iForensic

Faculty of Forensic Psychiatry Newsletter
Winter 2021

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Forensic Faculty Newsletter

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In this issue

Welcome

News from the Faculty Chair

by

Dr Josanne Holloway

Chair of the Forensic Psychiatry Faculty

It's that time of year again when we are all looking forward to Christmas and the New Year and at the same time hoping it will be as stress free as possible. It's at times like this that I also remember the issues that have arisen within the Faculty, the people those issues have affected and how they might be doing at this time of the year with COVID still impacting on their lives and ours.

This year it is issues around prison healthcare that have been upmost in my mind and on which I have received most emails. (Apologies in advance for the sometimes long delay in responding). From my clinical practice and from Faculty business the mental health of prisoners and how mental health care is delivered remains an issue that concerns us all and that all professionals are working hard to improve. With the pressures our colleagues in adult mental health services have it is sad to stay that sometimes it is only through prison mental health care that vulnerable individuals get access to mental health care.

Members of the Faculty Exec recently had discussions with staff from the Ministry of Justice involved in the Prison Leavers Project looking to improve social inclusion for individuals (including those with mental health problems) when they leave custody. We all agreed that first and foremost it was important to invest in improving the basic needs of individuals as without these needs (adequate safe housing; access to support and non-predatory companionship and stable legitimate finances) being met it would be hard for individuals to be able to engage with or benefit from mental health services.

Meeting the needs of mentally disordered offenders remains the core of our business as psychiatrists working in forensic settings and advocating for their basic needs to be met is likely to have the most impact on their quality of life and mental health.

The Faculty has also contributed to the Parole Board Guidance on Mental Capacity for when a prisoner lacks the mental capacity to participate in their parole review. That guidance has now been published and can be accessed on their webpage.

https://www.gov.uk/government/publications/guidance-for-parole-board-members-on-mental-capacity

I wish you all a very Happy Christmas and festive season and very best wishes for the New Year.

Josanne Holloway

Legal Update

Dr Richard Latham, Consultant Forensic Psychiatrist, South London and Maudsley NHS Trust

Joint Enterprise

Joint enterprise is a doctrine which has evolved in recent years. If two or more people join to commit a crime, then they are joint principals. If one person assists or encourages a second person to commit a crime, then the first is an accessory and the second the principal (both guilty of the same offence). Most controversially, if a second offence arises out of a joint first offence, then the foresight of a possible second offence by the accessory determined their guilt: parasitic accessory liability.

Joint enterprise is not a psychiatric matter, but is encountered in our practice, whether dealing with issues at a trial as an expert witness, providing treatment to people who were accessories or addressing questions in late appeals because of the evolving nature of the law. Controversy and miscarriages of justice are never far away in joint enterprise cases.

Chan Wing- Siu v The Queen [1985] AC 168

The facts

Three people were convicted of murder and wounding with intent. The appeals made their way to the Privy Council. Madam Lam (a prostitute carrying on her trade with her husband's consent) let in a client – one of the accused – and the other two rushed in. Her husband was stabbed and killed, and she was slashed across the head. They claimed they went to the flat to collect a debt. Two said they took a knife for self-protection, one

denied knowledge of the others having knives. They all claimed they had been attacked first. The prosecution suggested that crimes of the type charged must have been contemplated by all of the accused and so all three should be guilty of murder.

The judgement

The Lords of the Judicial Committee of the Privy Council considered the case. Were they all guilty if they saw death or grievous bodily harm as possible or was that too low a threshold and should they have proved that it was probable? The test of men's rea was subjective. The jury had to decide what the individuals had contemplated, not what they had intended. If they contemplated that one of their partners might kill or inflict grievous bodily harm, then they too would be guilty of that crime: parasitic accessorial liability.

R v Jogee [2016] UKSC 8 [87]

The facts

The Supreme Court and Judicial Committee of the Privy Council (sitting as one court) considered two cases (Jogee and Ruddock). Jogee and a co-defendant Hirsi were convicted of murder. Hirsi inflicted the fatal wound. Ruddock was also convicted with a co-defendant of murder. He also did not inflict the fatal blow. The court 'clarified' the law on joint enterprise.

