. The issue of communication is of paramount importance in mental health services when diagnosing, treating and managing patients' whose first language is not the language of the indigenous population. When working in mental health services professionals must establish effective communication between themselves, the client and also the interpreter to ensure that they are working within the law and reduce any misunderstandings.

### 223.2. Meeting Need, Assessing Risk and Balancing Human Rights – When to use Compulsory Intervention?

Ruth Stark, *British Association of Social Work (BASW), Edinburgh, Scotland*  
(r.stark@basw.co.uk)

The presentation will look at the law(s) as it has developed in Scotland through three major pieces of legislation, with a particular emphasis on the spectrum of intervention and how it all works in practice?: (1) Mental Health (Care and Treatment) (Scotland) Act 2003, (2) The Adults with Incapacity (Scotland) Act 2000, the act which provides ways

to help safeguard the welfare and finances of people (aged 16 and over) who lack the capacity to take some or all decisions for themselves, because of a mental disorder or inability to communicate), (3) The Adult Support and Protection (Scotland) Bill, which is Legislation to better protect adults at risk of abuse and was announced by the First Minister in September 2005. The proposed Adult Support and Protection (Scotland) Bill was introduced to the Parliament on 30 March 2006 and should be Law by next June 2007.

### 223.3. Valuing Principles that Create a Service User Centred Mental Health Service: The Mental Health Care and Treatment (Scotland) Act 2003

Salma Siddique, *Napier University, Edinburgh* (S.siddique@napier.ac.uk)

Lynne Edwards, *Mental Welfare Commission for Scotland, Edinburgh, Scotland* (l.edwards@napier.ac.uk)

A new law, The Mental Health Care and Treatment (Scotland) Act 2003 that came into effect in October 2005 was developed through extensive consultation involving wide health and social care interests not least of which were the service user and carer interest groups. All action under the Act is guided by ten principles reflecting the lived experience and knowledge of Scotland's diverse communities. The principles express the nation's aspiration for the care of people with mental disorder. How can this aspiration be realised within hospital and community settings taking into account assessment, care, treatment and support?

## 224. Working Safely and Therapeutically in a UK DSPD Setting

### 224.1. Reflections on Efforts to Promote the Self-management of Self-harm in a Prison-Based DSPD Unit

Matt Stalker, *HM Prison Service, London, UK* (matt.stalker@hmps.gsi.gov.uk)

The Westgate Unit is an 80-bed facility located within HMP Frankland. Opened in May 2004, the Unit assesses offenders' suitability for the DSPD Programme as well as offering a diverse clinical framework of its own. This framework aims to reduce recidivism by focusing on improving prisoner quality of life, whilst managing risk and personality disorder. The heterogeneous nature of the self-harming population means that to date there is no agreed upon universally-effective treatment approach. This is particularly true of the self-harming sub-population within DSPD services, where the presence of psychopathy, multiple personality disorders and co-morbid Axis I disorders means that an effective treatment approach varies among individuals. This presentation is a reflection on the difficulties of trying to balance the Prison Service's legal 'Duty of Care' with efforts to establish a consistent, effective clinical approach to managing self-harm behaviour. Working with people that self-harm may cause fatigue, burnout and attitudinal change in staff, which in turn may reduce staff efficacy in the management and support of these individuals. Consideration will be given to the effectiveness of Dialectical Behaviour Therapy in combating the negative impact on staff working with this population.

## 224.2. Crisis: A Vehicle of Therapeutic Change

Naomi Murphy, *HMP Whitemoor, London, UK* (naomi.murphy@hmps.gsi.gov.uk)

The decision of mental health service providers to declare people with personality disorder "untreatable" and discharge/remove them from a service often occurs when the individual is in the midst of crisis and exhibiting behaviour and personality traits at their extreme. Many services are established in such a way that the opportunities for individuals to enter a period of crisis are restricted in order to ensure that the individual can be managed within the context. The authors of this paper will argue that rather than crisis being evidence of poor prognosis, it is an ideal opportunity for services to treat personality disorder. As such, not only should crisis be expected, it should also be considered a necessary pre-requisite of the active treatment of personality disorder and absence of periods of crisis during treatment might indicate that what is actually what is being offered to the client is management rather than treatment of personality disorder. Offences generally occur when the individual is experiencing a period of crisis and emotional turbulence. Services that operate by restricting opportunities for crises may also be restricting the opportunity to have a thorough understanding of the client's capacity for destructiveness during periods of difficulty by preventing parallel offending behaviours. This also reduces the quality and integrity of risk assessment. In the absence of crisis, significant therapeutic potential may also be lost.

### 224.3. Combating Manipulation & Conditioning of staff within DSPD Environment

Douglas Hogg, *HMP Frankland, London, UK* (douglas.hogg@hmpr.gsi.gov.uk)

Working with the DSPD prisoner group, it has been identified that some prisoners with psychopathic traits excel at manipulating and conditioning staff. To combat this, the Westgate Unit carries out Conditioning and Manipulation Training on a regular basis with our staff Multi Disciplinary Teams (MDT). In this presentation, we discuss the training delivered to MDT staff groups by the disciplinary officers. The areas we cover are synonymous with the different kinds of conditioning experienced in working with this client group, including: 1) staff on staff, which can be positive but is regularly of a negative attitude (this negativity could be the coming together of different staff groups within the MDT); 2) prisoner on prisoner, which is commonly classed as ‘bullying’; 3) prisoner on staff: due to the nature of our duties we unwittingly allow prisoners to allow us to create behaviour patterns which allows for the conditioning process to take place; 4) staff on prisoner: it has been proven that by creating regimes and programmes, prisoners will do as they are told and go where they should go, and in effect this itself is a form of conditioning. Developing awareness training allows us to carry out therapeutic duties in a professional and confident manner and enables us to deliver our duty of care to staff and prisoners. This paper will reflect upon the perceived need for such training, the practicalities of delivering it and the anticipated outcomes.

### 224.4. Challenges in Implementing Treatment in a High Secure Personality Disorder Service

Fin Larkin, *Broadmoor Hospital, London, UK* (fin.larkin@wlmht.nhs.uk)

The Paddocks DSPD Unit was opened in 2003 and is now expanding to be a 70-bed facility located in the maximum security Broadmoor Hospital. As well as assessing individuals in the UK for suitability for entry into the DSPD Programme, the Unit offers a comprehensive treatment programme designed to reduce recidivism through improving patients’ pro-social coping strategies, their quality of life, and managing symptoms of their personality disorder. In this paper, we reflect upon the challenges of implementing such a regime in a maximum security setting, and the implications of such work for the DSPD Programme.

## French Language Sessions

### 225. Les meurtres familiaux : infanticide, parricide, matricide

#### 225.1. Parricide, acquittement, mesure d'internement et resocialisation: L'étude d'un cas exemplaire

Philip D. Jaffé, *Université de Genève* (Philippe.Jaffe@pse.unige.ch)

L'acquittement pour raison de maladie mentale d'une personne qui a commis un homicide particulièrement choquant génère toujours une controverse sociale intense. Cette réaction incontournable sert, entre autres, le double objectif de métaboliser l'événement du point de vue sociojudiciaire, mais également d'éduquer la population sur les mécanismes et les effets potentiellement violents qui sont associés à la psychopathologie individuelle. Au détour d'une affaire récente de parricide qui s'est déroulée à Genève, nous allons succinctement retracer le fonctionnement du système sociojudiciaire et sanitaire par lequel l'auteur du parricide a transité jusqu'à sa réinsertion sociale complète. Entre l'homicide, la disparition complète de la symptomatologie mentale et le retour complet en société, il s'est respectivement un et, en toute probabilité, quatre années. Nous examinerons les enjeux institutionnels et disciplinaires souvent contradictoires qui ponctuent ce processus et combien il est difficile pour la personne centrale, l'auteur lui-même, de faire face aux attentes, aux exigences et aux enjeux médicaux, sociaux, psychologiques, législatifs, et familiaux.

#### 225.2. Homicides familiaux: comparaison psychocriminologique de l'uxoricide, du filicide et du parricide

Jacques Marleau, *Centre de recherche de l'Institut Philippe-Pinel de Montréal, Canada* (marleauj@videotron.ca)

Suzanne Léveillé, *Université du Québec à Trois-Rivières* (Suzanne.Leveillee@uqtr.ca)

Les meurtres familiaux représentent entre 30% et 40% des homicides résolus dans plusieurs pays. L'uxoricide (le meurtre de la conjointe), le filicide (le meurtre d'un ou de plusieurs enfants par un ou les deux parents) et le parricide (le meurtre d'un ou des deux parents) sont les plus fréquents. À l'aide de données, recueillies à partir des dossiers du Bureau du coroner en chef du Québec, entre 1986 et 1998, l'objectif est de comparer les trois formes d'homicide d'un point de vue démographique, criminologique et fréquent. À l'aide de données, recueillies à partir des dossiers du Bureau du coroner en chef du Québec, entre 1986 et 1998, l'objectif est de comparer les trois formes d'homicide d'un point de vue démographique, criminologique et psychologique. Aussi, des exemples cliniques d'individus psychotiques au moment du passage à l'acte seront présentés. Ces deux perspectives, épidémiologique et clinique, permettront de saisir, s'il y a lieu, la spécificité et la dynamique de chacune des formes d'homicide.

### 225.3. Crime et sexualité en famille

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Dans l'enfermement du lieu incestueux, rendant chacun indifférencié face à la domination, l'arbitraire et l'aléatoire du père ou de son substitut, la violence est sans fin. La modalité violente des relations intra-familiales peut porter, de manière indifférenciée, sur les enfants et la mère ; les violences exercées sur l'un peuvent être exercées sur l'autre, de manière analogique. Les violences incestueuses tendent à annihiler les positions subjectives des victimes, visent l'humiliation de certains, la suppression de toute velléité d'individuation, d'autonomie, de valorisation individuelle ; la Référence étant une certaine idée de famille et de son maintien. Cette violence et criminalité incestueuse, en lien avec la dimension sadique morbide, peut être associée à une criminalité sexuelle du père envers la mère, mise dans une position d'anéantissement de la figure maternelle et humaine. La communication, s'appuyant sur quelques cas, se fera dans une approche psychopathologique et anthropologique.

### 225.4. Filicide, passion et mélancolie

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Les classifications ou typologies en matière d'infanticide, depuis le travail princeps de Resnick (1969) aident-elles à comprendre ces passages à l'acte meurtrier particulier? En dehors de regrouper les caractéristiques des mères meurtrières, elles rendent compte surtout de la diversité et de l'aspect inclassable d'un acte dans lequel les facteurs culturels

ne sont pas négligeables (Oberman, 2003). Que l'on se place du point de vue de la motivation, ou de l'organisation de la personnalité, la population d'étude choisie (par exemple population psychiatrique ou population détenue) influe inévitablement sur le regroupement des caractéristiques (Marleau et al. 2001) : assez naturellement la sensibilité de l'opinion publique au moment d'une affaire d'infanticide et la prise en compte judiciaire surdétermine le traitement social (hôpital, prison, irresponsabilité pénale) et oriente ce choix. On constate dans la littérature que les définitions de l'acte filicide ou infanticide ne sont pas homogènes, ce qui est probablement un autre biais, d'autant que concernant la littérature de langue française nombre d'études ont été réalisées à partir d'un seul cas clinique. Après avoir repris les problématiques dégagées à partir de publications de synthèses comme celles précitées, versus des études cliniques, l'auteur se propose de dégager les fondements d'une approche psychopathologique du meurtre d'enfant : la discussion tirant leçon de ces typologies se fera à partir de cas cliniques expertisés, et portera d'une part sur le modus operandi et l'investissement psychique de l'acte par l'auteur, d'autre part sur la place de la question du lien de filiation au cœur de la bascule vers l'agir.

## 226. Les personnes incapables de consentir : Aspects éthiques, médicaux et légaux

### 226.1. Le consentement libre et éclairé : au-delà du juridique, la confiance

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La proportion des personnes âgées est de plus en plus élevée. Le terme de « grand âge » s'utilise désormais dans le cas de ces populations dont les atteintes fonctionnelles et cognitives s'accumulent au point de prendre des formes complexes. Ces populations peuvent être qualifiées de « vulnérables ». Une telle situation soulève des défis de plusieurs ordres. La recherche sur les maladies caractéristiques du « grand âge » apparaît non seulement nécessaire, mais aussi éthiquement obligatoire. Une telle recherche se heurte toutefois à de sérieuses difficultés. La première surgit au moment même du consentement. Les personnes âgées en perte d'autonomie se situent en effet aux limites de l'aptitude-inaptitude. Historiquement nous avons voulu protéger les patients vulnérables au point de les exclure de la recherche. Nous avons ensuite déterminé ceux qui décideraient à leur place. Il est maintenant temps de coopérer avec eux. Cette perspective conduit à repenser les finalités du consentement. Au-delà du constat des limitations et inaptitudes, il importe plutôt de maintenir, voire développer l'autonomie résiduelle des personnes âgées. Dans cette perspective, le but du consentement ne se

limite pas à donner une simple « autorisation », mais promeut plutôt la construction d'une relation soignante continue et de qualité entre une personne vulnérable et un intervenant soucieux de lui apporter son aide. Le processus de consentement devient ainsi une occasion de rencontres privilégiées, basées sur la confiance, où deux personnes s'efforcent conjointement de déterminer le mieux possible ce qui semble « faire sens » dans le vécu et l'histoire de l'une d'elle fragilisée par le poids des années et/ou de la maladie. Associée non seulement à la recherche mais aussi aux soins et aux multiples micro-décisions de la vie quotidienne cette approche orientée vers la dignité s'inscrit résolument dans une perspective de Santé de l'être humain à chaque âge de sa vie.

## 226.2. Incapacité, inaptitude, vulnérabilité

Catherine Girre, *Université Paris 7* (catherine.girre@wanadoo.fr)

Dans le cadre de la recherche biomédicale, les différentes législations s'efforcent de protéger tout particulièrement les personnes dont le consentement éclairé pose problème. Qui sont ces personnes? La notion d'incapacité juridique ne répond pas à toutes les situations. Certaines personnes, incapables juridiquement, ne sont pas incapables de juger de leur santé. A contrario, certaines personnes, juridiquement capables peuvent être incapables d'exercer leur autonomie de jugement et d'action en raison d'une maladie aiguë ou chronique. Le terme de vulnérabilité ne serait-il pas préférable? L'étude des différentes législations permet d'apporter quelques réponses. D'après l'Énoncé Politique des Trois Conseils, les personnes vulnérables sont des personnes devenues sans défense du fait de l'amoindrissement de leurs aptitudes ou de leur capacité à faire des choix. Est donc vulnérable tout être humain dont l'autonomie, la dignité et l'intégrité exigent protection et sollicitude en raison de sa fragilité. Pour le Comité Consultatif de Bioéthique français une personne ou une population incluse dans un protocole de recherche biomédicale est vulnérable chaque fois que les conditions de son accord libre et éclairé ne peuvent être toutes remplies. Cet empêchement peut être de nature sociale, économique, politique, juridique ou culturelle. Mais, toute personne malade, fragilisée par sa maladie, n'est-elle pas une personne vulnérable? Au-delà des définitions juridiques c'est la réflexion éthique qui doit toujours guider l'investigateur responsable d'une étude clinique.

## 226.3. Participation à la recherche des personnes vulnérables : le rôle de la personne de confiance

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Bénédicte Beviere, *Université de Franche-Comté* (benedictebeviere@hotmail.com)

Le législateur français est préoccupé par le sort des personnes vulnérables juridiquement capables mais incapables de fait. Peuvent être visées les personnes en perte d'autonomie ou dont l'aptitude au consentement est précaire en raison de l'apparition d'une maladie, du vieillissement ou d'une altération des facultés mentales ou physiques momentanées. Les lois du 4 mars 2002 portant sur les droits des personnes malades et du 9 août 2004 portant sur la recherche ont institué la « personne de confiance ». Cette dernière peut intervenir en cas d'urgence ou lorsqu'une personne majeure est hors d'état d'exprimer son consentement à l'expérimentation. Or, les dispositions spécifiques s'avèrent difficiles puisque, dans les faits, cette personne de confiance n'est généralement pas désignée conformément à la loi. Il persiste une confusion entre la personne de confiance et la personne qui assiste ou accompagne le sujet ou même avec la famille. Les auteurs présenteront l'expérience d'un Comité de protection des personnes qui analyse régulièrement des protocoles pour les personnes inaptes à consentir.

#### 226.4. La protection des mineurs et des majeurs inaptes en matière d'expérimentation: Perspectives canadiennes et québécoises

Pierre Deschamps, *Université McGill* (familledeschamps@videotron.ca)

Tous s'accordent pour dire qu'en matière d'expérimentation, les mineurs et les majeurs inaptes ont besoin d'une protection particulière en ce qui concerne leur bien-être et le respect de leurs droits. Cette protection prend différentes formes. Elle passe par le niveau de risque qu'il est permis de leur faire courir dans le cadre d'un projet de recherche, par le consentement requis pour que le projet de recherche puisse avoir lieu, par le type d'encadrement que le comité d'éthique de la recherche imposera au chercheur à la suite de l'approbation de son projet de recherche. Au Canada, les règles applicables en matière de recherche portant sur des mineurs et des majeurs inaptes varient. Le Québec se distingue des autres provinces canadiennes en ce qu'il possède une législation particulière régissant l'expérimentation sur les mineurs et les majeurs inaptes. Cette législation a été jusqu'à présent source de beaucoup de frustrations dans la communauté scientifique du fait que certains voudraient qu'elle s'applique à tout projet de recherche impliquant un mineur ou un majeur inapte et non seulement aux essais cliniques de nature biomédicale. L'auteur entend présenter les règles qui régissent actuellement au Canada et plus particulièrement au Québec l'expérimentation sur les mineurs et les majeurs inaptes et ainsi que le cadre éthique et juridique le plus susceptible d'assurer le bien-être et le respect des droits des mineurs et des majeurs inaptes qui sont recrutés pour participer à des projets de recherche.

## 226.5. Avoir 14 ans et décider pour soi: entre autonomie et autorité parentale

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Il y a plus d'une décennie déjà, le réseau de la santé et des services sociaux québécois vivait un changement significatif avec l'approche que souhaitait le législateur en matière de respect des notions d'intégrité et d'autonomie de la personne. Aussi, ces principes si chers aux défenseurs des droits de l'homme venaient de recevoir une reconnaissance ne laissant aucune équivoque. Non seulement innovait-on en balisant désormais les règles liées au consentement aux soins, mais l'on venait bousculer l'ordre des choses dans l'approche établie auprès des enfants, les "mineurs" du droit. On se mettait dès lors au parfum du jour, répondant à un constat social incontournable, en donnant droit de cité à ces enfants à qui le contexte social moderne donne déjà des maux d'adulte. Les situations rattachées aux grossesses précoces et aux avortement, furent parmi les ténors qui ont mené à ces changements législatifs. Le mineur, puisqu'à l'âge de 14 ans il devenait décideur à part entière des choix à faire pour sa santé s'affranchissait dans un contexte de par son état. Une victoire pour certains intervenants des milieux jeunesse, une lourde appréhension pour d'autres tant cliniciens que parents. La santé mentale chez les jeunes prends une place que l'on aurait jamais soupçonnée il y a 20 ans. Pression sociale, drogue, décrochage scolaire, violence familiale, dépression et suicide sont au menu de ces recrues de la vie. Dans un contexte clinique, ils ont 14 ou 16 ans et on leur donne la responsabilité de décider seul, en bout de ligne, des soins nécessité par leur santé mentale fragilisée. Consentement et confidentialité sont au rendez-vous. Mais que reste-t-il de l'autorité parentale? Comment les cliniciens et les administrateurs d'établissements pédopsychiatriques vivent-ils ce qui parfois devient confrontation? Comment traduire les choix vers ce que l'on nomme? Un point de vue d'un juriste en droit de la santé et d'un administrateur d'un établissement à vocation pédopsychiatrique.

## 227. Meurtre d'enfants: Perspectives anthropo-criminologiques et psychopathologiques

## 227.1. Du meurtre d'enfants considéré comme un paradigme anthropo-psycho-patho criminologique

Loick M. Villerbu, *Université Rennes 2* (loick.villerbu@uhb.fr)

Autorité paternelle, intégrité psychique, atteinte à la filiation sont les modes à travers lesquels l'homme a trouvé ses échelles de valeurs et les lieux des plus grands scandales. L'expérience empirique historique a déposé en surface, des domaines d'atteintes spécifiques qui ont fait du père (parricide), du féminin (le viol), de l'enfant (la chair de sa chair, métaphore du cannibalisme) des crimes paradigmatiques, sacrés et sacrificiels (une condition au delà de l'homme, le franchissement d'une humanité accrochée à ce qui la fonde). Que ces trois lieux du crime attestent d'une économie du penser (ce qui n'a pu, un temps se dire sans horreur ou sans émotion), du vivre (ce qui met l'homme en position de survie comptée), en représentant l'au-delà du nommable soutenable amènent à penser que se tient là en boucle une même question, sans cesse déplacée dont seule référence mythique serait à même de nous donner à voir les conditions structurales. C'est dans l'espace crimino-pathologique, pris ici dans ses dimensions mythique et scientifique que nous en chercherons les déterminants et tout particulièrement dans un cas qui en fera illustration : la fin en série, à la naissance, des enfants d'une femme en quête de père pour ses enfants, à partir du fantasme du père mort.

