

# Mentally disordered offenders

*Anthony J. Blowers*

Civilised care of mentally disordered people requires liberal laws, adequate resources, constructive public and staff attitudes, and high levels of professional skill (Gunn, 1984). Home Office Circular 66/90 (1990) states that a mentally disordered person should never be remanded to prison simply to receive medical treatment or assessment. In Annex B to this circular, court psychiatric assessment arrangements at certain magistrates' courts are outlined in order to receive speedy medical advice, and to ensure that an appropriate mentally disordered person can quickly be admitted to hospital as a condition of bail or, with the agreement of the hospital managers, under section 35 of the Mental Health Act 1983 following conviction.

The interdepartmental working group of the Home Office and DHSS officials which reported in 1987 recommended that the courts should be encouraged to use existing provisions of the Mental Health Act, wherever practicable, to enable the appropriate mentally disordered persons to be taken into the health system rather than the penal system.

Magistrates have been the subject of criticism for insufficient knowledge of the provisions of the Mental Health Act 1983 and for not using powers at their disposal to ensure that these offenders are properly channelled.

A recent case perhaps illustrates that even with some knowledge of the procedures super-human efforts are required to achieve the correct outcome. The composition of the Bench on the day of the hearing was clearly fortuitous, in that one magistrate was a former teaching hospital nurse, another a retired member of the London Ambulance Service and the chairman a Mental Health Act Commissioner. This combination was supported by an excellent defending solicitor, a patient and helpful court clerk and a sensitive police custody officer.

Mrs A, aged 21, appeared before a local magistrates court on two charges involving damage to motor vehicles on two separate occasions. She had been given police bail after the first offence and when she re-offended two days later she was placed in custody in Holloway Prison. She was fortunate in having a solicitor who had immediately recognised her as coming within the category of mentally disordered

offender and her list of previous offences confirmed this.

The view of the magistrates was that she should be remanded to the nearest psychiatric unit in order to obtain a complete psychiatric assessment in accordance with section 35 of the Mental Health Act, 1983. They were informed that the assessment would take three weeks and that the local NHS trust mental health unit could not offer a bed. The solicitor was asked to contact the psychiatric hospital in an adjoining health district. He was informed that no beds were available in that hospital's disturbed behaviour unit. The Bench chairman, who was by chance chairman of the Mental Health Act managers of that hospital, made a personal call to the hospital and secured a bed. It took two hours and an eventual threat to obtain the services of the local consultant to sign the necessary order. Mrs A was duly admitted.

When she appeared in court for sentence an excellent psychiatric report was produced. This drew attention to her earlier problems and indicated a severe personality disorder and suggested a probation order with a requirement to attend her local hospital for treatment as a day patient. The local hospital had agreed to provide this facility. To everyone's annoyance the probation service, who had been present at the first hearing, had failed to produce a pre-sentence report and had even failed to appear at this stage, despite knowing that the case had been adjourned to that date.

As it then seemed vital to keep her in care until the probation service could produce the necessary report, an unsuccessful request was made to the local hospital to take her as an informal patient for this period. An approach was again made to the adjoining hospital who could offer a bed but required confirmation of extra contractual referral (ECR). When the local hospital was again contacted, the court was informed that the application could take a week to process.

The court had no alternative but to remand her to Holloway Prison with the proviso that as soon as ECR funding was available she was to be transferred to the adjoining district's hospital as an informal patient. As a safety precaution, a bail condition was imposed that if she absconded

after transfer she would be arrested. As this was the final case for the day the court closed.

On arrival home the chairman felt that bureaucracy had defeated all of the efforts of the court. In despair he rang the adjoining hospital unit and confirmed a bed was still available. The next call was to the administrator responsible for ECR at the local unit. On being told that the ECR procedure could not be started until after Easter (this was 16.00 hours on the Thursday before) he threatened to take a certain line of action and within one minute ECR was confirmed. Within five minutes, the adjoining hospital unit was re-contacted and assured that he would confirm the ECR in writing. The divisional police headquarters was contacted and agreed to intercept the vehicle conveying the 'patient' to Holloway Prison and divert it to the hospital. Confirmation of this action was agreed by all participating agencies.

In the House of Lords on 10 February 1993, Baroness Cumberledge drew attention to the specific task for mentally disordered offenders referred to within *The Health of the Nation*, adding that the government shall be requiring that the strategic and purchasing plans of all health authorities include the necessary range of health and social services, both secure and non-secure, to enable them to respond to the special needs of this group. It is to be hoped that these plans will ensure that the current minefield encountered in directing mentally disordered offenders into the

health system is cleared. Magistrates who adjudicate in the majority of petty crimes committed by these offenders would benefit from an outline of the powers they have in diverting these people away from the penal system.

The Home Office has indicated (June 1993) that they are considering the production of a booklet which could be issued under cover of a short circular that will be of use to those working in areas where they will be in contact with mentally disordered offenders. This will be warmly welcomed as it will contain key elements that have emerged from local and central initiatives which must be reflected in local arrangements if they are to be effective.

## References

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- Anthony J. Blowers, *Chairman, Surrey Magistrates' Society; Mental Health Act Commissioner*

# Research foundations for psychotherapy\*

*Simon Wessely*

The estimable Mental Health Foundation organises biannual conferences on areas in which it wishes to encourage research ideas and interest. The last meeting was on violence, and before that the needs of the mentally disordered offender. This year was concerned with research in the psychotherapies. Organised by Mark Aveline and

David Shapiro (who have done much to lay to rest that old shibboleth that research and dynamic psychotherapy cannot be combined), it brought together an impressive list of researchers and practitioners of a variety of psychotherapies.

A constant theme of the meeting was the difficulties in carrying out psychotherapy research, although this often reflected a confusion between demonstrating whether something works, and why it works. The former is no harder in

\*Mental Health Foundation Series. Held at Balliol College, Oxford, 16–17 September 1993.