The judgement

The court decided that a person charged as a secondary party or accessory to murder could only be convicted if they had the intention to encourage or assist the principal, as well as having the required intent. Parasitic accessorial liability was rejected as a valid doctrine and the law was turned around. The court did put a significant restriction around historic cases by firstly confirming that convictions made under the law at the time would not be affected and secondly, by confirming that any new appeals must be based on evidence of 'substantial injustice', a threshold which when elaborated on is very high.

Grant-Murray & Anor, R v [2017] EWCA Crim 1228

The facts

Grant-Murray and Henry were convicted of murder and wounding with intent. Both said that they had no knowledge that their co-defendant was in possession of a knife which was used. One ground of appeal was the

Henry had subsequently been diagnosed with autism. The expert involved described that autism would have meant he had difficulty processing the circumstances on the day, had a belief in “black and white morality” and had difficulty assessing consequences of actions. It was also suggested that the jury needed to know of his autism to assess his credibility as a witness. The prosecution resisted this and highlighted the expert’s process:

- They had not obtained a full medical history.
- They had relied on the account of the appellant’s mother which was self-serving.
- They had not explained why so many professionals who had previously examined him had not found autism.

The judgement

Ultimately, the decision considered whether this new evidence (on autism) should be allowed. The court also commented and implicitly criticised the process of the expert. They rejected the opinions of the expert that autism would have affected Henry’s thinking process at the time of the murder or that it would have had any material effect on the assessment of credibility. The evidence was not received, and the appeal failed.

Bio – Exec Committee Financial Officer

by

Dr Sandeep Mathews
Consultant Forensic Psychiatrist, Greater Manchester Mental Health NHS Foundation Trust

Firstly, let me express my thanks to the editors of iForensic and especially Dr Niamh Sweeney, who persuaded me to write a few words about myself.

I am greatly privileged to have had the opportunity to serve the Forensic Faculty as its Finance Officer for the last three years. I had the good fortune to serve on the Faculty executive from 2016. During this period, I worked closely with two amazing Chairs, Prof Pamela Taylor, and Dr Josanne Holloway, as well as two dynamic vice chairs Dr Amanda Taylor and Dr Jeremy Kenney-Herbert. I have also enjoyed working with great colleagues from around the UK. We have been through exciting times and I have seen our Faculty finances swing from excellent reserves, going on to some lean periods and back to healthy levels at present.

I know, I am supposed to write something about me. Well, there is not a lot to say. I started as a junior psychiatric trainee in what was then the GKT training scheme, spending my training mostly in Kent. My Forensic Psychiatry placement was at the Trevor Gibbens unit in Maidstone, where I subsequently worked as a Staff Grade Psychiatrist. I then moved to the Northwest of England as a Higher Trainee in Forensic Psychiatry. I have been a Consultant Forensic Psychiatrist for the past 10 years. I worked initially in Ty Llwellyn, the NHS MSU for North Wales and then moved back to work in Manchester at the Edenfield Centre. Along the way, I have enjoyed my additional roles as a psychiatry trainer, prison psychiatrist, medico legal expert, medical manager and in general service development. I also had the good fortune to work with both NHS Wales and NHS England in various capacities. I am currently a member of the adult secure and health and justice CRG's (clinical reference groups). I had the good fortune to see the launch and establishment of Provider Collaboratives from very close quarters and am currently the Clinical Lead of the Greater Manchester Provider Collaborative for adult secure care. I am also privileged to serve as the Associate Medical Director for the Specialist services Care Group at Greater Manchester Mental Health NHS Foundation Trust.

What has kept me going over the years has been the unique privilege of being a psychiatrist who works with some of the most complex, marginalised, and unfortunate individuals in our society. I have learned from each and every one of them. My trainees have challenged me and taught me much. I have had the good fortune to have received advice and help from some great mentors. The professionals who I have worked with in my multi-disciplinary teams have also been my wise advisors and teachers. My family has been a strong anchoring factor all this while.