## 227.2. Le meurtres d'enfants dans une société pédocentrée: questions éthiques et enjeux narcissiques

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Devenu le plus impardonnable des crimes en se substituant à l'ancien tabou suprême du parricide, le meurtre d'enfants reflète la centration contemporaine du social sur l'enfant assigné de plus en plus à la fonction de prolongement narcissique d'adultes en souffrance identitaire. Sa valeur sacrée se traduit par la lourdeur des peines prononcées en matière criminelle dès qu'il s'agit d'enfant, à une exception notable près, quand il s'agit d'enfants gravement handicapés: la légèreté des peines prononcées à l'encontre de mères ayant tué leur enfant autiste. Cette indulgence soulève des questions éthiques majeures dans la mesure même où les arguments de la défense sont souvent les mêmes que ceux soutenant l'euthanasie. Tel sera l'objet de notre participation à ce symposium.

### 227.3.NON NOVA SED NOVE: réflexions épistémologiques sur le rapport théorico pratique (construction modélisante et stratégies d'accompagnement) autour des meurtres d'enfants

Philippe Génuit, *Université Rennes 2* (philippe.genuit@tiscali.fr)

Une analyse épistémologique en diagramme plus qu'en successivité chronologique nous faire tendre à l'humilité quant à la certitude de nos démarches explicatives : qu'elles soient psychopathologiques, sociologiques, comptables, morales, quant à l'investigation clinique sur les agis « meurtres d'enfants ». Il bon de nous rappeler que bien avant nous les démarches zététiques énonçaient : « **non nova sed nove** : rien de nouveau mais d'une manière nouvelle ». Le meurtre d'enfant et la non conception ont de tous temps été liés au paradigme de la femme comme **génitrice** en la stigmatisation socio pénale de ses agis érotiques ou éritiques. Les propos juridiques, thérapeutiques, psychanalytiques et même féministes actuels montrent que la rupture épistémologique n'est pas encore consommée à l'égard du sujet qui nous occupe ici. Le paradigme en vigueur, pour reprendre le vocable de Thomas Kuhn, est toujours positiviste et pré scientifique. Les travaux de recherche historique et sociologique en ce qui concerne la criminalité tournent plus particulièrement autour de la légalisation de conduites et comportements où la dimension communautaire était primordiale pour la pérennisation de la société. Cela permet de mieux comprendre la stigmatisation criminelle féminine en des lieux apparemment sexuels et génitaux alors que sous ce couvert se posait la question du patrimoine. On ne connaissait pas les méthodes qui aujourd'hui permettent la contraception et la prophylaxie et par là une lutte plus efficace contre les épidémies dévastatrices. D'où la promotion de la femme en tant que **génitrice** et le regard pénal sur l'accouplement et la reproduction. Ce regard pénal sur la femme avait pour corollaire le regard légal sur l'enfant, l'une et l'autre assujetti à l'omnipotence paternelle dépositaire obligatoire du patrimoine. Le crime à caractère féminin ne se fonde plus actuellement sur la faute de la génitrice mais sur l'**éducatrice**, à l'instar d'autres délits. Ici comme pour le vestimentaire l'androgynie semble s'instituer en parangon, avec une restriction de taille cependant : La criminalité féminine quasi inexistante ne s'évalue encore aujourd'hui qu'à l'aune ou si l'on préfère à l'étalon de la criminalité masculine dans des analyses de contenus ou de modus opérandi (recensement, enquête). Une analyse de rapport ou de modus vivendi (intrigue, énigme) complétant la première citée permet d'interroger la **focalisation paradigmatique** du meurtre d'enfants et la **perspective syntagmatique** et diachronique des crimes à caractère féminin. Ainsi est-ce sans doute heuristique, à l'instar de François Lissarrague, de concevoir les agis « **meurtres d'enfants** » dans la **perméabilité** :-du **rang social** (dans lequel les genres masculin et féminin ne sont qu'une composante) autrement dit le rapport comment/ainsi/comme il faut ;

-du **site** où se déroule la scène (site sédentaire ou nomade, distance) autrement dit le rapport où/ici/partout ; -du **moment** du déploiement de la scène (date et durée) autrement dit le rapport quand/maintenant/toujours. Le **qui** de la question ne peut exister dans cette

perspective autrement que dans le lien anthropo-biologique du hic et nunc et sic puisqu'il les constitue. Le qui alors tient compte du fait que dans un même temps, la personne unifie maints identités (enfant, conjoint, parent, professionnel, consommateur etc.) et que lorsqu'elle agit, elle agit toujours en situation avec un autre réel, fantomatique ou fantasmatique. Humainement l'acte n'est jamais individuel. Ceci va évidemment à l'encontre de la dichotomie victime/agresseur puisqu'il s'agit de penser l'acte ou l'action, au-delà de l'individualisme du **moi-sujet** inhérent à la pensée occidentale de la pensée grecque classique aux travaux actuels, en tant que potentiel de situation. Ce même potentiel de situation dialectalise la rupture de l'évènement et le cycle de l'avènement.

## 227.4. Meurtre d'enfant: Méta analyse des données sur les trente dernières années

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A l'heure actuelle, les meurtres d'enfants sont de plus en plus médiatisés, cependant le meurtre d'enfant a de tout temps existé dans notre société. Il n'est pas fait nouveau, néanmoins, les formes qu'il revêt aujourd'hui interrogent. La vision de ce crime par notre société a beaucoup évolué et aujourd'hui les dissimulations sont souvent utilisées et la médecine est parfois utilisée à ces fins par les parents. Qu'en est-il des données statistiques existantes mais aussi de celles des journalistes, des experts, des services d'urgence pédiatriques... sur les trente dernières années? Y'a-t-il des liens possibles entre les meurtres d'enfants jugés comme tel et certaines morts suspectes de nourrissons? Quel lien peut-on faire et comment les analyser? C'est en ce sens et en questionnant le parcours de vie des mères ayant tué leur enfant que nous allons tenter de réaliser notre méta analyse sur ce sujet. C'est aussi par là que nous tenterons d'exposer le lien existant entre certaines morts suspectes et ce que nous nommons les infanticides en tant que tel.

## 228. Moi est un autre

### 228.1. Moi est un autre lorsque le tiers regarde

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N'est considéré comme crime que l'acte puni au sens légal, et ce au nom de la société. En tant que *dispositif symbolique* la société, à travers les lois, exige réparation. Nous verrons que le contexte externe au couple acte-auteur est défini par l'interaction de trois fonctions et un rapport particulier à la loi : la justice prône le caractère inéluctable et normatif et s'occupe de l'application de la loi, alors que la sociologie contribue à sa construction afin de limiter les actions possibles de l'individu. La psycho(patho)logie s'intéresse à son aspect symbolique et structurant du sujet. Ce qui nous intéresse et interroge plus particulièrement, ce sont les rapports complexe entre culpabilité et responsabilité, au travers les processus d'élaboration et de mentalisation de l'acte. Nous verrons notamment que les résistances et mécanismes de défense jouent un rôle majeur.

Ainsi, derrière le déni d'un acte se cache souvent une autre vérité qui renvoie à la structure psychique du sujet et le lien particulier qui se tisse entre lui et son acte agi ou subi. L'agresseur, souvent aux prises avec une méfiance face à l'autre fait donc l'économie de la confrontation à lui-même et à la victime qui engendrerait honte et culpabilité.

« ... parce qu'ils ne savent pas ce qu'ils font. » C'est cette célèbre phrase de la bible qui semble d'autant plus justifier l'appel à la responsabilité de chacun qu'elle nous confronte à la dangerosité de l'autre, qui justement parce qu'il ne sait pas ce qu'il fait, tombe sous la loi de l'arbitraire et du hors conscience. Et cela, il faut bien l'admettre, vaut autant pour le sujet malade ou délinquant que pour le thérapeute.

D'où l'importance de référer à la dimension juridique lorsque nous abordons la dimension de l'acte. Nous référerons ici à l'idée d'Emmanuel Lévinas selon laquelle : « le mot « justice » est en effet beaucoup plus à sa place là il faut non pas ma « subordination » à autrui, mais « l'équité ». S'il faut l'équité, il faut la comparaison et l'égalité : l'égalité entre ce qui ne se compare pas. Et par conséquent le mot « justice » s'applique beaucoup plus à la relation avec le tiers qu'à la relation avec autrui. Mais en réalité la relation avec autrui n'est jamais uniquement la relation avec autrui : d'ores et déjà dans autrui le tiers est représenté ; dans l'apparition même d'autrui me regarde déjà le tiers. Et cela rend tout de même le rapport entre la responsabilité à l'égard d'autrui et la justice extrêmement étroit. »

## 228.2. Clinique de la responsabilité et droit de réponse: la question des accréditations de la parole du mineur d'âge et du malade mental en Justice

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L'actualité française, tant médicale que judiciaire, a remis sur le devant de la scène la question d'une redéfinition des termes de la responsabilité pénale du malade mental. Que

ce soit au travers l'évocation régulière du traitement d'auteurs de meurtres ou agressions d'enfants ou dans la mention chronique d'un projet de loi de création d'un procès d'imputabilité tenu en présence d'un auteur reconnu irresponsable aux termes de l'article 122-1, on entend à nouveau l'expression de cette préoccupation sociale et médiatique. Comme s'il était question de rendre au malade mental une parole, une capacité de réponse que le mouvement de la loi pénale avait convenu de lui retirer. Question d'autant plus aiguë d'ailleurs que, depuis plusieurs années déjà, les décisions de non-lieu pour motif d'irresponsabilité pénale sont devenues des plus rares.

Ce mouvement de courants d'opinion, dans le sens donc d'une accréditation nouvelle du malade mental délinquant, n'est pas sans faire penser à un questionnement identique à propos d'une accréditation de la parole du mineur, notamment victime d'agression. Mais la dynamique semble alors inverse : après avoir soutenu le principe a priori de la "crédibilité" de cette parole, la tendance est à présent de remettre en cause son bien-fondé immédiat, sa capacité à dire le vrai.

On entend donc se poser ici, sur les registres distincts des discours socio-médiatiques, médico-légaux et judiciaires, des problématiques de définition de la minorité et du protectorat, articulées aux problématiques de définition de la culpabilité et de la victimisation. Ces problématiques ouvrent par elles-mêmes un questionnement nouveau sur les critères de légitimation et d'accréditation d'une parole et d'une responsabilité, tant individuelles qu'institutionnelles.

### 228.3. Mineurs auteurs d'agressions à caractère sexuel : Expériences aux limites de l'altérité et du consentement

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Les impasses psychiques qui se révèlent autant à travers l'acte d'agression à caractère sexuel que dans ses élaborations ultérieures se centrent autour de la question du consentement et la difficulté d'accéder à l'altérité. La spécificité de ce type d'agir à l'adolescence pose la problématique des limites, la confusion entre l'intime et le public, entre éprouvés internes et externes. Par conséquent, l'acte n'est pas seulement un avatar de la structure, un reliquat d'une crise mise en impasse mais bien le révélateur d'un fonctionnement psychique, d'une opération adolescente en train de se réaliser. C'est ici que le clinicien peut rencontrer le sujet et va proposer une alliance entre les points de butée de la psychologie pathologique et ceux de la criminologie.

#### 228.4. Enfermement psychique- enfermement carcéral : vers un espace thérapeutique

Charles Casanova, *Service médico-psychologique régional, Maison d'Arrêt des Yvelines, Bois d'Arcy, France*

Le vécu de l'incarcération est individuellement différent. Il n'est pas rare de constater que certains souffrent, dépriment, voire se suicident en prison alors que d'autres semblent en tirer un bénéfice certain en terme de contenance psychique. Nous proposons de penser le cadre carcéral comme une scène de la vie psychique du sujet susceptible de mettre en sens une position singulière du patient au sein d'un enfermement que l'on tente de ramener à un niveau symbolique ou symbolisable, notamment quant à la position de ce patient par rapport la loi, dans son histoire et sa construction personnelles. Le but est de faire de la prison une partie de l'histoire du sujet – en tant qu'il a participé à construire cette histoire, à partir d'un certain état d'enfermement, que la psychothérapie aiderait à faire émerger. Il s'agit de rendre le patient à la fois acteur du soin et acteur de l'incarcération elle-même, sachant qu'il a initialement vis-à-vis de celle-ci une position passive, le plaçant dans le subir. On utilise deux espace-temps : carcéral et thérapeutique. On recherchera quelle est SA *position* initiale par rapport à l'enfermement et son *action* dans le processus qui a abouti à l'incarcération. Nous mettons ici en évidence que ce qui rend possible une symbolisation à effets potentiellement thérapeutiques de l'enfermement initial du sujet, c'est la rencontre d'un espace carcéral et d'un espace thérapeutique, qui constituent à eux deux un lieu et un moment particuliers et inédits.

#### 228.5. Le couple « victime auteur », du point de vue des fonctions psychiques de la victime pour l'auteur dans l'acte d'agression

Valérie Moulin, *Université Rennes 2 Haute-Bretagne (valerie.moulin@uhb.fr)*

Dans cette communication, il s'agira d'interroger les fonctions psychologiques de la victime dans l'agir criminel, et ce, au regard de la vulnérabilité psychique de l'auteur et de ce qui a été mis en impasse chez ce dernier dans la dynamique précriminelle de l'acte. La clinique de l'agir criminel violent met en exergue l'extrême sensibilité des sujets aux modifications de leur environnement, plus précisément aux modifications du rapport à l'autre, ressenties comme une menace dans la période qui précède l'infraction. Les mouvements d'autrui peuvent être sources d'angoisses et de déséquilibres psychiques en révélant la « *vulnérabilité psychique* » des sujets, notamment identitaire, narcissique et objectale. Dans certains cas, l'impasse psychique suscitée par la dynamique antérieure à l'agir, participerait à la mise en œuvre d'un processus psychique favorable à l'infraction

et à la construction psychologique d'une victime chosifiée ; victime avec laquelle il s'agirait de maintenir un type relationnel qui assure la stabilité identitaire et narcissique.

## 229. Pédophilie: Angles cliniques et phénoménologiques

### 229.1. Violences et quête spirituelle

Éric Guillon, *Psychologue, Cabinet privé* (guillon.eric2@wanadoo)

Si l'effraction corporelle est aussi celle du psychique, elle dévoile avant tout, dans la mise en scène et la répétition des comportements et des modes de penser, une démarche propre à la condition humaine. On ne peut véritablement dissocier l'auteur de violence sexuelle de sa victime car, à travers le caractère de leurs relations, uniques, individuelles, inter subjectives et inter relationnelles, c'est bien à une quête de sens à laquelle on assiste. Finalement, le mal révèle le bien. Un moyen d'éclairer la genèse des comportements violents subis et/ou agis est de considérer l'histoire individuelle à travers celle de l'humanité. Ainsi, l'étude de l'homme passe par celle des civilisations. Or, au fil du temps, et qu'elles qu'en soient les formes, ce qui anime l'homme est toujours une quête spirituelle.

### 229.2. La dynamique du vide et du plein dans la relation auteur/victime de violences sexuelles: Approche ethnopsychopathologique de l'auteur de violences sexuelles

Christophe Sy-Quang-Ky, *Centre Hospitalier de Mont de Marsan, France* (christophe.sy-quang-ky@ch-mt-marsan.fr)

A partir de la projection du film de G. ARAKI, nous vous proposons une approche ethnopsychopathologique qui fait le lien entre d'une part le fonctionnement psychique de l'auteur et de sa victime, d'autre part, la dimension interculturelle et la psychopathologie.

Nous empruntons les concepts de l'analyse systémique, de la phénoménologie, de la psychanalyse et de la théorie du chaos pour traiter les auteurs de violences sexuelles. Tout est interdépendance, comme dans la pensée chinoise taoïste entre vide et plein : tantôt destruction et vide dépressogène (passage à l'acte pédophilique, toxicomaniaque,

réitération et recours à l'acte face à l'angoisse de mort) tantôt vide-plein significative de vie et d'espoir. Cette approche est étroitement liée à la dynamique partenariale (Santé – Justice – Travailleurs sociaux autour de l'auteur, de l'enfant et de la famille) dans notre région.

La rencontre du pédophile et de l'enfant est réticulaire selon trois protagonistes : l'auteur, la victime et le contexte. De la souffrance à la résilience, la réparation des deux garçons victimes du même pédophile, on note une illustration paradigmatique pour dépasser le clivage, l'emprise, le « déni de complicité » entre soignant – patient, en se référant aux phénomènes complexes de groupes face au vide à penser du thanatos. Autre modèle, l'œuvre du Caravage mettant en scène l'emprise par le jeu subtil de l'ombre et de la lumière, caractéristique de l'art italien baroque de cette remarquable période picturale. Le peintre nous donne à voir ce que nous vivons en thérapie avec nos patients : se défaire de la pulsion de mort pour accéder au sublime !

### 229.3. Pulsion, culture, valeur et norme: la morale de l'histoire

Jean Motte dit Falisse, *Expert agréé près la Cour d'Appel de Poitiers, Rennes, France*  
(Falissejea@aol.com)

La notion de pulsion de contact, telle que développée par Léopold Szondi, servira de point d'appui initial pour élaborer une observation des modes d'inscription du sujet dans la réalité d'une situation à laquelle il lui faut donner sens. Les rapports au temps et à l'espace, définis par Edward T. Hall en termes de synchronie et de proxémie, témoigneront ensuite de la dimension nécessairement culturelle de cette inscription contactuelle au monde et de ses enjeux identitaires, au regard notamment de l'identité sexuelle. La référence aux notions d'instincts de sympathie et de défense, ainsi qu'aux processus d'attribution d'intention, théorisée par Etienne De Greef, permettra alors de mieux comprendre le prolongement de ces modes d'inscription dans la relation humaine, qu'elle soit de nature agressologique ou victimologique. De telle sorte que ces processus d'intentionnalité nous conduiront à interroger, à la suite de Christian Debuyst, le sens d'une référence à la valeur en tant qu'opération de reconstruction cognitive du réel, comme moyen de justification personnelle de l'agir, autant que comme affirmation d'un bien tiers. Cette référence à la valeur nous autorisera enfin à inscrire le rapport à la norme sociale en deux logiques du discours et de l'agir: celles d'une morale fonctionnelle et d'une morale valorielle. L'écoute du propos des protagonistes de *Mysterious Skin*, de même que l'observation de leurs actes, nous aideront ainsi à les percevoir en tant qu'êtres irréductiblement en protestation morale.

## 229.4. Approche psychocriminologique de l'agir pédophile

Valérie Moulin, *Université Rennes 2 Haute-Bretagne* (valerie.moulin@uhb.fr)

A partir d'une modélisation psychocriminologique de la dynamique de l'agir pédophile et des processus psychiques qui le sous-tendent ; modélisation qui prend en compte différentes dimensions (contextuelle, relationnelle, psychopathologique, historique etc.) et niveaux d'analyse, envisagés de façon dynamique, temporelle et signifiante, nous mettrons en exergue deux problématiques prévalentes dans la dynamique de l'agir pédophile. Ces deux problématiques, relatives à

-la clinique du vide face à la difficulté des auteurs d'infraction à réaliser un travail d'élaboration psychique de la perte d'objet et/ou des affects dépressifs et à

-la difficile régulation de la distance relationnelle, liée à une perméabilité des frontières et des limites sur le plan psychique seront interrogées à partir de la relation à l'autre et plus particulièrement de la notion « *dysrégulations narcissique et objectale* » appréhendée en terme « *vulnérabilité psychique* » dans la dynamique de l'agir.

## 229.5. L'intervention du psychologue en criminologie

Astrid Hirschelmann-Ambrosi, *Université Rennes 2 Haute-Bretagne* (astrid.ambrosi@uhb.fr)

Cette intervention propose une étude psychodynamique du dilemme affectif qui se pose pour le témoin (éventuellement le silence complice de la mère ou de toute autre personne observatrice de l'abus) et qui se heurte dans son dénouement au sentiment de culpabilité. Ce dernier rejoint souvent d'ailleurs aussi celui de l'agresseur ou de la victime et se propage ar les voies du déni et de la projection. Autrement dit la culpabilité serait la clé de voûte pour mettre en lumière une construction identitaire, voire une élaboration de l'acte en creux. C'est ce travail du négatif qui fonde l'intervention du psychologue en criminologie.

## 229.6. Pédophilie, Paraphilie, Pédoclastie...

Loick M. Villerbu, *Université Rennes 2* (loick.villerbu@uhb.fr)

Pédophilie, Paraphilie, Pédoclastie... entre descriptions et préjugés chacun des termes en usage contient en eux mêmes une double intention : au sens large d'une politique criminelle et ses actualités nationales et internationales, au sens plus restreint d'une prise en charge médicale et psychologique. Entre ces deux voies peut-on en penser aujourd'hui une et sortir des dilemmes que posait déjà A. Tardieu, l'inventeur de la maltraitance à l'enfant au milieu du XIXème siècle ?. Un retour sur l'histoire permet de mieux comprendre le silence volontaire qui a longtemps entouré ces pratiques sexuelles imposées, de la part des institutions comme des thérapeutes.

## 230. Traitement des délinquants pédophile: De l'expertise à la probation

### 230.1. Intégration sociale versus risque récidive : compétences et limites de l'assistance de probation

Francine Teylouni, *Office pénitentiaire, Genève, Suisse* (francine.teylouni@etat.ge.ch)

Au travers d'une brève présentation du nouveau code pénal suisse qui entrera en vigueur le 1er janvier 2007, lequel précise à son article 93 le cadre et les principes généraux d'intervention de la probation, nous préciserons l'étendue de la mission d'un Service de probation et d'insertion et illustrerons, à l'appui d'un cas pratique, les moyens mis en oeuvre à Genève pour prévenir la récidive et favoriser l'insertion sociale dès le premier jour de l'incarcération d'un délinquant pédophile. Nous aborderons la question de la récidive ainsi que des limites rencontrées par la probation et celle de l'utilité, pour les pallier dans une certaine mesure, de la complémentarité des pratiques judiciaires, médicales et socioéducatives.

