

Expert opinion

Jury service and ex-psychiatric patients

TONY MADEN, Research Worker, Department of Forensic Psychiatry, Institute of Psychiatry, London SE5 8AF

The Matthew Trust has argued that ex-offenders and ex-patients of the special hospitals should not be allowed to do jury service until they have had at least ten years without offending or have been out of an institution for at least ten years. Mr Peter Thompson, Director of the Matthew Trust, argues that this period is necessary, in order to overcome the effects of institutionalisation and adjust to life in the community. The ex-offender or patient is held to be under such psychological pressure during this ten years, largely as a result of society's prejudices, that he would be unable to perform objectively on a jury.

This question addresses a central dilemma of community psychiatric care. The aim is to facilitate as full a participation in life as possible, while providing adequate treatment and protection from some of its vicissitudes. In the criminal justice field, the problem is usually faced with the patient as a defendant. Freedom from a long-stay hospital brings, for a minority of patients, the freedom to offend and be processed through the courts. The extent to which psychiatry should intervene in this process hangs on a balance between responsible caring and oppressive paternalism. These arguments have been well rehearsed in the debate over a possible community treatment order. The Trust has raised a different but related question over the freedom to participate in the criminal justice system as a juror.

Eligibility for jury service is regulated by the Juries Act, 1974 and this lays down exclusions relating to both ex-offenders and psychiatric patients. There is no specific reference to the offender-patient.

At present, an offender is disqualified from jury service according to the following tariff:

- i for ever if given a prison sentence of more than five years
- ii for ten years by serving any time in prison or by receiving a suspended sentence or community service order
- iii for five years by being placed on probation.

Rather than being disqualified, "mentally disordered persons", along with the clergy and the judiciary, are "not eligible" for jury service. Mentally disordered

persons are defined as suffering (or having suffered) from mental illness, psychopathic disorder or mental handicap *and* being resident in a hospital or other similar institution *or* regularly attending for treatment by a medical practitioner. Persons subject to current Guardianship orders or who have been determined by a judge to be incapable, by reason of mental disorder, of managing and administering their affairs are also not eligible.

It is unfortunate that the Matthew Trust's statement does not make a clearer distinction between the ex-offender and the ex-patient. This can only increase public confusion about the role of the special hospitals. It is worth repeating that many patients in the special hospitals have never offended and the principle determining admission to these NHS facilities is a patient's need for the services they provide, rather than any criminal act.

Ex-prisoners are already excluded from jury service for at least ten years after leaving prison. It is desirable that a jury should reflect a wide spectrum of opinion and it is difficult to make a case for increasing the restrictions on less serious offenders.

The restrictions on ex-patients are much more flexible. In the leaflet supplied to jurors, the section on mental disorder ends with advice to "consult your doctor if in doubt". Ideally, the restrictions would allow patients with a history of mental disorder to avoid jury service if they felt it would be too stressful, while allowing the participation of people who did feel able to cope. Given a sympathetic doctor, the present rules approach this ideal, as they are couched in general terms, with no definition of "regularly attending for treatment".

The restrictions contain no time limit after discharge from hospital and it is difficult to see how such a time limit could be decided. There is tremendous individual variation in response to hospitalisation; an arbitrary time limit would disqualify unnecessarily some ex-patients who were no longer receiving treatment. It would also endorse the principle that the ex-patient is, in some senses, not capable of full participation in society. In the longer term, this could only increase the prejudice against ex-patients which so concerns the Matthew Trust. Apart from its practical consequences, it seems unacceptable in principle.

We accept that the ex-offender should forfeit certain rights but why should this apply to ex-patients? Legal restrictions on current patients are kept to a minimum (the Mental Health Act, the law on epilepsy and driving) and there would have to be sound reasons for introducing new restrictions on ex-patients.

Most questions about the functioning of juries remain matters of speculation rather than empirical enquiry. There is some research by social psychologists in the USA, looking at "experimental" juries

and the way in which they make up their minds but there is no similar research on actual juries. Research in the area is not encouraged, perhaps to preserve the mystique of "twelve good (wo)men and true". In fact, it would be illegal to do such research as it is a contempt of court to ask a juror about events in the juryroom, even when the trial is over. In the absence of information to the contrary, there is no reason to assume that the ex-psychiatric patient cannot participate fully in this mysterious process.

Psychiatric Bulletin (1991), 15, 290

Psychiatry and the media

Are psychiatrists too "heartless"?

'Affairs of the Heart'

RAJENDRA D. PERSAUD, Honorary Senior Registrar, Bethlem Royal and Maudsley Hospitals; Research Worker, Institute of Psychiatry and Institute of Neurology

'The Heart has Reasons', scheduled for broadcast on 21 February, is the film which launches a major new Channel 4 series of films called 'Affairs of the Heart'. The series purports to be a broad view of how the health of the heart is "... central to our whole well-being, both spiritually as well as physically ...".

However, central to the well-being of the jaded hacks present at the preview was the plentiful supply of alcohol and clotted cream scones – surely a bizarre choice of refreshment for a series which later goes on to include 'Mysteries of a Broken Heart' (28 February), which investigates the causes of heart disease; 'Scotland the Grave' (7 March), which asks why Scotland has the highest level of fatal coronary heart disease in the world; 'Counter Attack' (14 March), which looks at resuscitation training currently available in metropolitan centres; 'It Won't Happen to Me' (21 March), which examines the life-style changes necessary to prevent heart problems; and finally, 'After the Attack' (28 March), which focuses on radical ideas regarding long-term therapy for heart patients, and in particular the work of Dr Peter Dixon at the Charing Cross Hospital.

Originally this first film, 'The Heart has Reasons', was to be broadcast on Valentine's Day, 14 February, but got re-scheduled to a week later. The film's central theme was "... making a connection between the heart of Valentine's day and the arts, to

**Report on preview showing of first film in Channel 4's new series 'Affairs of the Heart', 7 February 1991.*

the physiological heart". One of the important scenes was an open heart operation set to music; this was meant to symbolise a juxtaposition of the two central themes of the film. However the producer, Mark Kidel, admitted sheepishly after the showing that the music had not been played during the operation itself, as strongly suggested by the film, but was dubbed in afterwards.

The psychologist James Hillman popped up again (see Freud Museum conference briefing, *Psychiatric Bulletin*, February 1991, 15, 102), only this time he provided a commentary to the effect that there were aspects of the heart which modern medicine could not comprehend, which included conclusions such as it is only since the heart began to be viewed as merely a muscular pump that heart disease has increased. Perhaps there are aspects of James Hillman which modern medicine does not comprehend.

I asked the producer, Mark Kidel, why he had neglected to include in the film any experts who had done serious work on the link between emotional states and physical conditions. He replied that science was all "speculation and ideology" anyway, and that since one of the psychotherapists in the programme had trained in Switzerland, he must have a medical degree. Kidel maintained that doctors, and perhaps particularly psychiatrists, ignored the 'heart' too much in their dealings with patients.

Well, perhaps psychiatrists are too 'heartless', but is that worse than being too brainless?