My advice to all trainees and junior psychiatrists is simple. Keep your eyes open for learning experiences from everything you may come across. Ask questions and seek advice from everyone around you. Then critically think and reflect and form your own opinions. Test out and sense check your theories with colleagues. Be willing to correct yourself and accept advice. Volunteer for roles. Once people see that you try hard in what you are assigned to do, they will entrust you with more. And never be put off by setbacks.

Prison Psychiatry – time for a new subspecialty?

by

Dr Andrew Shepherd, Consultant Forensic Psychiatrist, Greater Manchester Mental Health NHS Foundation Trust

The practice of psychiatry within prison settings offers a particular series of challenges and rewards. Prisons represent institutions of particular suffering – taking marginalised, vulnerable, populations and introducing them to an alienating and potentially toxic environment, separate from their families and communities for varying amounts of time. It is perhaps unsurprising therefore that prison populations experience a significant burden of mental disorder – though the very definition of disorder within these environments can be challenging with the ubiquitous experience of alienation and isolation that accompanies incarceration. To work within such institutions offers a series of privileges – including the opportunity to support a vulnerable population while working alongside colleagues from a range of clinical and non-clinical backgrounds.

Prison psychiatry clearly overlaps in many ways with forensic practice – and the interface between prisons, the courts and secure hospitals is well demarcated through Part III of the Mental Health Act. However, with the development of Integrated Mental Health Teams, the scope of work and assessment that can be carried out within prison has increased – raising the opportunity to work closely with patients in prison settings avoiding the need for secure hospital transfer. Offender personality disorder pathways and prison therapeutic communities provide offer further opportunities for diverse and challenging work. Increasingly, prisons represent institutional communities in their own rights with points of interaction with wider communities raising the need for interaction and collaboration with general community psychiatry practitioners – and potentially also raising interest for general adult psychiatrists bringing in differing perspectives and expertise into the field. The universality of traumatic experience, common early life attachment disruption, and frequency of illicit psychoactive substance use also allow for the development of skills in terms of psychotherapeutic approaches to clinical work and calls on a need for expertise in the management of substance use and addiction.

Working within custodial settings poses particular ethical challenges for practitioners. Health and social care providers are charged with delivering care that is “equivalent”, in outcome, to that in the wider community. Given the marginalised and disadvantaged position from which prisoners

are drawn, however, it is quite clear that equivalence of outcome will require significant investment. The particular needs of the offender population – in terms of desired and mandated outcomes such as social integration and reduction of re-offending rates – are also different to those generally addressed in wider community practice. The act of prescribing in prison also poses particular challenges – for example as many psychotropic medications are liable to diversion: Placing vulnerable patients at risk of bullying or leading to disruptions in relational security within institutions as psychiatric medications are traded between peers. Practitioners also face a personal challenge in ensuring that their practice does not inadvertently become aligned with the more traditionally punitive elements of penal policy – either through directly punishing attitudes and behaviours toward individuals, or through indirectly supporting and endorsing direct punishment.

Opportunities also arise for interdisciplinary working with non-traditional colleagues: The emergence of named officer roles (taking on responsibility for individual prisoners), together with offender managers, and probation workers all represent potentially important agents to liaise with in terms of care and support planning.

Therefore, while prison psychiatry has traditionally overlapped with forensic psychiatric practice – representing a “special interest” or sessional work for trainees and consultants – there is an argument that much could be gained through closer collaboration with community specialists, as well as medical psychotherapists and addiction psychiatrists. Prison psychiatry also challenges models of primary, secondary and tertiary care provision – since overlapping domains of complexity and need are the norm in this population – and there is therefore opportunity for close working and shared learning with primary and social care colleagues.

Despite the abundant evidence of a need for sentence reform, England and Wales remain somewhat addicted to prison as a means of punishment – and the emergence of planned “supermax” institutions (e.g., HMP Berwyn) indicate that prison populations are likely to at least remain static, if not begin to rise, in the medium to long term. There is therefore a pressing need to further develop prison psychiatry as an area of practice.