### 230.2. La responsabilité pénale du pédophile: conséquences de l'expertise sur la prise en charge thérapeutique

Gérard Niveau, *Service de médecine pénitentiaire, Genève, Suisse*  
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L'évaluation de la responsabilité pénale du délinquant pédophile conditionne en grande partie la qualité de sa prise en charge à long terme. L'expert psychiatre se trouve confronté au choix de considérer le comportement du pédophile soit comme une orientation sexuelle répréhensible et entièrement volontaire, soit comme le symptôme d'une pathologie psychique justifiant une diminution de responsabilité pénale. Du degré de responsabilité proposé par l'expert va dépendre d'une part la possibilité pour le système pénal de prononcer une mesure thérapeutique, mais également, d'autre part, le message quant au sens des actes commis, tel qu'il sera adressé à l'auteur des actes au moment du jugement. En nous basant sur une revue de la littérature scientifique des cinq dernières années, nous relevons en quoi les comportements pédophiles doivent être reconnus en tant que troubles mentaux justifiant une diminution de responsabilité pénale et une prise en charge thérapeutique spécifique.

### 230.3. Défis dans la prise en charge des pédophiles en détention préventive et postpénal

Diane Roth Schellenberg, *Penitentiary Medical Service, University Hospitals of Geneva, Geneva, Switzerland* (Diane.Roth@hcuge.ch)

Cette présentation a pour objectif d'aborder les défis et difficultés rencontrés dans les psychothérapies de patients présentant des comportements pédophiles, tant durant la détention préventive que durant les prises en charge post-pénales à Genève en Suisse. Les aspects cliniques, éthiques et déontologiques liés à l'insertion dans un réseau de soin et dans le processus judiciaires seront mis en avant, elles seront illustrées par des vignettes cliniques.

### 230.4. Prise en charge individuelle et familiale de délinquants sexuels pendant l'exécution de la peine, exemples et réflexions

Viviane Schekter, *Carrefour Prison Association, Geneva, Switzerland* (schekter@carrefour-prison.ch)

Sur la base de la pratique clinique, à la fois à l'intérieur d'un établissement pénitentiaire et dans une association à l'extérieur des murs, les spécificités de la prise en charge des délinquants sexuels pédophiles pendant l'exécution de leur peine seront exposées.

Cette pratique psychothérapeutique en milieu carcéral en Suisse (Fribourg et Genève), nous a amenés à adapter le setting thérapeutique, notamment en ce qui concerne le travail

sous contrainte, mais aussi en ce qui concerne les proches du détenu. La spécificité de cette étape post-jugement sera détaillée, ainsi que les avantages et inconvénients du traitement intra muros.

Une majorité des délinquants sexuels pédophiles maintiennent un lien avec l'extérieur pendant la durée de la peine. Cette présentation proposera un éclairage particulier sur l'intégration des proches et familles de détenus dans la démarche thérapeutique. En effet, dans les Etablissements pénitentiaires de Bellechasse à Fribourg, la prise en charge peut être familiale. Il sera aussi montré à quel point l'intégration des proches est nécessaire pour la réinsertion sociale à la sortie, à travers des exemples cliniques issus de la pratique genevoise de l'Association Carrefour Prison, qui prend en charge les familles et proches de personnes en détention.

### 230.5. Traitement ambulatoire des délinquants sexuels pédophiles

Paul Cosyns, *Université d'Anvers* (paul.cosyns@skynet.be)

La loi Belge prévoit le traitement obligatoire de tous les délinquants jugés pour fait de mœurs sur des mineurs lorsqu'ils quittent un établissement pénitentiaire pour rejoindre la communauté. Ils sont obligatoirement pris en charge par des centres communautaires agréés et spécialisés dans le traitement des délinquants sexuels.

Nous présenterons la structure et les principes de traitement ambulatoire des délinquants sexuels. Le parcours de la prise en charge thérapeutique comprend les étapes suivantes : intake (1/2 journée), pré-thérapie (motivation et évaluation diagnostique ; +/-3 mois), thérapie (2 ans au minimum) et suivi à plus long terme. Le programme de traitement comprend les modules suivants : analyse du scénario du délit, traitement des distorsions cognitives, contrôle des pulsions sexuelles (éventuellement 'castration chimique'), travail d'empathie pour les victimes et prévention de la rechute dans la délinquance sexuelle.

Nous discuterons les problèmes éthiques suivants : le traitement dans un cadre de soins contraints, le devoir de confidentialité et la demande de rapportage des autorités judiciaires, les limites du secret médical en cas de danger pour l'intégrité physique de tiers.

### 231. Victimes et victimisation: Regards croisés sur une réalité médico-psycho-socio judiciaire

### 231.1. Violence et agressions au travail : approche psychologique d'un processus victimaire

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Nathalie Przygodzki-Lionet, *Université de Lille 3* (lionet.przygodzki@wanadoo.fr)

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Outre des racines productives, normatives et socialisantes, le monde professionnel traduit parfois une fragilité de la dynamique interrelationnelle sur laquelle il se fonde. Ce n'est que récemment que la notion de victime est apparue dans le vocabulaire professionnel. Notre recherche s'inscrit en conséquence dans une volonté de mettre en exergue ces victimes « ordinaires », symboles d'une souffrance individuelle aux ressorts collectifs. Leur regard empreint d'émotions ainsi que la quête de sens dans laquelle elles s'enclavent, sont considérés comme des grilles de lecture privilégiées de l'évènement aversif et permettent de mieux comprendre la nature de la rupture homéostatique intrapsychique. La victime élabore ainsi une construction cognitive de la situation, modulant sa réactivité psychophysiologique. Notre démarche tend en outre à postuler que la nature de la victimation, chronique vs aiguë, intentionnelle vs instrumentale, latente et insidieuse vs brutale et tranchante, modulerait les conséquences engendrées en favorisant un seuil de tolérance différentiel.

### 231.2. Victimation et communication sociale: la présentation des victimes dans les médias et son incidence sur les représentations sociales

Nathalie Przygodzki-Lionet, *Université de Lille 3* (lionet.przygodzki@wanadoo.fr)

A l'heure où nous sommes quotidiennement confrontés à la violence, que ce soit directement ou indirectement à travers la communication médiatique, la question de la victimation semble prendre de plus en plus d'importance dans notre société. Mais le fait de parler davantage des victimes correspond-il à un réel intérêt porté à leur égard? Les résultats de plusieurs études réalisées en France ces dernières années, dont l'objectif était de voir comment les victimes sont présentées, non seulement dans la presse écrite et télévisuelle mais aussi dans le cinéma, nous conduisent à une réponse pour le moins nuancée à cette question. En effet, les éléments saillants qui émergent des différentes analyses effectuées concernent d'une part, la place mineure accordée à la victime dans les journaux et les reportages télévisés et d'autre part, la multiplication du nombre de victimes dans les films, celles-ci devenant en quelque sorte les instruments de notre distraction. La communication sociale constituant l'instance de transmission et

d'élaboration de la pensée sociale, se pose, au terme de ces recherches, la question de l'incidence de ce « traitement médiatique » de la victimation sur les représentations sociales de la victime.

### 231.3. Prise en charge médico-légale de l'enfant victime d'abus sexuels : Point de vue d'un médecin légiste - pédiatre

Marie Desurmont, *Centre Hospitalier Régional Universitaire de Lille, France*  
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Les campagnes de prévention des abus sexuels chez l'enfant ont entraîné une augmentation des signalements judiciaires avec une demande accrue d'examens médico-légaux. Parmi les préoccupations des professionnels face à cette "judiciarisation", apparaît comme particulièrement redouté l'examen gynécologique.

Si les problèmes médicaux sont rares, les répercussions psychologiques dominent. Mais le traumatisme ne peut se résumer à l'acte sexuel lui-même. En particulier, l'examen médico-légal est souvent considéré comme une épreuve supplémentaire. En quoi cet examen est-il traumatisant? Le caractère contraignant de l'examen fait que l'enfant ne peut, a priori s'y soustraire. Les interrogatoires et les examens gynécologiques peuvent être répétés et source de souffrance.

Quand l'examen médico-légal est-il utile, nécessaire, indispensable? L'abus sexuel est rarement un diagnostic clinique. Le but de l'examen médical est d'établir l'histoire de l'abus sexuel, de faire un examen médical complet, d'établir un diagnostic et un traitement si nécessaire et de réassurer l'enfant et sa famille. Comment limiter le traumatisme?

La prise en charge des abus sexuels chez l'enfant nécessite l'intervention d'équipes spécialisées et multidisciplinaires, spécifiquement formées. Il apparaît nécessaire de recueillir le consentement de l'enfant à toutes les étapes de l'examen, de l'informer du motif de l'examen et des résultats, d'être le moins traumatisant possible en limitant les examens et en ne pratiquant que les gestes autorisés et nécessaires.

Quelle est la place du médecin? Le médecin ressent aussi cet examen comme une contrainte où il n'a aucun pouvoir de décision ni même de regard sur le devenir de l'enfant.

La prise en charge des abus sexuels pose de multiples questions d'ordre technique, relationnel et éthique. Une des préoccupations majeures doit être celle de ne pas nuire, de ne pas être source de souffrances supplémentaires.

### 231.4. Procès pénal et présence accrue de la victime

Philippe Lemaire, *Procureur de la République près le Tribunal de Grande Instance de Lille, France* (philippe.lemaire@justice.fr)

L'évolution de la procédure pénale française depuis 1980 a accordé un rôle croissant à la victime. Centrée sur l'auteur des faits, la procédure pénale française a déplacé, selon le vœu du législateur et de l'opinion publique, le centre de gravité du procès vers la victime. Celle-ci s'est vue d'abord reconnaître des droits d'assistance (association d'aide aux victimes), puis des droits d'intervention dans la procédure, puis un droit d'information obligatoire par le procureur de la République. Par ailleurs, la victime, partie civile, a obtenu d'être actrice du procès avec la possibilité de demander des actes d'enquête ou d'instruction, avec appel possible en cas de refus. De plus, les possibilités d'action en justice pénale ont été ouvertes à de très nombreuses associations, qui sont habilitées légalement à rester en justice pour la défense d'intérêts particuliers qu'elles représentent, alors que ces associations ne sont pas elles-mêmes victimes des faits qui sont soumis à la formation de jugement. Dès lors, il convient de réfléchir aux conséquences de la "victimisation" du procès pénal, notamment sur la concurrence exercée par la partie civile à l'égard du procureur, sur l'émergence de la partie civile comme partie poursuivante, ce qui entraîne une modification du déroulement du procès, une « sur-émotion », un possible retour à la vengeance, une modification du régime des preuves, une sur-valorisation de la parole de la victime, et une possible régression du

### 231.5. Le clinicien face aux victimes : approche francophone du psychotraumatisme et de sa prise en charge

Nicolas Devemy, *Service Intercommunal d'Aide aux Victimes et de Médiation (SIAVIC) de Roubaix, France* (ndevey@ yahoo.fr)

En 1996, l'organisation mondiale de la santé (O.M.S.) prenait la résolution de faire de la violence auto-infligée, interpersonnelle ou collective un problème majeur de santé publique (résolution WHA49.25), avec un coût économique et humain énorme. Les enquêtes de victimation réalisées en France montrent par exemple que 4,2 millions de personnes déclarent en 2005 avoir été victimes d'agression (INSEE, 2005). Autres sources de victimation en parallèle de la violence intentionnelle, les catastrophes naturelles provoquent aussi plusieurs dizaines de milliers de victimes chaque année. Les associations d'aide aux victimes de France prennent ainsi en charge près de 300 000 victimes, pour une large part d'infractions pénales, dont au moins 15 % sont accompagnées psychologiquement. Parce que la Nature et l'Homme sont à l'origine de

nombreux traumatismes, la clinique psychotraumatologique intéresse directement les intervenants des domaines médical, psychologique, social, judiciaire, et tout particulièrement les professionnels de la santé mentale. En illustrant notre propos de vignettes cliniques issues d'entretiens auprès de victimes d'infractions pénales, et en nous référant à l'approche francophone du trauma, avec notamment le courant de pensée de l'Ecole du Val de Grâce et des auteurs comme Louis Crocq, François Lebigot, Liliane Daligand, Claude Barrois, Michèle Vitry, nous aborderons dans les grandes lignes l'étiopathogénie

## Italian Language Sessions

### 232. Child Abuse and Pedophilia

#### 232.1. Il Progetto CIRP

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La relazione offre informazioni sul comportamento reale dei bambini nelle chat, nel corso di incontri con adulti pedofili. Lo studio quantifica il fenomeno dei tentativi di adescamento da parte dei pedofili in chat e verifica i motivi della mancata comunicazione dell'abuso ai genitori. Vengono inoltre descritti i profili di personalità dei minori particolarmente a rischio in base ad una simulazione di identità condotta da ricercatori ICAA italiani e spagnoli in alcune chat. Le informazioni ottenute con tale attività di studio hanno consentito la realizzazione di linee guida per lo svolgimento di attività sottocopertura (simulazione di minori in chat) da parte delle forze di polizia specializzate di alcune Nazioni europee. Le informazioni ricavate dallo studio rappresentano inoltre una base conoscitiva importantissima per costruire un percorso di sensibilizzazione sulla tematica pedofilia on-line, destinato in primo luogo ai bambini e in secondo luogo agli apparati di socializzazione e controllo fondamentali (famiglia e scuola) al fine di rendere più sicura la navigazione dei minori su internet.

## 232.2. Il progetto NNCAD

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Stefano Rubini, *International Crime Analysis Association, Rome, Italy* (segreteria@icaa-italia.org)

Valeria Florio, *International Crime Analysis Association, Rome, Italy* (segreteria@icaa-italia.org)

Il progetto di ricerca attualmente in fase di sperimentazione, è finalizzato alla realizzazione di uno speciale software diagnostico (implementato presso i laboratori ICAA) che guida gli investigatori e i clinici di area medica e psicologica nel corso degli accertamenti diagnostici tentando di ridurre i margini di errore e nel contempo fornendo una metodica standardizzata interdisciplinare.

## 232.3. Applicazioni cliniche e investigative del sistema NNCAD

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Roberta Bruzzone, *International Crime Analysis Association, Rome, Italy* (segreteria@icaa-italia.org)

Giacomo Badalamenti, *International Crime Analysis Association, Rome, Italy* (segreteria@icaa-italia.org)

La relazione presenta alcune possibilità applicative in ambito clinico dello speciale software diagnostico basato su un sistema di intelligenza artificiale. Lo studio illustra alcuni scenari diagnostici tipici nell'ambito dell'abuso minorile proponendo un approccio innovativo. Vengono considerate applicazioni investigative e cliniche integrate.

## 233. Criminalistic and Investigative Forensic Evaluation

### 233.1. La Percezione del Rapporto con le Forze Dell'ordine nelle Vittime di Reato

Annamaria Giannini, *University of Rome La Sapienza* (annamaria.giannini@uniroma1.it)

Vi è una lunga tradizione di studi e ricerche sui processi affettivi delle vittime del crimine. Sono stati messi a punto diversi programmi per migliorare la qualità del rapporto fra Polizia e vittime del crimine. In Italia, Polizia e Università di Roma "La Sapienza", Facoltà di Psicologia 2 hanno pianificato una indagine tesa a investigare alcuni fattori importanti nel processo dello sporgere denuncia, dal punto di vista della vittima e dell'ufficiale di Polizia che riceve la denuncia. Per questo fine abbiamo preparato tre diversi questionari: uno teso a indagare bisogni, emozioni della vittima che denuncia un reato, il secondo finalizzato a conoscere le rappresentazioni mentali dell'atto della denuncia di chi non è mai stato vittima di reato o di chi, pur essendo stato vittima, per qualche ragione, non ha sporto denuncia e il terzo questionario è stato somministrato agli operatori di Polizia che ricevono le denunce. In quest'ultimo caso eravamo interessati a conoscere problemi, bisogni e livelli di soddisfazione rispetto al proprio lavoro, nell'ottica di migliorare capacità e risorse psicologiche degli operatori di Polizia, attraverso sessioni di formazione specifiche. I risultati sono alquanto interessanti e mostrano chiaramente la necessità espressa dagli operatori di Polizia di ricevere formazione sui temi della vittimologia e sui processi psicologici coinvolti nell'atto della denuncia.

### 233.2. Criminology Applied To Forensic Activity (Clinical Cases)

Amato Luciano Fagnoli, *Anti-Crime Central Office, Italy* (fagnoli.uacv@katamail.com)

Aim of this presentation is to illustrate the practical application of concepts and scientific theories belonging to the branch of Criminology. Theories on personality and psychopathology can be applied to crime scene analysis as well as to suspect interviews. Principles of victimology, can help in understanding dynamics of crime as well as can help during victims' interview. Crime scene is the result of a behaviour and a behaviour is the result of a personality. If we observe a crime scene with trained ability to detect signs, we can reconstruct the dynamic of what happened and make some hypothesis on personality traits of the author. For instance research has shown that psychotic subjects

choose certain kind of victims, behave during and after the crime in a certain way, etc. Even though we can't, by law, do a personality diagnosis on a suspect, when a criminologist assists police forces during an interrogation, can help in detecting deception, in identifying risk of violence, in revealing unintentional memory impairments. The interview with traumatized people using principles of victimology can help in enhancing memory and can convert the witnessing experience, usually painful, in a positive moment for the victim. Practical cases will illustrate these concepts.

### 233.3. Witness Information Gathering With Crime Victims

Emanuela Tizzani, *Anti-Crime Central Office, Italy* (emanueala.tizzani@tin.it)

This presentation focuses on the problem of gathering information from victims of serious crimes, often traumatized. Traumatic reactions to crime impact the process of witnessing. First of all policemen have to face perception and memory distortions that victims experience during the event. These distortions in the report can create problems in the investigation phase and during the trial. For instance, a reconstruction of the timing and the dynamic of the event can be difficult if information from different witnesses do not fit. A training for policemen focused on acute stress reactions and strategies to test information can help to overcome these problems. Secondly, the policemen approach to victims will influence their processing of the event in the future. This is a very heavy responsibility, that policemen feel. They use their humaneness to approach victims, but sometimes they have to face doubts and uncertainty ("Did I make mistakes?"). A training focused on the proper approach to crime victims, based on research on psycho-traumatology and the ways to deal with trauma, can help policemen to found their behaviour with traumatized people on scientific bases, in order to use the proper strategies and feel more comfortable in this kind of situations.

### 233.4. Funzione ed Evoluzione Dell'intelligence

Sergio Mura, *Retired Sea Captain* (sergio\_mura@hotmail.com)

Ripercorrere aspetti, funzioni ed evoluzione dei Servizi di Intelligence è argomento alquanto difficile da trattare poiché l'opinione pubblica, i media e, spesso, anche sedicenti "esperti" ne trattano con una visione distorta da stereotipi e luoghi comuni tanto diffusi quanto difficili da modificare e riportare nella loro corretta dimensione. In un periodo quale quello odierno, caratterizzato da un terrorismo globalizzato e violentissimo e da una situazione geopolitica che sembra condurci verso l'abisso, il ruolo

dell'Intelligence mantiene una importanza fondamentale per ciascun grande Paese, ed anzi appare essere sempre più risorsa imprescindibile per il contrasto di fenomeni e situazioni gravi, complesse e difficili da controllare. Dopo anni che hanno visto il moltiplicarsi di sistemi e branche tecniche che avevano soppiantato il ruolo del fattore umano nello spionaggio e nel controspionaggio, si assiste ora ad un ritorno al ruolo ed all'importanza dell'uomo quale elemento fondamentale nel sistema Intelligence. Il caso italiano, poi, anche alla luce di recenti avvenimenti di cronaca, viene specificamente approfondito esaminando e valutando i numerosi tentativi di riforma di cui il sistema informativo nazionale è da tempo oggetto di ampio dibattito.

### 233.5. Strumenti e Metodologie Investigative Finalizzate All'identificazione Del Reo

Leonardo Mirto, *Università di Roma La Sapienza* (stpd542130@carabinieri.it)

Oggi più che mai la lotta al crimine va canalizzata verso un duplice obiettivo; da una parte una sempre più proficua collaborazione con le Università per la formazione degli operatori di polizia, dall'altra una politica criminale a passo con i tempi. Oggi, nell'era della globalizzazione del crimine, è impensabile combattere forme delinquenziali complesse quali "terrorismo islamico" – "criminalità organizzata o transnazionale" con la sola investigazione tradizionale, bisogna convincersi che, l'intuito dell'investigatore - indispensabile ed insostituibile - deve necessariamente passare attraverso la conoscenza del nemico raccogliendo informazioni sul suo conto, registrandone generalità e dati che possono permettere l'identificazione. Questa metodologia di raccolta, deve essere supportata da tecnologie sempre più all'avanguardia quale per esempio la creazione di una banca dati che permetta - in caso di "arresti/denunce/indagini per terrorismo/mafia/organizzazioni criminali transnazionali" - d'acquisire sul conto dell'indagato le impronte digitali - riconoscimento del volto - geometria 3D della mano o delle dita – retina – iride – DNA - termografia del viso - vene del dorso della mano, del palmo o del dito - immagine del palmo – orecchio – labbra – odore - luminescenza della pelle – Voce - Dinamica della firma – Andatura - digitazione su tastiera. I dati, immagazzinati in un grande "DATABASE" - istituito presso il Dipartimento della Pubblica Sicurezza - permetterebbero di avere numerosi elementi di supporto alle indagini. Ovviamente, nel caso d'impronte digitali o del profilo del DNA, queste avrebbero - come hanno – una diversa valenza probatoria, mentre gli altri dati antropometrici pur se valutati dall'Autorità Giudiziaria in un'ottica diversa tuttavia, dal punto di vista investigativo, accrescerebbero gli elementi di spunto su basi scientifiche.

## 234. Human Environmental Ethics in Mental Health

### 234.1. Il mondo dei valori nelle persone schizofreniche

Giovanni Stanghellini, *University of Chieti* (info@fondazioneanza.it)

L'Autore mette l'accento sul modo in cui i pazienti stessi fanno esperienza dei propri disturbi. L'idea è che coloro che chiamiamo schizofrenici presentano anomalie del senso comune e che la psicosi sia lo scacco del soggetto come essere sociale. L'autore identifica il senso comune come fondamento del poter-essere-sociali (e quindi non psicotici), cioè è una percezione diretta, pre-cognitiva, corporea e incarnata dell'altro e di sé sulla quale si basa la sintonizzazione reciproca e ogni possibilità comunicativa. L'autore recupera la dimensione della fenomenologia sociale mettendo al centro della attenzione il problema della intersoggettività, intesa cioè come possibilità di attingere direttamente alla esperienza ed alla vita emotiva altrui.

### 234.2. Quando la prevenzione del suicidio incontra le questioni del diritto alla morte: alla ricerca della prospettiva medica

Diego De Leo, *Australian Institute for Suicide Research and Prevention, Griffith University* (D.DeLeo@griffith.edu.au)

L'aumento della domanda di partecipazione dei medici alle decisioni sulla fine della vita ha portato un vasto dibattito su eutanasia e questioni del diritto alla morte tra i gruppi sociali, politici e medici. C'è una necessità, per gli esperti di prevenzione del suicidio, di partecipare a questo dibattito.

*Obiettivo:* Come componente del "Commonwealth Department of Health and Aging", ho effettuato una ricerca sull'esigenza di informazione sulla prevenzione del suicidio, l'eutanasia e le questioni del diritto alla morte da parte degli studenti di medicina

*Risultati:* La formazione sulla prevenzione al suicidio è stata percepita da tutti come di importanza cruciale. Gli studenti di medicina hanno mostrato un grande interesse sui temi dell'eutanasia e le questioni del diritto alla morte (76.8%), la qualità di vita e la qualità della morte (85.1%) ed i tipi differenti di eutanasia e di suicidi medico-assistiti (70%). Hanno segnalato che i medici dovrebbero partecipare alle discussioni sulla conclusione della vita (89%). Il quaranta per cento degli AMS ritiene essenziale la formazione sulle

questioni del diritto alla morte e di eutanasia. Il cinquanta quattro per cento dei GPs hanno considerato prioritaria la formazione sull'eutanasia e le questioni relative.

*Conclusioni:* L'invecchiamento sempre maggiore della popolazione e l'aumento delle malattie croniche richiedono una partecipazione crescente dei medici in questa zona difficile delle pratiche mediche. Globalmente, l'esigenza di formazione dello studente non laureato su questi argomenti è percepita come importante ed urgente.

### 234.3. Strumenti di promozione della salute mentale nella comunità

Franco Fasolo, *Fondazione Lanza* (info@fondazionelanza.it)

L'Autore sviluppa l'argomento che la salute mentale sia intimamente - ovvero antropologicamente - correlata con la salute stessa della comunità locale. Una panoramica degli aspetti teorici pertinenti, come la teoria delle reti sociali e la gruppoanalisi, viene illustrata con alcune esperienze cliniche recenti.

### 234.4. Itineroterapia, luoghi e mente

Gabriele Righetto, *Università di Padova* (info@fondazionelanza.it)

I processi identitari delle persone esprimono una rilevante natura relazionale. Le relazioni si orientano in modo interdipendente, ossia con le altre persone, soprattutto quelle di riferimento, con il proprio corpo e le produzioni del proprio immaginario ed inoltre con i Luoghi, soprattutto con quelli di maggiore riferimento e cioè con i residenziali, ma anche con quelli della Memoria e con quelli che si scoprono esercitando la capacità o la condizione della Lontananza. Le pratiche terapeutiche contano su una lunga tradizione di intervento nelle relazioni interpersonali e nell'indagine del sé, per le complesse relazioni psicocorporee che il sé instaura. E' invece una pratica meno consolidata quella che presta forte attenzione ai Luoghi e all'incontro-relazione con Luoghi e territorio. Ricordiamo che, per lungo periodo, nella storia terapeutica è stata proprio la rimozione dai luoghi la modalità con cui praticare la terapia e cioè si è massicciamente ricorsi al ricovero, ossia alla concentrazione in luoghi ristretti e rinchiusi, di cui la struttura manicomiale ha costituito luogo esemplare. Un luogo chiuso è un luogo, ma tende a perderne progressivamente i caratteri per diventare uno spazio indeterminato. Un luogo, specie quando entra in dinamiche d'uso, attiva non soltanto una rete di stimolazioni cognitive ed operative, ma porta all'espressione e alla scoperta di lati del sé che non rimangono autoreferenti e implosi nel mentale, ma si esplicitano e complessificano nella relazione,

particolarmente coinvolgenti se i Luoghi interessati riguardano la propria Abitanza. I luoghi hanno un alto potenziale terapeutico in quanto dinamicizzano il senso del sé e il rapporto con gli altri. Tale prospettiva che mette al centro i luoghi come transazione e catalizzazione di esperienze, viene definita e proposta come **itineroterapia**. Accanto all'itineroterapia o itineroesperienza, può affiancarsi la **progettazione partecipata**, rivolta a pensare ed esplorare la modificabilità dei luoghi. Uno strumento assai opportuno per condurre esperienze di progettazione partecipata è l'uso del **brainstorming multimediale**. I sistemi rappresentativi, vissuti in modo compresente e plurale, possono costituire momenti di rafforzamento e motivazione per positivizzare il rapporto con i luoghi e per promuovere processi di nuove relazioni sociali e pratiche attive per un buon star-ci.

### 234.5. Ambiti di tutela del minore nelle vicissitudini della separazione e del divorzio

Marco Piccolo, *University of Padua* (marco.piccolo@unipd.it)

Le dinamiche della famiglia in crisi costituiscono un processo complesso, collocato tra prescrizioni e proposte di un esistente potenziale e di un'esistenza possibile. Non si tratta di questo e quel problema, ma della problematizzazione come tale che accetta di essere soluzione solo come scioglimento di tutte le dogmatiche che governano anche la stessa ambivalenza simbolica con cui inevitabilmente ci si deve confrontare. Nello scarto che si crea tra il dramma familiare ed il suo senso: lì è la dimora della tutela del minore. In questa dimora si deve operare. Ma per questo occorre prendere congedo dalle fenditure tragiche degli itinerari incerti, delle stereotipie, dei condizionamenti e dei pre-giudizi. La vera tutela del minore in ambito giudiziario è quindi un'idea limite da cui ci separa una distanza che non è misurata dall'esattezza del nostro giudizio, ma dall'ampiezza della nostra apertura scientifica. Con questo approccio verranno trattati i temi peculiari della separazione, del divorzio e dell'affidamento della prole in un'ampia panoramica scientifica concentrata soprattutto sul contesto psico-giuridico, che però non trascura aree limitrofe ed essenziali in un tentativo interdisciplinare e interprofessionale di aumentare consapevolezza ed operatività su una materia complessa e drammaticamente attuale quale è quella della tutela del minore tra norme, psicologia ed etica.

### 235. The Imputability Concept: Developments and Perspectives in Forensic Ethics

### 235.1. Imputabilità e colpevolezza nei più recenti orientamenti giurisprudenziali

Elisabetta Palermo Fabris, *University Padua* (info@fondazionelanza.it)

Il tema sarà affrontato tenendo conto dei principi che stanno alla base della responsabilità penale e del significato essenziale della colpevolezza quale elemento necessario per configurare un illecito punibile. In particolare sarà preso in considerazione il principio di personalità della responsabilità penale, sancito dall'art. 27 della Costituzione e riscoperto in tutta la sua portata dalla fondamentale sentenza della Corte costituzionale n. 364 del 1988 che, proprio nella logica di un'integrale applicazione dello stesso, ha arricchito la colpevolezza dell'ulteriore requisito della conoscenza o conoscibilità della norma penale. La colpevolezza, intesa come l'atteggiamento antidoveroso della volontà, alla luce della normalità delle condizioni personali e sociali che hanno determinato o condizionato la motivazione del soggetto nella realizzazione del fatto tipico, non può pertanto non trovare nell'imputabilità il suo fondamento. L'imputabilità verrà quindi analizzata nel suo ruolo di elemento indispensabile per consentire il passaggio dal giudizio sul fatto illecito al giudizio sull'autore in rapporto al fatto suo proprio, a un giudizio, quindi, sul rapporto fatto/autore. Tenendo conto che la categoria più ampia che consente di pervenire ad un giudizio di esclusione totale o parziale dell'imputabilità, nel nostro ordinamento positivo, è costituita dall'infermità che genera un vizio di mente, sarà esaminato, in particolare, il dibattito sull'ampiezza che è possibile attribuire a tale categoria, prendendo le mosse dal più recente orientamento della Suprema Corte in materia. Dal richiamato dibattito emerge con estrema chiarezza la complessità del tema e la difficoltà di pervenire il più delle volte a risultati appaganti, sia sotto il profilo di una definizione in astratto dell'imputabilità come categoria giuridica, partendo proprio dalle situazioni che consentono di escluderla, sia sotto il profilo della sua applicazione in concreto. Come la giurisprudenza e la dottrina penalistica hanno più volte ribadito, si tratta di una delle sfide più difficili per un diritto penale moderno, in ordine al quale, tenendo conto anche del difficile rapporto tra giustizia penale e scienza psichiatrica, si gioca il problema del giusto equilibrio fra libertà individuale e sicurezza collettiva; libertà individuale intesa nella sua accezione più ampia di tutela dell'innocente, considerando tale anche chi commette il delitto a causa di una infermità che coarta la psiche togliendo capacità di intendere e di volere.

### 235.2. Come occuparsi delle conseguenze biologiche dei problemi di salute mentali: il caso del disturbo post-traumatico da stress

Vanna Axia, *University of Padua* (vanna.axia@unipd.it)

Il disturbo post-traumatico da stress (PTSD) è uno stato psichico associato costantemente alle esperienze traumatiche, sia di bambini che di adulti. È un disturbo mentale che è stato riconosciuto ed incluso nell'American Psychiatric Association Diagnostic and Statistic Manual soltanto negli anni '80, dopo la guerra del Vietnam. Soltanto negli ultimi 10 anni, gli esperimenti sono riusciti a mostrare che i pazienti sofferenti di questo disagio non solo presentano numerosi ed invalidanti sintomi psicologici, spesso associati ad altri problemi mentali importanti (quali la depressione o abuso di sostanza), ma anche che il cervello stesso è biologicamente alterato dal PTSD. Evidenze internazionali hanno mostrato oltre ogni dubbio quali azioni di per sé illegali inoltre causano PTSD nelle vittime. Gli esempi sono abuso, violenza, pestaggi, tentativi del omicidio, tumulti, tortura, terrorismo e molti altri. Lo scopo di questa presentazione è di ricapitolare le evidenze neurologiche attuali e sottolineare i possibili danni a lungo termine al cervello nelle vittime di reato. I sintomi del PTSD sono legati a questioni legali, spesso penali, in tre casi. Il primo e più evidente, è che le vittime di abuso, di assalti, di crimini di guerra, di processi, di tortura, di terrorismo, ecc... corrono il rischio importante di sviluppare la malattia. Il secondo è che il PTSD è spesso è associato all'alcolismo e alla mancanza di controllo della rabbia, specialmente nei maschi. Ciò determina i comportamenti antisociali, come le lotte, gli scontri fisici o armati (a volte con la polizia). Il terzo è che i condannati, anche per reati minori, possono essere traumatizzati e sviluppare la malattia una volta in carcere e vivere in un ambiente che può essere abusante o persino vissuto come minaccioso. Ciò è particolarmente vero per gli adolescenti ed i giovani. Considerando che molte evidenze possono essere trovate per i primi due casi, la ricerca scientifica dovrebbe attivarsi per capire meglio e prendersi cura dell'ultimo caso.

### 235.3. Dipendenze, doppia diagnosi: aspetti psichiatrici ed etico-legali

Chiara M. Forcella, *University of Padua* (info@fondazionelanza.it)

Nella valutazione diagnostica di abuso di sostanze psicoattive è sempre più spesso contemplata una sintomatologia psichiatrica, come tentativo di automedicazione per ristabilire eventuali scompensi psicologici e psichiatrici causati dall'assunzione di sostanze. Vengono quindi a porsi nuovi problemi etici e legali rispetto alla responsabilità del singolo, della comunità, dello stato, del cittadino e del curante. L'intento è quello di approfondire le tematiche legate all'attuale legislazione in materia di sostanze psicotrope presente in Italia ed in Europa, tenendo conto anche delle esperienze più recenti, dei dati di letteratura e del dibattito etico che rispetto a questi problemi si è sviluppato.

## 236. Investigative Psychology and Criminal Profiling

### 236.1. Studio sulle Procedure di Emergenza Sanitaria e i Rischi di Contaminazione delle Prove nel Corso di Intervento sulla Scena del Crimine

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Maria Rosaria Bruscella, *International Crime Analysis Association, Rome, Italy* (segreteria@icaa-italia.org)

La ricerca analizza le problematiche di compatibilità tra emergenza sanitaria e conservazione delle prove sulla scena del crimine. Vengono descritti alcuni casi esemplificativi di tale scenario attraverso la raccolta di interviste ad operatori specializzati in ambito medico e investigativo. Lo studio impiega inoltre un questionario pilota strutturato realizzato dall'ICAA e somministrato ad un gruppo di operatori del 118.

### 236.2. L'applicazione di un Sistema di Tecnologie Integrate per la Rilevazione delle Menzogne

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La relazione illustra un progetto di ricerca, con una equipe multidisciplinare (psicologica, medica, giuridica, sociologica e informatica) sull'uso del poligrafo e di altre tecnologie (termocamere, stress voice analyzer ecc.) per la rilevazione dei sospetti segni di menzogna. Viene descritta l'applicazione delle diverse tecnologie singolarmente e in comparazione tra loro, a casi reali nel corso di consulenze richieste da privati ed aziende.

### 236.3. Analisi Delle Distorsioni Percettive E Mnemoniche Connesse All'uso Delle Armi Negli Operatori Di Polizia

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Ida Bonagura, *International Crime Analysis Association, Rome, Italy* (segreteria@icaa-italia.org)

La relazione illustra i risultati di un progetto di ricerca sugli effetti o aberrazioni della percezione corticale o della body-alarm reaction, in grado di compromettere l'uso sicuro delle armi durante una reazione ad un'aggressione e di alterare il ricordo (dell'evento) o la performance/affidabilità come testimone. Viene utilizzata nello studio una speciale griglia di rilevazione dell'evento.

### 236.4. L'applicazione di Software Spider per L'analisi Criminologia del Web

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La relazione presenta risultati delle sperimentazioni condotte con alcuni software (spider) investigativi sviluppati dall'ICAA per le indagini e per l'intelligence sui siti web contenenti informazioni illegali o esortazione a comportamenti pericolosi. Gli spider software, in fase di testing, permettono la localizzazione sul web di testi sensibili e, nel contempo, svolgono azione di links-analysis. Gli strumenti sono stati "addestrati" mediante contenuti testuali specifici e sono destinati a valutare diversi indici di pericolosità dei siti che individuano sulla rete. L'impiego di tali sistemi è destinato elettivamente agli investigatori ma offrono interessanti scenari di ricerca criminologica. Attualmente gli autori della ricerca stanno applicando sperimentalmente tali strumenti in collaborazione con alcuni Governi europei.

## 236.5. Profilo psicologico, criminale e geografico di unabomber

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L'obiettivo della relazione è quello di descrivere uno studio che impiega un approccio metodologico innovativo al criminal profiling di unabomber. La ricerca, contempla l'attività di una équipe multidisciplinare e l'impiego di software di supporto per l'analisi psicologica (reti neurali) e per il profilo geografico. Lo studio illustra l'attività di profiling psicologico e geoprofiling applicata recentemente ad un caso reale da parte dell'équipe dell'ICAA. I ricercatori dell'ICAA hanno effettuato sopralluoghi sulle crime scene del caso unabomber effettuando speciali rilevamenti. Sono presentati dati accurati sul profilo psicologico e geografico del criminale e viene descritta nel dettaglio la metodologia utilizzabile in un caso del genere.

## 237. Judicial Mental Health Hospitals and Mental Health Services

### 237.1. Monitoraggio dei Pazienti e delle Dimissioni Dell'ospedale Psichiatrico Giudiziario di Montelupo Fiorentino

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In Italia i pazienti psichiatrici che commettono reati, e sono dichiarati incapaci di intendere e volere, sono sottoposti ad una misura di sicurezza in un Ospedale Psichiatrico Giudiziario (OPG), se riconosciuti socialmente pericolosi, Istituzione gestita dal Ministero della Giustizia, Dipartimento dell'Amministrazione Penitenziaria. Vio sono 6 OPG che ospitano fino a 1200 pazienti internati e in questo lavoro è illustrata la descrizione e l'analisi statistica dei pazienti internati per dati socioanagrafici,

caratteristiche epidemiologiche della popolazione ristretta nei 6 Istituti. Negli ultimi 10 anni ogni OPG ha organizzato programmi di intervento mirati sempre più sulla cura delle persone internate, in base agli effettivi bisogni di cura e riabilitazione a realizzare un'organizzazione meno custodiale. In base alla specifica organizzazione degli OPG, i pazienti ricevono precocemente trattamenti psichiatrici farmacologici e trattamenti di riabilitazione basati su programmi di de-istituzionalizzazione parziale allo scopo di facilitare le capacità di rientrare nella comunità esterna o in strutture di accoglienza alla scadenza della misura di sicurezza. Nello specifico dell'OPG di Montelupo Fiorentino, sono state organizzate una struttura di accoglienza diurna per attività di riabilitazione psicosociale ed una Cooperativa sociale per l'inserimento di pazienti nel mondo del lavoro, una associazione per la pratica di attività sportiva. Un gran numero di pazienti fruisce di tali servizi e tale sistema consente un maggior numero di dimissioni ed una garanzia di maggiore sicurezza negli interventi esterni. In questo lavoro è analizzato il follow-up di 50 internati, dimessi con programmi di trattamento protetti, tramite la licenza finale esperimento, dopo un tempo di controllo che varia da 1 a 5 anni dall'uscita dall'OPG.

## 237.2. Salute Mentale in Carcere

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Il problema delle malattie psichiatriche dei soggetti ristretti nelle strutture penitenziarie riguarda : a) i soggetti autori di reato riconosciuti non imputabili per vizio totale di mente ma considerati socialmente pericolosi, - ovvero dichiarati parzialmente incapaci - e pertanto internati negli ospedali psichiatrici giudiziari, anche in via provvisoria; b) soggetti che nonostante siano affetti da una malattia mentale, essendo riconosciuti imputabili, espiano una condanna definitiva a pena detentiva; ovvero sono sottoposti alla misura cautelare della custodia in carcere anziché alla misura di cui all'art. 286 c.p.p – custodia cautelare in luogo di cura - o alla misura di sicurezza in via provvisoria, se pericolosi.. Il disagio psichico negli istituti penitenziari va dunque ben al di là della realtà degli o.p.g. e costituisce dunque un fenomeno rilevante - le cui esatte dimensioni solo adesso sono venute alla luce – la cui emergenza, sia dal punto di vista sanitario che delle opportunità di trattamento e di reinserimento sociale, richiede un importante sforzo congiunto dell'amministrazione penitenziaria e delle Istituzioni territoriali, non solo sanitarie. Il 10,25% dei detenuti sono affetti da depressione il 6,04% da patologie psichiatriche diverse (psicosi e nevrosi, esclusa la depressione); il 3% è affetto da altre patologie neurologiche e lo 0.8 % è colpito da deterioramento psichico. L'esigenza primaria di una riorganizzazione del servizio psichiatrico penitenziario, ha posto varie necessità. La più importante si fonda sul tentativo di superare il limite di riferirsi, nei luoghi di pena, soltanto a situazioni di urgenza psichiatrica. Questo può permettere una

presa in carico delle espressioni psicopatologiche dei detenuti e degli internati impostando così un collegamento funzionale ed organizzativo del carcere come portatore di una identità sanitaria integrata col resto del territorio con cui deve andare inevitabilmente ad articolarsi.

### 237.3. Pedofili

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L'attività di ricerca e di studio sulle problematiche penitenziarie, lo sviluppo di metodologie e modelli di organizzazione del trattamento dei detenuti e degli internati assumono una valenza particolare di fronte al reato di atti sessuali con minori, connotato da un particolare disvalore sociale e da una difficoltà di gestione all'interno delle strutture penitenziarie. L'Amministrazione Penitenziaria, avvalendosi della consulenza scientifica di esperti e studiosi universitari, ha focalizzato il proprio interesse nel preparare ed approntare progetti-obiettivi di intervento dedicati al trattamento dei delinquenti sessuali, concretizzando un risveglio progettuale su un'area-problema fino ad oggi emarginata e quasi rimossa per effetto della prevalenza di pregiudizi e stereotipi negativi che la tipologia di reato suscita. In questa prospettiva, l'intervento è stato soprattutto diretto alla valorizzazione della formazione degli operatori penitenziari per rafforzare la motivazione ad agire in questa area di grande allarme sociale e, principalmente, per diffondere corrette informazioni in ordine alla dimensione del fenomeno e alle implicazioni sociali dello stesso. La complessità della gestione dei sex offenders esige la creazione di un'efficace e ben articolata rete operativa tra servizi penitenziari e risorse del territorio, in modo da permettere alle comunità locali di contribuire alla tutela del valore supremo dell'inviolabilità del minore. E' indispensabile, infatti, che i processi riabilitativi avviati in carcere trovino possibilità di prosecuzione e sviluppo al di là dell'esecuzione penale.