With this need for overlapping domains of research, thought, and practice – as well as the particular supervisory and reflective requirements of practice within custodial settings – a greater coherent body of knowledge and care practice is required. While local pockets of practice are beginning to emerge (for example through collaboration between Greater Manchester Mental Health NHS Foundation Trust and the University of Manchester) regional variation in care provision remains hugely significant and national level training and coordination – drawing on the knowledge within bodies such as the Royal College’s Quality Network for Prison

Mental Health Services – are required. This represents an exciting potential opportunity for development and growth in this area – perhaps through the development of endorsement opportunities and accredited training programmes. It is important that the need for novel thought and practice in this area is recognised – both for the good of individual patients as well as for society as a whole in terms of addressing the complex mixture of violence and trauma that accompanies incarceration, while reducing risk of reoffending through the promotion of personal recovery. Recognition of prison psychiatry as a field of practice would generate further interest and potentially attract different practitioners into the area – raising further exciting opportunities for the future.

DPMSA

by

Dr Rafiq Memon, Consultant Forensic Psychiatrist, Birmingham and Solihull Mental Health NHS Foundation Trust

DPMSA stands for Diploma in the Philosophy of Medicine of the Society of Apothecaries. The Apothecaries are an ancient medical institution over four centuries old and based in the City of London. Further reading is available at www.apothecaries.org During the academic year 2019-2020 I attended their long-established Saturday course in the philosophy of medicine. In 2020 the course moved on-line due to the coronavirus pandemic. And so, the formal sit-down exam at the end moved online also.

The class comprised a range of students; medical students, junior doctors, current and retired senior doctors, and someone with no medical background at all. This made for interesting small group discussions with a wide range of experiences and perspectives.

The content of the course relates to western philosophy and its application to medicine. Lectures delivered by a range of academics and clinicians included the following topics:

Philosophy of health

Normative theories of ethics i.e., virtue, deontological and utilitarian

Logic

Social contract theory

Divine command morality and the Euthyphro dilemma

The Four Principles

Global ethics

Abortion

Autonomy, consent and confidentiality

Justice and resource allocation

Moral basis of professionalism

Narrative ethics

Ethico-legal aspects of reproductive and genetic technologies

Truth telling and deceit

Philosophy of science

Philosophy of evidence-based medicine

Ethics of medical research

Philosophical contributions to the concept of illness

Human rights

Nazi medicine

Post-war UK medical ethics

Philosophy at the end of life

The learning environment at Apothecaries Hall is stunning with the restored exterior and interiors making it a beautiful place to visit. Both the manager and director for the course are friendly and approachable. If people make a place, and a place makes a person, then this gem has both.

My main reasons for attending were out of interest, intellectual stimulation to grow the mind, and the promotion of mental wellbeing given the stresses of everyday work. My employer paid the course fees and travel expenses. I found the small group discussions particularly stimulating. It felt like being a medical student again in the sense of having to learn a new language and get to grips with concepts alien to me. But whereas most of what I learned at medical school was post-Enlightenment, philosophy goes back millennia and yet old thinking still has something of value to say today. Ethical issues abound in forensic psychiatry and so receiving formal teaching on philosophy helped think things through in the day job. I applied social contract theory to explain to prosecutors why a particular patient needed to be prosecuted through the courts. I also spoke at my local academic programme on the Euthyphro dilemma and psychiatry to share learning and apply it to my context.

My dissertation was titled: ‘Should psychiatric inpatients be held accountable for a criminal act?’ If journal editors are interested in publishing an article version, then I am available at r.memon@nhs.net No joke.

The pandemic delayed the awards ceremony for diplomates until summer 2021. This was the best day. It felt like being in a Harry Potter movie. There

was shouting to call people together, various officials dressed in robes, a procession into the Great Hall and then the handing out of diplomas to students successful at the various examinations. For example, there is a history of medicine diploma and another in HIV medicine. Tea, coffee and cake was waiting in the courtyard outside. And it didn't rain. As an experience it was more enjoyable than those for my degrees.

Contributions Welcome

Thank you to the contributors of this edition.

We would welcome contributions for the next e-newsletter by Friday 25th March 2022.

The newsletter is a means to keep you informed and updated on relevant topics and the Faculty of Forensic psychiatry's work.

If you would like to share your experiences in your area or write in the newsletter, please contact the iForensic Newsletter team:

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