### 237.4. L'ospedale Psichiatrico Giudiziario e i Servizi di Salute Mentale: Una Interazione Possibile

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L'interazione tra le due strutture sanitarie deputate al controllo, alla cura e alla riabilitazione dei soggetti affetti da patologia psichiatrica diventa necessaria nel momento

in cui si tratta di soggetti definiti giuridicamente come *socialmente pericolosi*: ciò per favorire sia per gli aspetti di prevenzione sul territorio sia per le possibilità terapeutiche e riabilitative da attuarsi nella istituzione penitenziaria e che sono finalizzate alla dimissione dei soggetti internati in queste ultime. Le istituzioni di protocolli di intesa tra i servizi di salute mentale e – nello specifico – con l’Ospedale Psichiatrico Giudiziario ha prodotto nel corso degli ultimi cinque anni una costante serie di dimissioni con affidamento a strutture sanitarie del territorio, che hanno evidenziato una riduzione quasi totale degli atti di recidiva e reso possibile un’opera di prevenzione. Nella comunicazione saranno presentati i dati relativi agli ingressi e alle dimissioni dall’OPG di Aversa e i principali protocolli di intesa con i servizi di salute mentale che hanno reso possibile un modello di interazione tra strutture psichiatriche finalizzate sia a sistemi di difesa sociale che all’attuazione di modalità terapeutiche e riabilitative efficaci che permettano anche la possibile prevenzione di eventi delittuosi prodotti da soggetti affetti da malattia mentale.

### 237.5. Doppia Diagnosi e Cure Psichiatriche in Carcere: Una Esperienza Italiana

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La consulenza psichiatrica nelle carceri si rivela oggi una priorità importante di un nuovo modo di rispondere ai bisogni assistenziali emergenti dalla psichiatria sociale e di comunità, anche nel contesto italiano. La rilevanza delle condizioni di “doppia diagnosi” impone una riflessione ad hoc.

*Obiettivi* Definizione delle caratteristiche psicopatologiche di una popolazione ammessa ad un servizio di consultazione psichiatrica e descrizione dei più importanti trattamenti erogati in una prigione milanese.

*Metodi* Studio di 6 anni consecutivi delle valutazioni diagnostiche e dei percorsi assistenziali e di cura (visite psichiatriche e prescrizioni farmacologiche) di una popolazione di 1302 detenuti della Casa di Reclusione di Milano Opera.

*Risultati* Come evidente dalla letteratura internazionale, anche da questa ricerca emergono importanti bisogni assistenziali di tipo psichiatrico: tali bisogni derivano da pazienti appartenenti ad un ampio spettro di gruppi diagnostici e anche da detenuti senza una specifica diagnosi psichiatrica. In generale, il sottogruppo dei pazienti extracomunitari sembra avere una percentuale meno rilevante di diagnosi comorbili. La diagnosi di disturbo psicotico è associata a detenzione per crimini violenti: I soggetti in carcere per reati connessi a droga non si diversificano dagli altri detenuti per quanto riguarda le problematiche di tossicodipendenza e sono meno gravi dal punto di vista dei

profili psicopatologici. Il carico assistenziale risulta più rilevante nei pazienti con disturbi psicotici e comorbidità (in particolare “doppia diagnosi”) e nei tentativi di suicidio, mentre è meno importante dal punto di vista del genere di appartenenza o del profilo tipologico del crimine commesso. Il trattamento farmacologico è ben caratterizzato da un approccio politerapico, dove le benzodiazepine e i nuovi antidepressivi sono prevalenti. La terapia antipsicotica, in particolare i farmaci tipici, è ancora ampiamente usata per il trattamento dell’insonnia.

*Conclusioni* La prevalenza dei disturbi mentali in questa popolazione è indubbiamente rilevante. La gestione dell’assistenza psichiatrica in carcere da parte di un DSM risulta fondamentale per migliorare sostanzialmente sia la qualità di vita di questi pazienti, sia la specificità dell’intervento psichiatrico in carcere.

### 237.6. Nascita ed Evoluzione del Manicomio Criminale: Motivazioni Socio-Politiche

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A metà Ottocento giuristi e scienziati si interrogano su come risolvere il problema della massiccia presenza di soggetti folli rinchiusi nelle carceri e di criminali rinchiusi nei manicomi civili. Ma l’ospedale dei folli non è un luogo di custodia, come la prigione non è un luogo di cura. Tale internamento è contro ogni logica, ma è altrettanto contro ogni logica tenere in libertà assoluta le predette due categorie di soggetti, comunque deboli di mente. Cesare Lombroso affermerà infatti che “*La prigione è una ingiustizia, la libertà un pericolo*”. E’ quindi necessario ed urgente provvedere alla istituzione di apposite strutture capaci di custodire e contemporaneamente di curare questi particolari soggetti.

In tal senso ad Aversa, nel 1876, lo psichiatra Gaspare Virgilio apre, in via sperimentale il primo manicomio criminale, a cui farà seguito l’apertura di altri che il nuovo regolamento del 1891 definirà “manicomi giudiziari”.

### 238. Mental Health in the Jails and Judicial Psychiatric Hospitals

## 238.1. Monitoraggio dei pazienti e delle dimissioni dell'Ospedale Psichiatrico Giudiziario di Montelupo Fiorentino

Franco Scarpa, *Ministero della Giustizia Psichiatra Dirigente Direttore OPG Montelupo Fiorentino* (info@fondazionelanza.it)

In Italia i pazienti psichiatrici che commettono reati, e sono dichiarati incapaci di intendere e volere, sono sottoposti ad una misura di sicurezza in un Ospedale Psichiatrico Giudiziario (OPG), se riconosciuti socialmente pericolosi, Istituzione gestita dal Ministero della Giustizia, Dipartimento dell'Amministrazione Penitenziaria. Vi sono 6 OPG che ospitano fino a 1200 pazienti internati e in questo lavoro è illustrata la descrizione e l'analisi statistica dei pazienti internati per dati socioanagrafici, caratteristiche epidemiologiche della popolazione ristretta nei 6 Istituti. Negli ultimi 10 anni ogni OPG ha organizzato programmi di intervento mirati sempre più sulla cura delle persone internate, in base agli effettivi bisogni di cura e riabilitazione a realizzare un'organizzazione meno custodiale. In base alla specifica organizzazione degli OPG, i pazienti ricevono precocemente trattamenti psichiatrici farmacologici e trattamenti di riabilitazione basati su programmi di de-istituzionalizzazione parziale allo scopo di facilitare le capacità di rientrare nella comunità esterna o in strutture di accoglienza alla scadenza della misura di sicurezza. Nello specifico dell'OPG di Montelupo Fiorentino, sono state organizzate una struttura di accoglienza diurna per attività di riabilitazione psicosociale ed una Cooperativa sociale per l'inserimento di pazienti nel mondo del lavoro, una associazione per la pratica di attività sportiva. Un gran numero di pazienti fruisce di tali servizi e tale sistema consente un maggior numero di dimissioni ed una garanzia di maggiore sicurezza negli interventi esterni. In questo lavoro è analizzato il follow-up di 50 internati, dimessi con programmi di trattamento protetti, tramite la licenza finale sperimentale, dopo un tempo di controllo che varia da 1 a 5 anni dall'uscita dall'OPG.

## 238.2. L'imputabilità del minore

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L'art.97 c.p. sancisce la non imputabilità del minore al di sotto dei 14 anni di età, lasciando aperte le porte a provvedimenti di altro tipo ( amministrativi, psichiatrici, misure di sicurezza ) delle quali viene messa in discussione l'efficacia nel risolvere i problemi della devianza minorile. L'art.98 c.p. per i minorenni tra i 14 ed i 18 anni prevede l'accertamento della "capacità di intendere e volere" ai fini dell'imputabilità. Con il termine capacità di *intendere* si indica il possesso di abilità cognitive tali da

consentire la comprensione degli elementi di scelte; con la capacità di *volere* si fa riferimento alla possibilità di auto-determinazione ed auto-limitazione del minore di fronte a scelte che trasgrediscono le norme, ma appagano un bisogno. Quando il soggetto possiede entrambe queste capacità e, dunque, è maturo? Quali sono i rapporti tra maturità evolutiva e moralità? Chi è in grado di definirla? Quali sono i rapporti tra l'im maturità, l'instabilità strutturale della persona in evoluzione e l'infermità psichica? Come incidono gli aspetti patologici della personalità su specifici comportamenti devianti? E' possibile e corretto dall'esame del fatto pervenire alla valutazione della personalità del minore, delle sue capacità cognitive e volitive, delle possibili interferenze dell'infermità psichica ed alla valutazione sulla pericolosità sociale ?

### 238.3.Arte e creatività : il ben-esserci-con in carcere

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In carcere la riflessione sul concetto di salute deve partire dal reale contraddittorio tra la limitazione della libertà personale e l'affermazione dei diritti umani elementari e, superando il mero concetto di "tutela", deve arrivare a quello di promozione alla salute, ovvero deve rendere possibile il mantenimento e la salvaguardia delle capacità individuali di perseguire il proprio benessere e la personale capacità progettuale nelle scelte esistenziali. Il laboratorio con il metodo di "arte e creatività" nel non luogo del carcere diventa momento per un possibile spazio esistenziale di benessere. È l'incontro con l'Alterità ma anche con se stessi, con la propria vita. È lo spazio di comunicazione mediato e protetto dai materiali. La forma e i colori diventano mediatori transizionali per potersi guardare nel simbolo dell'opera. I prodotti artistici sono "mappe dei sentimenti" per muoversi nei labirinti carcerari ma soprattutto nel caotico mondo interno devastato da sentimenti contrastanti e spesso non riconosciuti. Diventano così pietre miliari nella strada di vita, possono essere punti di riferimento ri-conosciuti per una progettazione di sé. Il riconoscimento dell'opera è fondamentale per i detenuti: è il ritrovarsi, è avere un'identità di uomini che sentono, ascoltano, vivono. È un'offerta di possibilità, la speranza per il domani che deve partire da dentro loro. La salute come co-municazione è un momento intimo di ascolto e trasformazione interno: è la compliance al proprio progetto di vita. È la consapevolezza vitale di esserci-con se stessi, con gli altri. L'attenzione alle necessità esistenziali come compliance per una progettualità di salute diventa obiettivo per un miglioramento della qualità della vita ottenuta dalla migliore consapevolezza di se stessi.

### 238.4.La tutela della salute nelle carceri

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In Italia il diritto alla salute è solennemente sancito nel 1° comma dell'art. 32 della Costituzione, secondo cui la Repubblica tutela la salute come fondamentale diritto dell'individuo e interesse della collettività, garantendo cure gratuite agli indigenti. La tutela di tale diritto assoluto si scontra inevitabilmente con le limitazioni e le privazioni cui si trova sottoposto il soggetto legalmente detenuto in un istituto di pena, il quale, oltre ad essere assoggettato - come i cittadini liberi - all'esposizione del rischio di contrarre malattie, spesso accusa quadri patologici contratti proprio in forza ed in virtù dell'espiazione della pena all'interno del carcere. Per tale motivo il legislatore si è sforzato di rafforzare tale tutela, prevedendo che i detenuti e gli internati siano esclusi dal sistema di compartecipazione alla spesa delle prestazioni sanitarie erogate dal servizio sanitario nazionale (art. 1, 6° comma decreto legislativo 22 giugno 1999, n. 230, recante riordino della medicina penitenziaria). L'ordinamento penitenziario (art. 11 legge 26 luglio 1975, n. 354) prevede poi che ogni carcere sia dotato di servizi medici e farmaceutici rispondenti alle esigenze di cura della salute dei detenuti. Lo stesso articolo obbliga altresì lo Stato ad assicurare in ogni istituto penitenziario la presenza di almeno uno specialista in psichiatria. L'art. 148 del codice penale prevede poi che, ove nel corso dell'esecuzione della pena sopravvenga un'infermità psichica, il giudice possa disporre la prosecuzione della detenzione presso un ospedale psichiatrico giudiziario. Vari istituti del codice penale e dell'ordinamento penitenziario prevedono poi la possibilità - nel caso in cui le condizioni di salute del condannato non si rivelino compatibili con la prosecuzione della detenzione, ovvero siano interessate da patologie tali da determinare un quadro di particolare gravità - di provvedere (previa decisione della magistratura di sorveglianza) al differimento dell'esecuzione della pena, ovvero all'applicazione dell'istituto della detenzione domiciliare.

## 239. Murder Within the Family

### 239.1. Il suicidio dei padri separati

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La crisi familiare non investe solo la famiglia in quanto struttura ma anche e, soprattutto i singoli componenti. Il crollo della realtà familiare mette in crisi strutture di personalità che portano nella loro storia quelle fratture e quelle trame che forse sono state cause loro stesse della crisi familiare. La debolezza dell'Io apre scenari tante volte imprevedibili

come le cronache hanno più volto portato alla conoscenza. Ma i padre che parte occupano sul palcoscenico della vita dove si recita la fine di una tragedia? Di loro si parla poco. E di solito si parla male. Le definizioni negative abbondano: per lo più sono considerati come padri assenti, padri che non contribuiscono al mantenimento del figlio o dei figli, padri che non pagano gli alimenti, padri che hanno interessi predominanti all'esterno del contesto familiare, padri che si sono ricostruiti una trame che interpretano e che voltano con grande destrezza le spalle al passato. Si parla poco o non si parla affatto invece, del disorientamento che la separazione non solo dal coniuge ma, di fatto, anche dai figli, crea in loro. Si parla poco della perdita della loro identità di genitori. E si parla poco infine, della violenza agita spesso contro se stessi. Secondo una recente ricerca condotta dalla Associazione Ex – Centro Assistenza Genitori Separati - risulta infatti, che il suicidio è la modalità più frequentemente agita dai padri separati per fuoriuscire dal disagio che la separazione e la contesa dei figli genera in loro. Dalla analisi dei dati raccolti dalla Associazione Ex emerge infatti, che nel periodo compreso tra il mese di gennaio 1994 e il mese di giugno 2004, si sono verificati 102 casi di suicidio al maschile su un totale di 110, per un numero percentuale pari al 93%. Le donne separate che si sono tolte la vita nello stesso periodo di tempo sono risultate 4. Benché sia da tempo noto il tragico legame che esiste tra il suicidio e il sesso maschile (all'incirca un suicidio femminile ogni tre maschili), tuttavia questa ricerca mette in evidenza l'elevato valore percentuale di padri separati che decide di suicidarsi, valore che in assoluto, è superiore a quello che si riscontra in altre categorie. Gli autori discutono il dato alla luce di considerazioni socio-criminologiche e psicodinamiche sui possibili percorsi auto-punitivi e autodistruttivi messi in atto.

## 239.2.L'omicidio in famiglia in Italia: fenomeno e interesse mediatico

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Gli autori analizzano il tema degli omicidi in famiglia utilizzando un approccio multi disciplinare ossia criminologico, medico-legale e statistico. In primis provvedendo ad una quantificazione statistica del fenomeno mediante elaborazione di dati provenienti da più fonti statistiche e riferite quanto agli autori che alle vittime. Successivamente evidenziando informazioni quali la tipologia del mezzo lesivo utilizzato, il luogo e il momento temporale di commissione. Ed ancora studiando le dinamiche correnti tra autore e vittima che nel caso degli omicidi in famiglia risultano essere di estrema importanza per comprendere la criminogenesi e la criminodinamica del gesto. Infine focalizzando i propri sforzi conoscitivi su due particolari tipologie omicidiarie ossia gli uxoricidi e i parricidi/matricidi. L'ultima parte del contributo è dedicata ad alcune riflessioni volte a ricercare valide strategie che vadano ad incidere in un ottica preventiva sul fenomeno.

### 239.3. Il Figlicidio: Aspetti Criminologici, Statistici, Psicopatologici

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La criminologia differenzia tra il neonaticidio, che ricorre nell'immediatezza della nascita; l'infanticidio, che è l'uccisione del bimbo entro l'anno di età; e il figlicidio o libericidio, quando la vittima ha più di un anno. La distinzione, soprattutto fra le prime due forme e la terza, è fatta in base a considerazioni di ordine statistico, socio-situazionale, motivazionale. Per cominciare, l'infanticidio e il neonaticidio ricorrono, per il nostro come per altri codici penali, solo qualora l'uccisione si dia immediatamente dopo la nascita, e possono trovare alla radice dinamiche particolari, ed è possibile osservare sentimenti di ostilità e di estraneità nella madre nei confronti del neonato, o che lo percepisce come parte del proprio corpo e quindi nella propria piena disponibilità. Per il figlicidio materno, a parte i casi di Medea e Munchausen per procura su cui ci si diffonderà oltre, combinando quanto riferito da diversi Autori, si possono descrivere una serie di tipologie situazionali e motivazionali, in un continuum che va dall'assenza di patologia, via via verso la patologia più grave. L'autore considerando gli aspetti criminologici, statistici e psicopatologici, prende in esame le diverse dinamiche che sono chiamate in causa.

### 239.4. Adolescenti Che Uccidono ... In Famiglia: Analisi del Fenomeno Omicidiario Minorile Che Accade tra le Mura Domestiche

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L'omicidio volontario rappresenta un fenomeno criminale grave non solo sul piano giuridico, ma anche sul piano sociale, dal momento che, benchè percentualmente poco incidente sulla totalità dei delitti commessi, è certamente responsabile del senso di paura e di insicurezza di una collettività. L'omicidio volontario dei genitori, non solo è uno degli argomenti più antichi e più crudeli della storia dell'umanità, ma anche quello che forse non a torto, può essere definito con Foucault, come *il crimine dei crimini* per la sua capacità di sovvertire non solo l'ordine sociale, ma anche quello naturale delle cose, trasformando il minore da colui che occorre proteggere, in colui dal quale occorre difendersi. Quali le ragioni di questo senso di sgomento e di terrore? Non può certamente ritenersi responsabile di ciò l'incidenza statistica del fenomeno. Dai dati forniti dall'Istat risulta infatti, che i minori commettono meno omicidi degli adulti e che tale tipologia di delittuosità violenta non è affatto da ritenersi in aumento. Inoltre,

secondo le recenti indagini statistiche (Eures 2004) riguardanti la delittuosità domestica, il numero dei figli uccisi (16,4%) dai genitori risulta superiore rispetto al numero dei genitori uccisi (9,5%) dai figli. Ciò che colpisce invece, sono l'età degli autori di tali crimini: sono molto giovani, a volte poco più che bambini; le modalità commissive, spesso caratterizzate da un overkilling; infine, le motivazioni inconsistenti, futili e lo stato emotivo del minore, vale a dire la freddezza e la determinazione con cui agisce. Alla luce di tali evidenze e tenuto conto della classificazione impiegata da alcuni Autori (Merzagora Betsos) nell'analisi del fenomeno omicidiario distinto in omicidio strumentale e omicidio espressivo, attraverso l'esame delle sentenze pronunciate dalla Autorità giudiziaria minorile nei confronti di minori imputati di omicidio volontario negli anni 1988-2005, sono state poste in luce taluni aspetti di rilievo criminologico relativi all'autore e alle vittime e alcuni dati processuali significativi.

### 239.5. Violenza in Famiglia: Un Rischio Prevedibile?

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Il fenomeno della violenza familiare è ben conosciuto e studiato principalmente nei suoi aspetti statistici e demografici. Il fenomeno estremo di violenza familiare, rappresentato dagli "omicidi domestici", risulta addirittura rappresentare all'incirca il 30% degli omicidi italiani con picchi prossimi al 50% nel Nord d'Italia (1). Analogamente risultano ben indagate nella letteratura le tipologie dei soggetti interessati e le motivazioni dei comportamenti violenti (2). Minori invece sono le informazioni rilevabili in ordine al riconoscimento del rischio di violenza in ambito familiare e alla previsione del comportamento violento (3,4). Scopo del presente studio è quello di procedere ad una revisione della letteratura inerente l' "assessment" del rischio di comportamenti violenti intrafamiliari e di valutare l'applicabilità degli strumenti di previsione del rischio proposti dalla letteratura stessa. Materiale e metodi: la casistica di violenze familiari pervenuta al settore dell'Istituto di Medicina Legale dell'Università di Milano, Cattedra di Criminologia, sarà riesaminata mediante una analisi retrospettiva finalizzata a valutare la applicabilità delle più attendibili scale di predizione del rischio di violenza. Nei casi sufficientemente documentati sarà valutata la capacità degli strumenti di misurare il rischio di aggressioni emotive, fisiche o sessuali all'interno della famiglia. I risultati saranno discussi.

## 240. Offender Profiling

### 240.1. Il Profilo Dell'esorcista

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Padre Johann Joseph Gassner (1729-1779) è considerato solitamente come un'importante figura nella storia dell'ipnosi. L'esorcismo di padre Gassner e non il magnetismo di Mesmer è considerato il predecessore reale dell'ipnosi moderna. Molti autori evidenziano come alcuni dei metodi di padre Gassner durante la sua attività come esorcista somiglino alle moderne tecniche di ipnosi. Di conseguenza segnaliamo un'analogia tra l'ipnosi e gli stati di possessione demoniaca. L'opinione comune a proposito dell'ipnosi è che questa rappresenti uno stato alterato di coscienza simile allo stato di trance. Coloro che aderiscano a questa ipotesi inoltre credono che l'ipnosi sia una porta di accesso all'inconscio e alle sue memorie represses, personalità multiple, intuizioni mistiche, e memorie di vite passate. Durante l'ipnosi, il soggetto è guidato dall'ipnotista nel rispondere alle suggestioni indotte per modificare l'esperienza soggettiva, le alterazioni nella percezione, le sensazioni, le emozioni, il pensiero o il comportamento. La figura dell'esorcista permette il processo di transfert fra l'ipnotista ed il soggetto, essenziale per un buon risultato della terapia. Erickson ritiene che la mente inconscia sia sempre in ascolto e che, indipendentemente dallo stato di trance, le suggestioni possono avere un'influenza ipnotica arrivando ad avere risonanza a livello inconscio. Non raramente, Erickson attraverso il suo carisma è stato in grado di indurre suggestioni indirette in diverse situazioni, compresi i suoi libri, conferenze e seminari. In questo modo, anche una conversazione normale potrebbe indurre uno stato di trance ipnotico, o un cambiamento terapeutico nell'oggetto.

### 240.2. Il Profilo del Terrorista

Silvia Leo, *University of Rome La Sapienza* (slsawuk@infinito.it)

La ricerca mira a delineare le caratteristiche del profilo socio-criminale e psicologico dei terroristi, mediante l'analisi delle strategie operative e degli obiettivi dei gruppi terroristici di varia matrice. Verranno quindi messe in relazione le modalità organizzative ed esecutive con le motivazioni ad aderire al gruppo e ad agire secondo le specifiche direttive poste dall'ideologia politica e/o religiosa dell'organizzazione. Si analizzeranno i profili generici che identificano il terrorista tout court, quali l'isolamento morale e

l'adesione incondizionata ad un ideale, per poi concentrare l'attenzione su alcuni aspetti tipici del terrorista-suicida, come il sadismo, la morte come mezzo per dare valore alla causa per cui si muore e per essere qualcuno, il masochismo sacrificale dell'eroe-martire, il gioco con la morte per mettersi alla prova e il narcisismo umiliato. Infine, si metteranno in luce gli aspetti socio-culturali che trovano nell'uso dei mezzi mediatici uno strumento di amplificazione e di indirizzamento condizionante dei bisogni e delle aspirazioni, nonché delle rivendicazioni, fino a divenire l'ultimo ed ambito palcoscenico.

### 240.3. Il Fanatismo Sportivo – Dal Gioco del Calcio All'estrinsicazione della Violenza

Antonella Pomilla, *University of Rome La Sapienza* (antonella.pomilla@libero.it)

La presente relazione analizza il fenomeno delle associazioni sportive sin dagli esordi, intorno agli '50, spiegandole il valore dapprima come nuclei di aggregazione per promuovere e sostenere le squadre calcistiche, sia in casa che in trasferta, per poi spiegarne la trasformazione, in relazione anche a stimoli sociali e particolari condizioni politiche ed economiche, in qualità di gruppi nei quali la violenza assume un valore liberatorio e contemporaneamente emancipatorio. Vengono discusse le principali riflessioni teoriche prodotte dagli studiosi sull'argomento, analizzando le dinamiche interne dell'associazionismo sportivo. Nel dettaglio, vengono esaminate le principali dimensioni che concorrono alla spiegazione del fenomeno. L'analisi del fenomeno interessa il panorama nazionale e quello internazionale, in modo da fornire i punti di contatto e le differenze che caratterizzano le tifoserie italiane da quelle inglesi, tedesche e dell'America Latina, solo per citare i nuclei internazionali più noti. In conclusione, vengono presentate le principali proposte legislative applicate, in Italia, per fronteggiare il fenomeno del fanatismo sportivo violento.

### 240.4. Il Profilo del Piromane - The Pyromaniac Profile

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Partendo dal presupposto che l'atto piromane viene catalogato fra i tipi di crimini a sfondo passivo/aggressivo, alcuni Autori hanno distinto il comportamento incendiario in base al movente. Fermo restando che – in realtà – un comportamento di questo tipo più generalmente è originato da svariati fattori concomitanti, piuttosto che da un'unica motivazione, tali considerazioni si rivelano particolarmente utili nella presente ricerca per inquadrare il fenomeno. Vengono presi in considerazione gli studi effettuati da Douglas

e coll. che identificano ed elencano la panoramica dei fattori motivazionali nella piromania quali il vandalismo, l'eccitazione, il profitto, la vendetta, l'occultamento di un crimine per atteggiamento eversivo, non dimenticando di riportare gli approfondimenti a riguardo sviluppati da Kocsis e Cooksey in uno studio più recente. Inoltre, viene considerata la classificazione elaborata dal Slavnik nel 2004 in base alla quale i giovani *firesetters* (incendiari) vengono distinti in sette categorie. In conclusione, si analizzeranno le caratteristiche del piromane avvalendosi anche di una casistica esemplificativa, nonché di alcune più recenti considerazioni relative alla psicodinamica evita da alcuni pazienti piromani in terapia.

## 240.5. Il Profilo Dell'adepto di una Setta

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L'omologazione culturale in Occidente ha lasciato alcune sacche, in cui un capo carismatico, dopo aver raccolto intorno a sé dei seguaci, può condurre gli esperimenti "comunitari" più audaci. Vi sono differenti chiavi di lettura riguardanti le dinamiche che si sviluppano in un gruppo chiuso nel rapporto degli adepti con il leader carismatico o il guru. Per cercare di offrire un profilo dell'adepto di una setta dobbiamo considerare i differenti modelli interpretativi di alcuni processi: l'affiliazione, la permanenza e i momenti critici nella vita del gruppo settario. I modelli dell'affiliazione alla setta nuovo movimento religioso sono stati distinti da Aletti (1999) sull'asse passività-attività. Nel *paradigma della passività*, che sottolineerebbe gli aspetti di induzione e manipolazione, Aletti colloca il modello descritto da Di Fiorino e coll. (1990) e Galanter (1989). Nel *paradigma dell'attività*, che focalizza la dimensione del *religious seeking*, andrebbero annoverate le chiavi di lettura di Bromley e Shupe (1979), Richardson e Kilbourne, (1983) e Fizzotti (1994). Riteniamo che questi modelli non vadano considerati così contrapposti, ma come modelli di lettura che, talora integrandosi, possono aiutare nella comprensione di eventi della vita di una stessa realtà grupale. Nella presentazione saranno discusse le controversie sulle sette nella realtà italiana.

## 241. Problems Linked to Criminology I

### 241.1. Guerra, Terrorismo, Conflitti Asimmetrici E Loro Conseguenze Sulla Salute Mentale Dei Militari E Della Popolazione Civile

Marco Cannavicci, *Università di Roma La Sapienza* (cannavicci@iol.it)

Fra tutte le conseguenze della guerra e del terrorismo, così come si è sviluppato nel XX secolo, una delle più significative è rappresentata dall'impatto sulla salute mentale della popolazione civile. Gli studi effettuati sulla popolazione in generale hanno evidenziato un decisivo incremento dell'incidenza e della prevalenza dei disturbi mentali. Le donne sono state più colpite degli uomini e particolarmente vulnerabili si sono mostrati i bambini, gli anziani ed i disabili. I tassi di prevalenza sono correlati con il tipo di trauma, con le successive conseguenze fisiche e con la possibilità di usufruire di un supporto psicologico. L'uso delle competenze culturali e le pratiche religiose si sono dimostrate delle utili e valide strategie di "coping".

## 241.2. Intelligence

Antonella Colonna, *Università di Roma La Sapienza* (mavil@tiscali.it)

Lo spionaggio ha caratterizzato la storia dell'uomo sin dalle sue origini, in quanto strumento di conoscenza e scoperta, nonché di difesa e protezione d'informazioni e conoscenze vitali. Peraltro, l'arte dello spionaggio ha rappresentato uno dei principali strumenti di progresso dell'uomo, almeno da quando la naturale esigenza di socialità è stata temperata e limitata dall'inevitabile necessità di mantenere segrete determinate conoscenze ed informazioni a scopo di controllo sociale e dominio, o comunque per finalità di tipo politico, economico e sociale.

## 241.3. Simulazione di Malattia Mentale

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Il problema della simulazione di malattia mentale è tra i più attuali e dibattuti, sia in ambito psicopatologico che forense. Difatti per esempio, *la linea di confine* che separa la Sindrome di Ganser dalla Simulazione reale è spesso sottilissima e indistinguibile e rinnegata da alcuni autori. Tale limite è labile e facilmente valicabile non solo nei trattati di psicopatologia, ma anche nel reale Io di un furbo simulatore: dopo una *iniziale* messa in scena di patologia mentale, anche in base a meccanismi di difesa, può insorgere una patologia mentale vera e propria. Qualcuno, fintosi pazzo per nobili scopi, si era reso ben conto del rischio insito nel simulare: *"Non corromperti mio cuore, non fare che l'anima di Nerone entri in questo petto"*. (Shakespeare, Amleto III. II.) La psichiatria attuale,

dalla fenomenologia alla nozionistica del DSM-IV, dalla psicoanalisi alla psicodinamica, fino alla criminologia e alla psichiatria forense, non può non confrontarsi con un disturbo così controverso e di difficile incasellamento. *Sindrome di Ganser* e “*disturbi fittizi*”, patologie gravitanti intorno alla normale simulazione, possono, infatti, essere usati in aula come *pass par tout* per ottenere sconti di pena o incompatibilità con il regime carcerario.

#### 241.4. Il Volto Segreto di un Uomo D'onore

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La criminalità organizzata è oggi un male diramato ed affermato in tutto il mondo che sembra aver seguito, ed in molti casi superato, le rotte dell'emigrazione degli italiani all'estero. Una realtà notoriamente diffusa e troppo spesso tacitamente accettata, confusa e mischiata ad alti valori individuali, familiari e sociali. Studiare e comprendere questo fenomeno ed il contesto in cui agisce, e col quale interagisce, è impresa laboriosa ed ardua per il concorrere di più fattori: il manto di segretezza che avvolge, proteggendola, l'organizzazione criminale tutta; l'aspetto fortemente *camaleontico* che contraddistingue le varie associazioni locali, nonché, l'omertà sociale che la custodisce. Sono questi, insieme ad altri, gli elementi che rendono complessa l'intera realtà mafiosa, e meno immediatamente individuabile il singolo appartenente. Questo lavoro si propone di realizzare uno studio specifico ed “intimo” della criminalità organizzata in Calabria analizzandone la parte strutturale e quella “*intuitu personae*”.

Del primo aspetto, che per grandi linee è stato reso noto, già da tempo, dai collaboratori di giustizia, in questa ricerca si è cercato di fare, senza alcuna presunzione, una sorta di “aggiornamento”. Infatti le informazioni riportate si allontanano, per alcune sottili sfumature, da quelle fornite dai “pentiti”, ma non per colpa di sviste, bensì per l'aver appurato una nuova versione della realtà, o meglio, aver registrato alcuni di quei piccoli “aggiornamenti” che col tempo la struttura del crimine organizzato ha apportato al suo interno.

Il secondo momento studia, ed in certi aspetti semplicemente propone, il *modus pensandi* dello 'ndranghetista puro, così come egli si presenta nella sua veste quotidiana di associato convinto ed attivo, lo si fa tramite una intervista ad un soggetto che, a differenza di tutti gli altri colloqui a mafiosi, non è un pentito. Quest'ultima versione dovrebbe, forse, maggiormente farci riflettere.

#### 241.5. Sociologia e criminalità: panoramica delle prospettive interpretative. Da Merton ai nuovi approcci di ricerca

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L'esigenza di affrontare tematiche complesse legate alla criminalità, alla risocializzazione, alla deterrenza della pena, ai vecchi crimini e a quelli emergenti, a situazioni critiche di realtà sociali degradate, porta alla continua richiesta di schemi interpretativi capaci di fornire validi programmi di intervento. Partendo dalla tradizione sociologica si arriva ad auspicare un approccio integrato allo studio dei fenomeni criminali, strumento idoneo a far da collante fra le molte anime che oggi popolano il quadro teorico di questa disciplina, ma anche a far dialogare le diverse scienze sociali e non, quali, la psichiatria, la psicologia, l'economia, la giurisprudenza, la medicina, la scienza politica e la sociologia. In questa logica nei programmi di intervento contro la criminalità organizzata, la micro criminalità, le violenze individuali e di gruppo, si sta facendo strada il concetto di "sicurezza integrata" che chiama in campo le forze di polizia, private e pubbliche, le reti sociali di assistenza, gli amministratori locali e anche gli "esperti" che, in equipe fra loro, dovrebbero dare una direzione riflessiva alle scelte da prendere.

## 241.6. La Negoziazione Nelle Crisi

Gabriele Durante, *Arma dei Carabinieri* (gabrieledurante@yahoo.it)

I molteplici conflitti di carattere militare, sociale, politico, religioso, economico esistenti nel mondo e alla base dei quali vi è la presenza di tensione, ostilità, competizione e dissenso su determinati fini, interessi e valori hanno messo in evidenza l'esigenza di ricercare soluzioni che comportino i minori danni possibili per le parti coinvolte e il maggior grado di soddisfacimento nell'adozione di una soluzione condivisa. Tra i diversi conflitti citati rivestono una particolare importanza per la sicurezza pubblica gli incidenti critici sorti nell'ambito delle attività di polizia caratterizzati dal barricamento o dalla cattura di ostaggi da parte di soggetti che pongono in essere condotte violente e irrazionali comportando seri pericoli per l'incolumità dei cittadini. La diffusione di tali eventi e gli ingenti danni causati in termini di perdite umane dovute all'inesperta o incauta gestione delle crisi ha permesso negli ultimi anni lo sviluppo delle tecniche di negoziazione finalizzate alla ricerca di risoluzioni pacifiche. Tali tecniche basate sulle strategie di comunicazione interpersonale e sulle tecniche di psicoterapia, se opportunamente usate, si sono dimostrate estremamente utili per la gestione delle crisi di polizia e hanno permesso in molteplici casi di ottenere la resa degli autori di barricamenti e/o cattura di ostaggi evitando il decesso o il ferimento delle persone coinvolte.

## 242. Problems Linked to Criminology II

### 242.1. Conseguenze della Distonia dell'identità di genere sessuale del genitore sulla prole in infanzia e nell' adolescenza: dalla prevenzione primaria all' intervento

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Durante l'età evolutiva e l'adolescenza, la Personalità in corso di strutturazione si forma attraverso l'introduzione delle modalità di interazione delle figure significative che rivestono valore di "genitorialità", che possono anche non essere i genitori, ma attingere alle varie componenti proposte delle principali Agenzie di formazione (Scuola, Famiglia, Culto, Media). Il difetto di genitorialità quale stigma presente nella identità di genere genitoriale o l'inversione del ruolo genitoriale, rappresentano una minaccia reale che incombe sulla possibilità di adeguata strutturazione della futura personalità, annunciando spesso, in regime di "patologia della normalità" una difettualità crociata (madre-figlio, padre-figlia) di genitorialità con difetto di somministrazione di cure parentali pur in sussistenza di una apparente adeguatezza socio-relazionale. I segnali di allarme in tema di Prevenzione primaria, sono comunque evidenziabili attraverso protocolli standardizzati utilizzabili dagli Operatori territoriali dell' età evoluta e dell'adolescenza, in modo specifico personale sanitario, educatori e formatori. Il passaggio dalla condotta-sintomo al fatto reato riguardano l'autolesionismo, l'abbandono scolastico, il bullismo, le dipendenze, fino all'adolescenza e successivamente infanticidio, filicidio e delitti intra-famigliari nel giovane adulto soprattutto in presenza di un'ulteriore minaccia esterna.

### 242.2. Il Carcere: Attività Ludiche E Ricreative Con Finalità Rieducative – La Vita In Mondi Possibili

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Partendo dalla casuale conoscenza di un personaggio che ha subito 7 carcerazioni e 19 processi per reati politici prima della riforma carceraria, mi sono addentrata come un viaggiatore nel mondo carcerario. L'osservazione è partita dal caso per ripercorrere storicamente le varie teorie della pena, la legislazione, la nascita del penitenziario, il trattamento rieducativo della riforma del 1975 con i suoi vari elementi; le persone che abitano e che lavorano nel carcere oltre all'analisi del luogo, del concetto di tempo e di

spazio, la comunicazione, la salute e la malattia. E' stato inserito un progetto ludico-educativo e ho consigliato tutte quelle terapie non farmacologiche con finalità rieducative (musicoterapia, teatroterapia, danzaterapia, arteterapia) che favoriscano l'espressività del corpo posto in una ristretta fisicità e dei percorsi psicoemozionali ad essa legati. Un viaggio osservativo che ha fatto prendere coscienza di tutti quei processi di spoliatura del sé, dei disagi esistenziali e degli interventi terapeutici che devono orientarsi verso la costruzione dell'identità e della responsabilità individuale e sociale del carcerato. L'osservazione è avvenuta presso le case circondariali di Rovereto, Trento, Bolzano, Verona, Brescia e Rebibbia Nuovo complesso e sono state date nuove proposte di trattamento, rieducazione, recupero e inserimento nella società.

### 242.3. Pedagogia Penitenziaria

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Nel quadro che emerge, partendo dall'ordinamento penitenziario del 1975 fino ad oggi, si delinea un trattamento rieducativo, ricco di una serie di attività e di competenze professionali diverse armonicamente orientato verso una custodia arricchita di elementi finalizzati al recupero sociale e, comunque, attento alle particolari condizioni ed alle specifiche necessità di ciascun detenuto. In un simile quadro, l'osservazione scientifica della personalità assume un'importanza fondamentale, costituendo il tramite necessario tra l'individuazione dei bisogni, delle carenze e delle cause di disadattamento sociale del detenuto ed il trattamento carcerario o extracarcerario che è rivolto al suo reinserimento sociale. All'inizio della nostra analisi ci siamo chiesti se sia ancora opportuno parlare di "scientificità" dell'osservazione, poiché l'analisi storica che abbiamo condotto ha rivelato come l'osservazione ed il trattamento penitenziario, anche dopo la riforma, siano rimasti legati, per diverso tempo, ad una concezione medico-clinica ed al metodo correzionale, indicati come fallimentari dai Paesi che, da tempo, li avevano sperimentati. Del resto in Italia, mentre è risultato difficile accantonare la concezione emendativa della pena, sulla scorta della tradizione antropologico-criminale, è stato più facile accogliere gli orientamenti scientifici di una disciplina criminologica orientata verso un approccio interdisciplinare del trattamento penitenziario, in cui prevalgono gli orientamenti clinici, psicologici, psichiatrici, medico legale con contributi sociologici. I vari progetti di riforma ministeriale dell'ordinamento penitenziario e la definitiva legge di riforma del '75 avallarono la validità delle teorie criminologiche multifattoriali e la conseguente possibilità di individuare le cause della criminalità, per eliminarle o attenuarle con un trattamento adeguato, affidato a specialisti, in particolare criminologi clinici, che fossero in grado di evitare la ricaduta nel delitto di un condannato, ritenuto essenzialmente un soggetto socialmente disadattato. Quando ci si è accorti del fallimento del modello medico-clinico e dell'ipotesi correzionale, il cambiamento di indirizzo metodologico nelle attività di osservazione e di trattamento penitenziario non ha provocato un mutamento

dell'impianto normativo, che è rimasto sostanzialmente immutato. L'elasticità della struttura del linguaggio usato dal legislatore ha fatto sì che il contenuto delle norme sull'osservazione rimanesse invariato, mentre mutassero gli schemi teorici e operativi a cui si faceva riferimento nelle attività di osservazione. Da quel momento l'approccio col detenuto è divenuto non formalizzato e non sostenuto da strumenti tecnico-scientifici, per quanto si possa ricorrere ad essi se necessario. Il progetto teorico complessivo, che emerge dalle indicazioni del legislatore e dalle indicazioni ministeriali, delinea uno schema di osservazione del detenuto, che non si avvale solo della considerazione degli aspetti comportamentali tenuti dal soggetto in ambito penitenziario, ma che si completa con il quadro personologico attraverso i contributi dell'indagine socio-ambientale. Malgrado si sia dato oramai maggiore spazio all'applicazione delle misure alternative, l'attuazione del trattamento rieducativo all'interno delle strutture penitenziarie, per coloro che non possono usufruire delle alternative esterne, rimane obiettivo irrinunciabile e costituzionalmente sancito. L'osservazione "scientifica", dunque, continua a costituire lo strumento necessario per individuare le esigenze del soggetto per la predisposizione di un'ipotesi di trattamento.

#### 242.4. Prevenzione del fenomeno Burnout in ambito Polizia Penitenziaria

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Premesso che alcuna ricerca nazionale in Italia a cura del DAP (Dipartimento dell'Amministrazione Penitenziaria) è stata finora eseguita per dare una dimensione al fenomeno "BURNOUT", il presente progetto ha lo scopo di proporre un'ipotesi di percorso possibile per sopperire al fenomeno del disagio umano, molto sentito lavorando in tale ambito dal Corpo di Polizia Penitenziaria. La sindrome del "BurnOut" (termine di origine anglosassone che significa "Bruciato-Fuori") è tipica del personale che opera in attività particolarmente stressanti e in situazioni emotivamente disturbanti. Lavorare in un'istituzione confinata come il carcere, lo stare giorno dopo giorno a contatto con i detenuti, l'eccessiva numerosità di questi, i problemi di gestione organizzativa e strutturale, la forzata convivenza con i colleghi ed i rapporti a volte conflittuali con i superiori, oltre a problematiche con i familiari e personali; tutti questi elementi sono in grado di porre, purtroppo, l'operatore in una posizione di malessere permanente. Tale malessere si trasforma in: esaurimento emotivo e depersonalizzazione, che possono divenire in seguito fattori di rischio suicidiario. Il Burnout è quindi la risposta ad una situazione di lavoro sentita come intollerabile. L'operatore non riesce in alcun modo a far fronte alla risoluzione dei problemi di disagio, per cui ha come conseguenza una perdita del senso delle proprie capacità, riduzione del livello di autostima, sentimento di impotenza e un passivo comportamento di rinuncia e di routine. Il fine del progetto è delineato in: valutare e gestire gli impatti psicologici delle situazioni traumatiche, individuarne le cause e contestualmente creare forme di aiuto e di supporto.

## 242.5. Il profilo dell'adepto di una setta

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L'omologazione culturale in Occidente ha lasciato alcune sacche, in cui un capo carismatico, dopo aver raccolto intorno a sé dei seguaci, può condurre gli esperimenti "comunitari" più audaci. Vi sono differenti chiavi di lettura riguardanti le dinamiche che si sviluppano in un gruppo chiuso nel rapporto degli adepti con il leader carismatico o il guru. Per cercare di offrire un profilo dell'adepto di una setta dobbiamo considerare i differenti modelli interpretativi di alcuni processi: l'affiliazione, la permanenza e i momenti critici nella vita del gruppo settario. I modelli dell'affiliazione alla setta nuovo movimento religioso sono stati distinti da Aletti (1999) sull'asse passività-attività. Nel *paradigma della passività*, che sottolineerebbe gli aspetti di induzione e manipolazione, Aletti colloca il modello descritto da Di Fiorino e coll. (1990) e Galanter (1989). Nel *paradigma dell'attività*, che focalizza la dimensione del *religious seeking*, andrebbero annoverate le chiavi di lettura di Bromley e Shupe (1979), Richardson e Kilbourne, (1983) e Fizzotti (1994). Riteniamo che questi modelli non vadano considerati così contrapposti, ma come modelli di lettura che, talora integrandosi, possono aiutare nella comprensione di eventi della vita di una stessa realtà gruppal. Nella presentazione saranno discusse le controversie sulle sette nella realtà italiana.

## 243. Psychobiography of Some Killer Mothers

### 243.1. Psicobiografia di Alcune Madri Figlicide

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L'Autore reduce dalle fasi conclusive della ricerca effettuata in collaborazione con il Direttore dell'Ospedale Psichiatrico Giudiziario di Castiglione delle Stiviere Dott. Antonino Calogero, sottoporà all'uditorio alcuni vissuti e processi associativi mentali prodromi dell'atto delittuoso commesso da alcune madri figlicide recluse nel summenzionato OPG di Castiglione. Dalle loro parole, e/o delle loro poesie, emerge tutto il dramma della propria psicopatologia e delle consequenziali distorsioni interpretative della realtà, responsabile del malsano gesto in condizioni di palese

“infermità di mente”. Molto importante compare anche la testimonianza di una madre in terapia che ha iniziato la sua escalation, maltrattando il figlio addirittura col ferro da stiro e tentando finanche di strangolarlo. La stessa si confesserà e racconterà il suo dramma all’uditorio, intervistata di spalle.

### 243.2. Infanticidio Post-Partum Da Parte Di Madri Che Negano La Gravidanza

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Vengono esaminati sei casi di neonaticidi da giovani madri (dai 19 ai 21 anni), con contesti socio-culturali ed amnestico-clinici quasi del tutto sovrapponibili, con negazione a loro stesse e agli altri della gravidanza, soppressione del neonato inaspettato in un apparente stato crepuscolare con un’amnesia successiva, parziale o totale, dell’episodio delittuoso, di cui si sentono responsabili ma non colpevoli. Dopo un riassunto storico-epidemiologico ed una rassegna delle valutazioni criminologiche e delle discipline sanzionatorie in merito al neonaticidio e all’infanticidio nel corso del tempo, viene formulata una sintesi delle tipologie, delle motivazioni e delle caratteristiche psicodinamiche connesse a questi fatti e degli assetti psicologici (o psicopatologici) di queste madri assassine. Sono infine illustrate le valutazioni psichiatrico-forensi connesse.

### 243.3. Madri Che Uccidono: 100 Anni Di Figlicidio Materno In Italia

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La finalità del mio studio era analizzare 100 anni di figlicidio materno in Italia attraverso lo studio degli articoli di giornale con lo scopo di tracciare il profilo della madre che uccide i suoi bambini in Italia, e di verificare se negli ultimi anni il fenomeno è in aumento. Ho analizzato 100 anni di casi di donne che sono accusate dell’uccisione o tentativo di uccisione del loro bambino / bambini, durante il periodo che va dal 1906 al 2005, in Italia. Nel mio studio delle specifiche variabili ho analizzato: Sull’autore: età, area geografica di crimine, status civile, occupazione, presenza precedenti problemi psichiatrici, suicidio o tentativo di suicidio; Sulla vittima: età, sesso; Sul crimine: numero di vittime, luogo dell’omicidio, modalità lesiva, movente del crimine. Dall’analisi diligente dei 100 anni di figlicidio materno riportato dagli organi di stampa ho cercato di formulare il profilo dell’autore e del crimine. Dallo studio emerge inoltre che il figlicidio è un fenomeno sempre esistito, sempre riportato dai giornali e non in aumento.

## 243.4. Psicobiografia di Una Madre Assassina Argentina

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Il presente lavoro ha come finalità quella di analizzare la psicobiografia di Marta B, di 36 anni che ha ucciso i suoi due figli: (di 2 anni e il di 5 mesi). Sua madre aveva cercato di strangolarla quando aveva 10 anni e poi si era suicidata impiccandosi. Questo episodio ha influenzato significativamente lo sviluppo di un proficuo rapporto madre-figlio ostacolato dalla riattivazione di conflitti infantili. La superficialità, l'abbandono, le illusioni e le disillusioni, la perdita di punti di riferimento hanno portato Marta ad uccidere i suoi figli per salvarli, per non farli soffrire. C'era in lei il desiderio di annullare la sofferenza, che una mente turbata può ipotizzare per i figli: il tentativo di allontanarli da una previsione catastrofica della esistenza. L'instabilità emotiva, la conflittualità provocata da fattori disturbanti l'hanno portata verso uno squilibrio ogni volta più invasivo della intera personalità. Lo sviluppo di un senso di inferiorità, la mancata comprensione da parte del marito e degli amici sono state alcune delle cause che hanno slatentizzato la patologia mentale. Marta è stata dichiarata non imputabile e ricoverata in OPG: dopo 7 anni di terapia viene dimessa e due giorni dopo si suicida con un colpo di pistola

## 244. Sects, Crime and Brainwashing

### 244.1. Analisi della percezione del crimine connesso al satanismo su un campione di giovani adolescenti

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La relazione presenta i risultati di uno studio su un campione di adolescenti in merito al loro livello di fascinazione subita rispetto al satanismo. La ricerca indaga inoltre nel campione la percezione del crimine connessa a tale fenomeno culturale. Viene utilizzato uno speciale questionario pilota realizzato dall'ICAA e un'intervista semistrutturata.

## 244.2. Analisi di Casistica delle Strategie di Manipolazione Mentale da parte delle Sette: L'esperienza Dell'ambulatorio Antisette ell'icaa

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La relazione presenta i dati ottenuti dall'ICAA attraverso colloqui effettuati con familiari di soggetti entrati a far parte di sette pericolose in Italia. Le informazioni sono state raccolte da un'equipe multidisciplinare che presta opera di volontariato sociale presso uno sportello pubblico attivato dall'ICAA ad ottobre 2004. Lo studio propone le principali tecniche utilizzate dalle sette per avvicinare e per coinvolgere le vittime nonché i profili di personalità a rischio che facilitano tali tecniche. La ricerca è finalizzata a progettare tecniche investigative e sistemi di exit counseling.

## 244.3. Satanic Crime Scene: Implicazioni Medico Legali

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La relazione descrive i risultati di una ricerca dell'ICAA sulle implicazioni medico-forensi della ritualità satanica. Vengono inoltre analizzate le simbologie e gli oggetti rituali tipici dei crimini legati al mondo del satanismo. L'obiettivo dello studio è la realizzazione di una linea guida investigativa per l'intervento in caso di sospetto crimine rituale.

## 245. Serial Killers and Penal Responsibility

### 245.1. The Imputability of Serial Killer: some examples

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Valutare l'imputabilità degli autori di delitti seriali è sempre un'indagine complessa, in quanto spesso si scontrano e confrontano elementi ambivalenti sul funzionamento intrapsichico e interpersonale, soprattutto quando non si è di fronte a casi clinici riconducibili a chiare psicosi, come nel caso che presenteremo. Si è scelto questo caso proprio per le implicazioni psicologiche individuali e relazionali che potevano esserci fra un poliziotto adulto e un ragazzo appena maggiorenne, con la presenza significativa di una donna, la moglie del poliziotto, che assumerà un ruolo fondamentale per la comprensione dell'intera vicenda. Nel 1992, nelle campagne della Sabina, vicino Rieti, fra gennaio e marzo vengono commessi due omicidi, all'apparenza inspiegabili, agli inquirenti sembrano delle esecuzioni. Il 5 gennaio 1992, viene ritrovato, da un pensionato nei pressi di un deposito della Croce Rossa, a Fara Sabina, il cadavere di Anurudda Don Sanath H., profugo politico dello Sri Lanka. Il corpo del cingalese è stato crivellato da quindici colpi d'arma da fuoco ravvicinati, esplosi da una Beretta calibro 9 lungo. Era vestito, ma indossava sotto gli abiti il pigiama e slip femminili, tipo tanga. L'omicidio avviene nella notte fra il 4 e il 5 gennaio 1992. Due mesi più tardi, il 10 marzo 1992, viene ritrovato nei pressi del cimitero comunale di un piccolo paese vicino Fara Sabina (Rieti), Bocchignano, il corpo senza vita di una prostituta nigeriana, Mohamed (detta Mary) B.. E' stata uccisa, dopo un rapporto sessuale, con la stessa pistola del precedente omicidio, in dotazione ad un ex poliziotto. Anche in questo caso il corpo è stato crivellato di colpi, sette, esplosi da distanza ravvicinata. L'omicidio avviene nella notte fra il 9 e il 10 marzo 1992. Vengono arrestati un poliziotto di 40 anni (Renato D. C.) e un ragazzo di 18 anni (Fabrizio D. C.) grazie alla collaborazione offerta ai carabinieri da alcune amiche della donna che annotarono la targa dell'auto, appartenente al poliziotto, sulla quale era salita Mary B. Inoltre, ricordano perfettamente i due uomini, in quanto nei giorni precedenti le avevano più volte minacciate e rapinate sul posto di lavoro, nelle strade adiacenti al Foro Italico di Roma. In seguito alle dichiarazioni dei testimoni delle rapine si scoprirà che molto probabilmente entrambi gli omicidi furono materialmente realizzati dal più giovane dei due, in quanto pare fosse sempre lui a minacciare con la pistola le varie prostitute abbordate lungo la strada. Ritenuti colpevoli, vengono condannati in primo grado dalla Corte d'Assise di Roma a 30 anni il poliziotto e a 14 anni il ragazzo, il quale ha usufruito delle attenuanti generiche e dello sconto di un terzo della pena previsto dal rito abbreviato. In realtà Fabrizio D. C.

aveva compiuto 18 anni poco dopo il primo omicidio e poco prima del secondo; per questo motivo, come si vedrà in seguito, fu valutato quasi contemporaneamente sia dal Tribunale per i Minorenni, sia dal Tribunale Ordinario. La valutazione sull'imputabilità ha dovuto tener conto non solo delle personalità di entrambi, ma anche della relazione psicologica che intercorreva fra di loro e, soprattutto, della relazione affettivo-sessuale fra Fabrizio D. C. e Manuela B., moglie di Renato D. C. Il metodo seguito è stato quello classico dei colloqui clinici e dell'osservazione diretta e delle relazioni, con l'applicazione di una approfondita batteria di prove psicodiagnostiche sui due periziandi. I test effettuati sono stati di livello, di personalità e proiettivi.

## 245.2. Nuovi Studi e Approcci sulle Perversioni Sessuali : Riflessioni Criminologiche sulla Necrofilia, Vampirismo e Cannibalismo

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Il tema della relazione è il cannibalismo e la sua relazione con il vampirismo e la necrofilia. Si analizzeranno le radici comuni a queste perversioni, focalizzate su di un comune obiettivo: il recupero della perduta unione materna. Nel parafilico incapace di stabilire relazioni e gestire l'angoscia dell'intimità, l'oggetto d'amore diviene il corpo morto. L'atto perverso sostituisce quello sessuale ed affettivo. Il corteggiamento diviene omicidio e deprezzamento. I preliminari si realizzano nella preparazione della carne. La fusione, l'intimità e la completezza dell'atto sessuale, si realizzano nell'eviscerare, nell'essere concretamente dentro l'altro e di nutrirsi, assumendone magicamente l'essenza. Illustrerò inoltre l'ipotesi di considerare cannibalismo e vampirismo come un disturbo sessuale e di alimentazione. Considerando che alimentazione, emotività e sessualità hanno origine da una stessa area cerebrale e prendendo in esame la prima esperienza di vita che fissa nella mente del bambino la sequenza sensoriale-affettiva "madre-affetto-cibo-piacere", noteremo come questo legame è già presente in patologie quali la bulimia o l'anoressia nervosa. Considerando anoressia e cannibalismo come due estremi opposti di uno stesso continuum nel quale l'anoressica rifiuta il cibo ed il sesso come espressione simbolica dell'amore materno nocivo; ed il cannibale unisce cibo e sesso in un unico atto nella ricerca della fusione materna perduta. Il lavoro evidenzia inoltre il legame esistente tra necrofilia, feticismo e melanconia. A seguito di una breve introduzione, ho suddiviso i necrofili in tre classi, secondo un ordine di gravità rispetto all'intensità della perversione. L'ultima classe, da me definita necrofilia latente, è quella sulla quale ho concentrato maggiormente il mio interesse, svolgendo alcune ricerche tramite internet e prendendo contatti con alcuni soggetti.

### 245.3.Prevenzione Dell'omicidio Seriale: Riflessione Accademica O Intervento Plausibile?

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Partendo dal presupposto che l'omicidio sadico compulsivo in serie sia lo sbocco finale di un disturbo psichico cronico ingravescente simile alla Schizofrenia, l'Autore ritiene che un intervento preventivo possa aiutare il potenziale assassino a sottrarsi ad un destino inevitabile di emarginazione e detenzione a vita. Analogamente alla Schizofrenia cronica, la sindrome che conduce all'omicidio seriale si annuncia spesso con sintomi predittivi minori riconoscibili ed evolve attraverso stadi successivi di gravità crescente: entrambi, inoltre, in fase di cronicizzazione, danno luogo ad un progressivo decadimento mentale che, nella sindrome del SK, interessa soprattutto le funzioni psichiche inibitorie. La sindrome del SK, infatti, è caratterizzata soprattutto da disturbi del comportamento che denotano gravi problemi di relazione: in una situazione del genere, l'eventuale terapeuta può optare tra diverse tipologie d'intervento, senza escludere neppure la possibilità di un ricovero obbligatorio, qualora le condotte intrusive o disturbanti rischino di trasformarsi in violenza eterodiretta. I soggetti in età giovanile, soprattutto, dovrebbero essere precocemente presi in carico da Strutture Psichiatriche Pubbliche, poiché essi sono, in genere, più disponibili ad elaborare le loro esperienze vitali con l'aiuto di un terapeuta che si proponga come interlocutore neutrale e significativo.

### 245.4.L'omicidio seriale in Europa. Analisi di ESKIDAB, la Banca Dati Europea degli Assassini Seriali

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ESKIDAB è stata creata nel 2001 da Ruben De Luca e rappresenta il primo tentativo di creare una Banca Dati internazionale, raccogliendo tutti i casi di *serial killer* identificati e attivi in Europa. La parola ESKIDAB è un acronimo che significa *European Serial Killer Data Bank*, cioè «Banca Dati Europea dei Serial Killer». Attualmente, ESKIDAB comprende più di 700 assassini seriali e viene aggiornata ogni mese, aggiungendo nuovi casi e inserendo nuovi dati nei file riguardanti i soggetti già inclusi. Per molti nominativi, il numero delle informazioni raccolte è incompleto, ma sottoposto a integrazioni continue. La finalità di ESKIDAB è quella di analizzare le caratteristiche dell'omicidio seriale nei diversi paesi europei, per identificare dei tratti distintivi comuni e particolari in

ogni singola nazione. Allo stesso tempo, un altro obiettivo importante è la collaborazione con gli organismi di polizia che, di fronte a un caso di omicidio dal movente non immediatamente evidenziabile (come la gelosia coniugale, l'interesse economico, ecc.) potrebbero confrontare il loro caso con quelli presenti nella Banca Dati, alla ricerca di eventuali similitudini che possano aiutare nelle indagini. Esaminando i dati inseriti, si nota che una percentuale di assassini seriali che si aggira intorno al 10% ha commesso gli omicidi spostandosi in differenti paesi europei e ci sono diversi casi irrisolti che fanno pensare all'azione di assassini "itineranti" non ancora catturati e ciò serve a comprendere l'utilità di un archivio in prospettiva europea. Le informazioni principali raccolte per ogni assassino seriale sono suddivise in 10 "voci" che riguardano: nome e cognome; nazione di nascita; data di nascita ed eventuale data di morte; luogo degli omicidi (città e nazione nel caso in cui la nazionalità dell'assassino sia diversa dal paese in cui avvengono i delitti); età presunta in cui l'assassino ha commesso il primo omicidio; periodo presunto di durata degli omicidi (dal primo all'ultimo); numero e tipologia delle vittime; notizie biografiche; tratti di personalità e comportamento sessuale; *modus operandi* e caratteristiche particolari della serie omicidiaria. A una prima analisi, risulta subito evidente come, ai primi posti per numero di assassini seriali, ci siano tutte le nazioni più industrializzate del continente (Italia, Inghilterra, Francia, Germania, Ex Unione Sovietica) e, anche se i valori relativi possono essere imprecisi a causa del "numero oscuro" e le posizioni fra i singoli stati potrebbero essere scambiate, nel complesso, questi cinque paesi comprendono il 75% circa dei *serial killer* che agiscono sul territorio europeo, confermando l'ipotesi che l'omicidio seriale sia un prodotto tipico dell'alienazione dell'individuo che pervade i paesi più industrializzati.

### 245.5. Donne Omicide Seriali : Una Rivisitazione del Fenomeno. Una Nuova Analisi del Fenomeno Delle Madri Omicide Seriali

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Questo lavoro analizza il fenomeno, ancora poco conosciuto e la cui entità numerica tende ad essere sottostimata, delle donne che uccidono in serie. La ricerca esamina anche i casi di donne che agiscono gli omicidi in coppia o in gruppo, mettendo in risalto le differenze esistenti con l'omicidio seriale femminile agito individualmente. La nostra indagine, partendo dall'analisi quantitativa dei casi documentati e dallo studio di quanto è scritto sull'argomento dalla letteratura scientifica internazionale, elabora una nuova e dettagliata descrizione delle caratteristiche peculiari delle diverse tipologie di donne serial killer, approfondendo in particolar modo l'analisi delle madri che uccidono i figli in serie o più figli in un unico evento. Il campione prende in esame casi di assassine seriali di tutto il mondo e di periodi storici differenti ed è suddiviso in base alla nazionalità e alla tipologia di serial killer. Ciascun caso possiede tutte le informazioni che è stato possibile

reperire e comprende i seguenti dati: periodo e luogo in cui sono stati commessi gli omicidi; età, stato civile e professione della donna autrice dei reati; informazioni biografiche, con particolare riferimento ad eventuali eventi traumatici subiti, alle caratteristiche di personalità, alle modalità di relazione con gli altri e ai comportamenti sessuali; sesso ed età delle vittime; tipologia di rapporto con le vittime; modus operandi; movente dell'omicidio;- fattori facilitanti, predisponenti o scatenanti il comportamento omicidiario seriale; eventuali disturbi fisici e/o psichici diagnosticati.

## 246. Sex Offenders

### 246.1. La Perversione Sessuale nella Pedofilia Rappresentato Come Vero e Proprio Atto di Aggressione

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La pedofilia, storicamente esistente sin dall'antica Grecia e dall'antica Roma, anche se in tali epoche faceva parte di usi e costumi di quelle civiltà, è attualmente diventato un fenomeno sempre più dilagante e che, al contempo, assume diverse e svariate forme di seduzione e di violenza. La cosa certa è che, in qualsiasi manifestazione essa si rappresenti, è sempre un atto di vera e propria aggressione psichica o sessuale o entrambe perché viene perpetrata solo e unicamente verso bambini, i soggetti più vulnerabili, più deboli, più indifesi e più ingenui che esistono nel mondo in cui viviamo. Spesso anzi quasi sempre vi è da parte del pedofilo una reale identificazione di sé stesso per le aggressioni e le molestie da egli stesso subite da piccolo ma sicuramente il trauma psichico che conduce poi alla perversione sessuale e violenta nei confronti del bambino, va al di là di uno schema così semplicistico come il ricordo del proprio vissuto nell'infanzia. Esperti studiosi canadesi hanno asserito che “ Pedofilo un giorno, pedofilo sempre “ e questo ci rende consapevoli dell'enorme difficoltà che si incontra nel curare questi soggetti che portano dentro di sé, intimamente e profondamente, tale desiderio e tanta attrazione, per la loro soddisfazione sessuale e il loro afflusso di eccitazione, verso creature piccole e innocenti come i bambini. Solo in alcuni casi la pedofilia si basa su forme carismatiche e seducenti che l'adulto può facilmente avere nei confronti del bambino per cui questa forte attrazione si risolve unicamente in un'espressione di seduzione narcisistica che rimane fine a se stessa indi per cui non vi è né violenza e né costrizione fisica. Tale fenomeno rimane, comunque, uno degli aspetti più inquietanti e più aggravanti da risolvere sia a livello terapeutico che a livello psicologico anche se sicuramente oggi le vittime sono più propense a parlare e quindi poi a denunciare .

## 246.2. Psicodinamica del Delitto Passionale

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E' diventato quasi quotidiano l'ascolto dai mass media di un DELITTO PASSIONALE, quel delitto che viene innescato da un'insana passione presente nell'autore che lo commette. Sono delitti diversi, perché chi uccide ama la sua vittima e la ama anche mentre la uccide. Ma fino a che punto possiamo parlare d'amore? Ebbene, se di amore si tratta sarà sicuramente malsano, possessivo, saturo di una gelosia ossessiva, fino a divenire follia. Il delitto passionale è spesso la conclusione di un amore infelice o non corrisposto, dunque è la rabbia dopo un tradimento, la depressione dopo un abbandono che spingono a commettere questo delitto. C'è anche il caso in cui l'omicida è preso dalla Sindrome di Otello, quella gelosia delirante per cui si vede nel delitto l'unica via d'uscita. La Sindrome di Otello è la convinzione, la certezza assoluta dell'infedeltà dell'altro, un'infedeltà già consumata, quindi l'omicida non va alla ricerca di scoprire qualcosa, poiché di quel qualcosa lui ne ha la piena certezza. Ad uccidere sono maggiormente gli uomini, condizione sine qua non, le donne le vittime. Lo scenario sembra essere sempre lo stesso: vai via? E io ti ammazzo! L'assassino è quasi sempre il marito, il fidanzato, il convivente o l'amante. Oggi essere accanto un uomo, chiunque esso sia significa per una donna avere il 30% delle possibilità di essere ammazzata. Sembra inverosimile, ma non lo è. Viene da chiedersi quali saranno mai i meccanismi psicodinamici sottostanti a questa insana passione, come si fa strada e diviene azione il pensiero violento e cosa lo spinge...la gelosia? La rabbia? La paura dell'abbandono? Ma soprattutto, chi commette questi delitti è un soggetto folle? Un mostro? O una persona normale? E' a tutte queste domande che cercheremo di rispondere, sperando di riuscire a capire quanto di normale o patologico è insito in questo tipo di lavoro.

## 246.3. Psicobiografia Di Alcuni Sex Offender

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La ricerca si propone di raccontare percorsi biografici di alcuni sex offender, attualmente reclusi presso il carcere di Milano- Bollate, i quali sono stati inseriti in un ampio progetto di cura e riabilitazione. Il racconto avviene attraverso interviste con domande aperte (selezionate insieme al Prof. Mastronardi) che ripercorrono gli ambiti più significativi dell'esperienza psico-sociale degli intervistati: la ricostruzione degli ambienti familiari d'origine; la rievocazione dei più significativi rapporti amicali e amorosi dal periodo dell'adolescenza all'età adulta; il manifestarsi del disturbo e il rapporto con la vittima. Infine viene chiesto al detenuto di scrivere su di un foglio liberamente: si ha così

l'opportunità di prenderne in esame la grafia. Il lavoro si conclude con il racconto dell'ambizione di chi desidera il cambiamento: i progetti Wolf e il progetto " Sex Offender" attraverso la concreta esperienza degli operatori all'interno del carcere di Bollate.

#### 246.4. La Pedofilia – Il Fumetto come Prevenzione Primaria

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La pedofilia, come è noto a tutti, è uno dei crimini peggiori che si possa commettere in quanto è rivolto contro vittime innocenti la cui infanzia o la cui fanciullezza vengono violate e segnate per sempre. Compito della prevenzione primaria è quello di individuare delle strategie tali da fare in modo che la potenziale vittima riconosca l'evento e sia perciò in grado di impedire che si verifichi. Spiegare ai bambini cosa è la pedofilia, come riconoscerne i segnali e le manifestazioni, come cercare di evitare di trovarsi in una situazione a rischio, non è sempre facile; la preoccupazione è quella di dare informazioni chiare, semplici ma che non creino ansia o spavento nei bambini. L'elaborato in questione, dopo un'analisi delle varie tipologie di pedofili, dei loro differenti modi di agire, focalizza lo studio sul fumetto, che viene individuato come un valido strumento di prevenzione primaria. La popolarità di cui gode questo genere letterario tra i giovani è vastissima così come la sua diffusione; si è poi rilevato il suo carattere diretto, semplice e pertanto altamente pedagogico, tanto da essere utilizzato con finalità didattiche in molti libri di testo della scuola primaria. La ricerca ha effettuato una breve disamina dei fumetti per bambini, uno studio sulla costruzione della striscia. Si è spaziato da Topolino a Pimpa, a Valentina, Witch, Winx, e particolare attenzione è stata dedicata ai fumetti giapponesi come Dragonball, Sailor Moon, Pokemon ed al fenomeno dei Manga, delle Anime etc. Quindi sono stati presi in esame alcuni fumetti che affrontano il tema della pedofilia. Al termine dell'elaborato è stato sviluppato un progetto basato sull'utilizzo del fumetto, destinato alle scuole elementari e medie, di prevenzione primaria della pedofilia.

## 247. Violence I

### 247.1. Abuso di Sostanze e Comportamento Violento

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L'uso delle droghe è ampiamente associato con comportamento violento ed aggressivo. L'alcool e le sostanze illecite sono frequentemente presenti sia in perpetratori di atti di violenza che nelle vittime. Allo stesso modo, fra gli individui che abusano di sostanze sono stati registrati tassi significativamente più alti di trattamento sia della violenza espressa che ricevuta rispetto alla popolazione generale. Un certo numero di ipotesi sono state proposte per spiegare il collegamento osservato fra uso della sostanza e la violenza. Le teorie variano dagli effetti farmacologici semplici all'interazione complessa di fattori endocrinologici, neurobiologici, ambientali, economici, sociali e culturali. Un modello che può spiegare i rapporti fra la violenza, vittimizzazione ed uso della droga è il modello tripartito di Goldstein (1985) che dà tre possibili interpretazioni di tali relazioni: (1) interpretazione di tipo psicofarmacologico, dove la violenza o la vittimizzazione derivano dallo stato di eccitabilità o irrazionalità conseguenti all'abuso di sostanze; (2) economicamente compulsivo comportamento violento compulsivo (furti, rapine) motivato da ragioni economiche correlate all'acquisto di sostanze illecite; e (3) sistematico, dove la violenza e la vittimizzazione sono considerate risultati dei pericoli inerenti alla partecipazione al commercio di droghe illegali. Malgrado la connotazione intuitiva di questa teoria, nessuno studio ha verificato se queste spiegazioni teoriche possano rappresentare i mediatori tra l'abuso di sostanze ed il perpetuare o il subire violenze; rimane inoltre da definire se la loro influenza varia in accordo all'abuso di sostanze legali (per esempio, alcool, sigarette) o illegali (per esempio, marijuana e cocaina).

## 247.2. Violenza e Codice Penale

Giuseppe Rando, *Attorney, Trapani, Italy* (giusepperando@libero.it)

Il codice penale italiano, il cui impianto, in massima parte, rimane ancora quello varato nel 1930, prevede e punisce ipotesi di reato commessi mediante l'uso della violenza. La violenza contemplata nel codice può manifestarsi tanto sulle persone, quanto sulle cose. In epoca recente, il legislatore italiano, con l'emanazione della Legge n. 189 del 20 luglio 2004, ha inserito, nel codice penale, un nuovo Titolo (IX *bis*) che disciplina tutta una serie di delitti commessi con violenza e crudeltà in danno degli animali o mediante il loro utilizzo. Come è dato vedere, il vigente codice penale fa della violenza un unico filo conduttore che lega tra loro comportamenti delittuosi tra loro eterogenei. Dal punto di vista criminologico, la violenza sulle persone è, certamente, quella che più di altre suscita maggior allarme sociale e tocca inevitabilmente la morale ed il pubblico sentire. Sotto il profilo delle scienze giuridiche il crimine violento, ma soprattutto le sevizie e la crudeltà (termini questi mutuati direttamente dal codice penale)...

### 247.3. La Terapia Psicofarmacologica E Prevenzione Dei Comportamenti Violenti

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Il comportamento aggressivo non costituisce un elemento clinico fondamentale, né risulta riconducibile a specifiche categorie diagnostiche, situandosi lungo un *continuum* di manifestazioni, che oltrepassa i confini della psicopatologia. I comportamenti violenti possono essere differenziati in due gruppi fondamentali. Nel primo di questi, i comportamenti vengono agiti in modo impulsivo, nel secondo non sono invece evidenziabili elementi d'impulsività, vengono infatti premeditati e sono attuati con lo scopo specifico di ottenere vantaggi secondari. Le manifestazioni di aggressività impulsiva del primo gruppo, oltre che nel disturbo esplosivo intermittente, possono comparire in vari quadri dello spettro Bipolare, nella Schizofrenia così come in alcuni disturbi di asse II, come ad esempio il Disturbo Borderline di personalità. L'aggressività premeditata appartiene invece, quasi esclusivamente all'asse II, con particolare riferimento al Disturbo Antisociale di personalità. Gli interventi psicofarmacologici, in questo settore, sono comunque estremamente importanti in quanto caratterizzati da un indice di efficacia molto vantaggioso. Tale efficacia tuttavia, come vedremo, è quasi esclusivamente limitata alle forme di violenza di tipo impulsivo; al contrario, le forme di violenza premeditata risultano assai meno sensibili al trattamento farmacologico. È importante specificare che prima di avviare un trattamento, in un individuo aggressivo che abbia compiuto atti violenti, è importante la presenza di un disturbo mentale. L'intervento psicofarmacologico è infatti giustificato ed ha una sua logica solo nei casi in cui il comportamento violento si inserisce in un contesto psicopatologico. Nel controllo dell'aggressività e della violenza il vero trattamento psicofarmacologico, quello nel quale risulta importante far ricorso a farmaci realmente dotati di un effetto specifico su questa dimensione psicopatologica, è quello che si imposta nel periodo di mantenimento a medio- lungo termine. I farmaci presi in considerazione con un'attenta analisi della letteratura in merito sono gli antipsicotici tipici e atipici, gli stabilizzanti dell'umore, le benzodiazepine, gli antidepressivi, i beta-adrenergici e i trattamenti anti androgeni considerando sia gli effetti terapeutici che quelli collaterali che ne impediscono l'utilizzo. Ritengo che il trattamento psicofarmacologico sia necessario per il buon esito di tutti i programmi riabilitativi finalizzati a favorire il reinserimento sociale di questi pazienti, concorrendo inoltre in modo significativo ad antagonizzare lo stigma associato ad una loro potenziale pericolosità sociale.

### 247.4. Terapia in Alcune Vittime di Violenza

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Il presente lavoro tratta di nove casi di pazienti, vittime di violenza, che sono stati trattati con psicoterapia ipnotica ericksoniana. Gli episodi di violenza erano stati in tre casi violenza sessuale, in tre casi aggressione a scopo di rapina, in tre casi aggressione a seguito di diverbio con lievi lesioni personali ma elevato timore per la propria vita. Si tratta di cinque donne e di quattro uomini, età media 35 anni, con diagnosi (secondo il DSM IV TR) di disturbo dell'adattamento F43.22 (tre casi), disturbo acuto da stress F43.0 (tre casi), disturbo post traumatico da stress F43.1 (due casi), disturbo psicotico breve F23.81 (un caso). Nel disturbo dell'adattamento e nel disturbo acuto da stress si è utilizzata soltanto la psicoterapia ipnotica. Nel PTSD si è associata alla psicoterapia una terapia farmacologica a base di sertralina. Nel disturbo psicotico breve è stata associata terapia con neurolettici tradizionali a basso dosaggio (aloperidolo). In tutti i casi si è avuta una completa restitutio ad integrum, con ripresa delle normali attività lavorative e socio relazionali.

### 247.5. L'approccio Medicolegale nei Casi di Sospetto Abuso Sessuale sui Minori

Maurizio Bruni, *Medical Examiner, Milan, Italy* (docmbruni@hotmail.it)

Sembrerebbe che i casi di abuso sessuale sui minori siano in crescita negli ultimi anni, ma in realtà appare possibile affermare che la frequenza del fenomeno è sostanzialmente identica, mentre è migliorato il suo approccio sia dal punto di vista giuridico che medicolegale. Il minore abusato mostra sovente segni sia psicologici che fisici, ma il significato di tali segni è tuttora discusso e dibattuto. Sotto il profilo dei segni fisici è possibile affermare che si è passati da un'opinione secondo la quale i segni vulvari costituivano una certezza, mentre i segni anali erano scarsamente affidabili, ad opinioni quasi opposte. Saranno analizzati l'evoluzione del giudizio medicolegale in materia in questi ultimi anni, gli studi che trattano la semeiotica vulvare ed anale nei bambini normali ed abusati, e sarà infine presentato il consensus italiano sulle modalità di approccio fisico al minore nei casi di sospetto abuso.

## 248. Violence II

### 248.1. Valutazione e prevenzione primaria dei traumi stigmatizzanti in infanzia e nell'adolescenza

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In età evolutiva e nell'adolescenza, in piena fase di strutturazione plastica della Personalità, la percezione soggettiva di un evento critico stigmatizzante è proporzionale alla discrepanza tra il vissuto interno e la condivisione esterna rispetto all'ambiente relazionale nel quale l'individuo è immerso, in relazione alla capacità omeostatica raggiunta fino a quell'epoca maturativa (resilienza). Per tale ragione, spesso situazioni di apparente notevole gravità arrecano in realtà un danno impercettibile e fatti considerabili minimali comportano invece conseguenze irreparabili. Una precoce analisi valutativa e prognostica del danno deve necessariamente tenere conto dei fattori specifici legati all'epoca ed alla struttura della Personalità in formazione, alla natura ed intensità dei vettori emozionali ("frame", la cornice entro cui avviene l'evento) caratterizzanti l'evento stesso e del sostrato di compensazione costituito dall'ambiente emotivo-relazionale che ospita l'intero sistema umano analizzato.

### 248.2. Subire Violenza: Le Paure delle Donne

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Ricerche ed interviste recentemente condotte in Italia sulla percezione della violenza sulle donne confermano che la paura di subire violenza è ancora presente in larga parte della popolazione femminile. Il sesso biologico costituisce, pertanto, la variabile più rilevante al fine di esplorare il senso di sicurezza degli individui. Come scrivono Tamar Pitch e Carmine Ventimiglia (2001), i cittadini "*prima di essere giovani o vecchi, ricchi o poveri, sani o malati, sono donne e uomini*". Nel costrutto della paura della criminalità che cosa significa, allora, essere DONNA? "Donna" come vittima di violenza e "donna" come colei che vive la violenza attraverso il sentimento di paura di poterla subire. Nella prospettiva di genere, le indagini sulla «*fear of crime*» hanno costantemente rilevato uno stesso dato: le donne, rispetto alla controparte maschile, vivono un senso di insicurezza più intenso e sono soggette a violenze che affliggono una percentuale di uomini decisamente minore (ad es., stupro e *stalking*) e che incidono sulle loro abitudini di vita, modificandole soprattutto nella popolazione femminile compresa tra i 20 e i 40 anni di età. Violenza, per la donna, diviene qualsiasi tipo di reato che la porti a viverlo come invasivo della propria intimità: violenza sessuale e fisica sono, in percentuale, i crimini percepiti come più allarmanti dalle donne di età compresa tra 25 e 50 anni, ma è cresciuta

la sensibilità anche verso altre forme di violenza, quali quella psicologica ed economica. Tutte le forme di violenza risultano in preoccupante crescita in ambito domestico. Da dove nasce la paura delle donne di subire violenza? Rispetto a quali reati temono maggiormente di rimanere vittime? Qual è la percezione sociale della violenza sulle donne? Sono questi gli interrogativi principali ai quali il presente lavoro cerca di dare una risposta, passando in rassegna un bagaglio ventennale di contributi teorici e di indagini statistiche sull'argomento, e sono le stesse domande che lasciano aperta la riflessione sull'importanza di costruire una sicurezza che sia prima di tutto "sicurezza di genere".

### 248.3. Violenza e Dinamiche di Gruppo

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La psicologia individuale studia l'uomo nella sua unicità e cerca di coglierne le strategie di adattamento all'ambiente e di realizzazione dei propri obiettivi, i percorsi evolutivi o involutivi, le differenze individuali ma, solo in condizioni eccezionali riesce a prescindere dalle relazioni del singolo con gli altri individui o dalla realtà sociale in cui è immerso sin dalla nascita. Già alla fine del secolo XIX appaiono i primi studi sulle dinamiche psichiche che si sviluppano nella folla ( S. Sighele, G. Le Bon, S. Freud) destinati ad aprire un filone di ricerca incentrato sulla psicologia delle masse e del gruppo che ha avuto un grande sviluppo per tutto il XX secolo fino ai giorni nostri. Attualmente non possiamo prescindere dalla comprensione che il gruppo è qualcosa di diverso da un aggregato di individui perché nel gruppo l'individuo è qualcosa di diverso da un individuo isolato. Esso influisce sulla vita psichica del singolo. Certe idee, certe emozioni, nascono e si trasformano in atti soltanto negli individui che si aggregano. I gruppi possono essere più o meno numerosi, più o meno organizzati, occasionali o strutturati e in base alla combinazione di questi fattori avere natura e scopi differenti. La breve ricerca in questione, a partire dalla letteratura sull'argomento, riflette sulla propagazione della violenza nel gruppo, sui meccanismi di gruppo che portano ad azioni violente e criminali, su quali siano le caratteristiche principali degli individui più a rischio di coinvolgimento in azioni violente a carattere collettivo e cerca di individuare alcune modalità di classificazione delle varie e nuove modalità di aggregazione nella società globalizzata. Particolare attenzione viene rivolta alla violenza di gruppo dei minorenni (bande, bullismo etc.) e alle possibili strategie di prevenzione. All'interno della ricerca verano esaminati alcuni casi di violenza collettiva riferiti dalla cronaca.

### 248.4. Il Traffico degli Esseri Umani

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La componente migratoria è sempre stata una concausa che ha caratterizzato, nel tempo, l'evoluzione dell'essere umano. Nella sua attualità ha origini antichissime e problematiche che si rincorrono senza soluzione di continuità. Questa naturale tendenza delle popolazioni alle migrazioni da realtà sottosviluppate, caratterizzate da esponenziali crescite demografiche, verso le aree più ricche del pianeta, negli ultimi anni si è notevolmente intensificata; questo anche per l'accresciuta incidenza dei mezzi di comunicazione di massa e della globalizzazione. Di pari passo, le grosse organizzazioni criminali hanno recepito il fenomeno, veicolando masse di disperati verso le reti di immigrazione clandestina ed ampliando a dismisura un florido mercato di servizi che facilita la migrazione irregolare, comprendenti l'apprestamento di documenti di viaggio contraffatti, il trasporto, l'attraversamento clandestino delle frontiere, le sistemazioni logistiche temporanee e la mediazione di lavoro. Tutto ciò è concretamente definito "Traffico di esseri umani", terminologia che riporta alla mente un orribile reliquia del passato. Il trafficking, che ha oramai assunto un ruolo centrale tra gli interessi del crimine organizzato mondiale, segnandone più di ogni altro la trasformazione verso forme di accentuata transnazionalità e globalizzazione, ha prodotto in Europa, tra i suoi principali effetti, un radicale mutamento nei diversi fenomeni relativi alla prostituzione, allo sfruttamento minorile ed al traffico di organi. Questo è il frutto della rapida evoluzione criminale del sistema, che viene oggi contrastato nel nostro Paese con la Legge 11 agosto 2003 n. 228, la quale ha modificato il testo degli artt. 600 - 601 c.p., recante misure contro la tratta di persone e configurando il delitto di riduzione o di mantenimento in schiavitù.

### 248.5. Luoghi e Non-luoghi del Gruppo Violento

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Negli ultimi anni i gruppi sono stati oggetto di una particolare attenzione da parte dei media italiani e della stampa straniera. L'interesse dedicato al fenomeno delle «pandillas», a quello della devianza minorile autoctona o al satanismo selvaggio (A. Grado, 2004), solo per citarne alcuni, ne sono un valido esempio. Tuttavia, al di là delle dinamiche rilevate, vincolate molto alla percezione sociale che di esse si è avuta, poco si è detto circa la sostanza del fenomeno. L'osservazione e lo studio degli aggregati che tendono a commettere atti devianti, violenti o criminali presuppone una attenta analisi circa le modalità con cui si arriva a compierli. Ma non solo. Le peculiari caratteristiche dei gruppi succitati ci obbligano a riflettere soprattutto sul rapporto esistente tra questi e quelli che Marc Augè (2005) definisce *non-luoghi*. Se un *luogo* può definirsi come identitario, relazionale o storico, uno spazio che non può definirsi né identitario, né

relazionale, né storico si definirà un *non-luogo*. Laddove i *luoghi* impongono i loro significati e la loro identità ad abitanti e visitatori, i *non-luoghi* hanno senso solo per la loro funzione immediata (ristorazione, trasporto, sosta, ecc.) e sembrano per questo lasciare spazio alla personalità e all'inventiva di ciascun individuo. Da questo punto di vista il neologismo *non-luoghi* definisce due concetti complementari ma assolutamente distinti: da una parte quegli spazi costruiti per un fine ben specifico e dall'altra il rapporto che viene a crearsi fra gli individui e quelli stessi spazi. Tale rapporto è rappresentativo della nostra epoca, che è caratterizzata dalla precarietà assoluta, dalla provvisorietà e da un individualismo solitario. È qui che attecchisce il bisogno d'aggregarsi, da cui ne deriva la distinzione tra Gruppi Outsider, Gruppi Insider e Gruppi Middlesider. Del primo gruppo fanno parte gli "estranei al nostro mondo", al "nostro modo di pensare"; alla seconda categoria, invece, coloro che si considerano "simili". Al contrario del primo la competizione dell'insider group con gli altri gruppi è sostenuta da una concezione del potere a somma zero. Il middlesider, in fine, è il gruppo che occupa una posizione intermedia, ovvero quello che aggrega coloro che si percepiscono "estranei", "diversi", senza tuttavia esserlo.