

Department of Health Review of Research on the Mental Health Act 1983

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At the same time that the Government published the Report of the Expert Committee on the Review of the Mental Health Act 1983¹ and the accompanying consultation document², the Department of Health produced a systematic review of research relating to the Mental Health Act 1983³. This was written jointly by a team made up of researchers and senior academics from King's College School of Medicine and Dentistry, St George's Hospital Medical School and the Institute of Psychiatry in London. It represents a major undertaking and will be an invaluable tool, particularly for those involved in research into mental health law and allied legislation, both in the UK and further afield, but also anyone involved in the care of detained patients. It is strengthened greatly by the fact that it was undertaken in a structured, rigorous and scientific manner and involved those with not only a formidable academic background, but also clinical experience in the use of the Act itself.

The review is comprehensive, both in form and content. The authors stated aims to summarise the available current data and from that, determine how the Act has been used, and describe which parts are effective or otherwise, has generally been achieved.

Part I

The review is divided broadly into two parts. The first is a description of changes in the use and operation of the Mental Health Act 1983 based on information collected by the Department of Health between 1984 and 1996. While the authors acknowledge the limitations on what they can say based on the difficulties interpreting what may be, in some part at least, quite inaccurate data, they do point to some interesting and important trends. These include the increase in the proportion of involuntary admissions to psychiatric beds over that period, the increase in the number of individuals transferred to hospital from prison and the paradoxical and somewhat inexplicable reduction in the number of hospital orders made by the courts.

Part 2

The main part of the report consists of the systematic review of research into the Mental Health Act 1983. The methods used to gain access to data containing research papers were exhaustive and included conventional database trawls, the use of the internet and extensive hand-searching. More than 700 papers were identified, although quite remarkably, given the importance of mental health law as a whole, only just over 20% of them could be included in the review as they contained original research data. Most disappointing of all was the fact that only one article on training and the use of the Mental Health Act qualified for inclusion. Almost equally disquieting was the fact that seemingly mainstream general and psychiatric journals published relatively few papers in this area. What was encouraging despite this, was the fact that the *Psychiatric Bulletin* has emerged as perhaps the most important current source of access to work in this field. Unfortunately, reference to it is not to be found on electronic databases.

The review section describes in detailed tabular form each of the relevant identified papers. For each section including those on the use of the Act as a whole, the operation of Parts II, III and X, as well as a variety of other topics, there is discussion of the findings from each piece of work and then suggestions for future allied research. Important and recurring themes are the dearth of qualitative work reported and the need for increased user centred research, particularly in relation to patients' experience of compulsion, as well as the issue of outcome following the use of the Mental Health Act. One of the more surprising findings was how few database publications there were related to important matters such as violence in the Act, the use of ECT and the Mental Health Act in forensic and other specialist settings.

There are carefully prepared references to Parts 1 and 2 of the report and also appendices, including lists of journals identified, a summary of the studies included in the review, a precis of important parts of the Act for those unfamiliar with it, and lists of papers originally identified which were not included in the process and the reasons for that. These sections, particularly those detailing the excluded material are of immense value in themselves as a reference point for future research and writing.

Conclusion

The systematic review of research relating to the Mental Health Act 1983 provides an invaluable resource for researchers and clinicians alike. It is an important starting point for anyone undertaking a review of practice, audit or research into any aspect of mental health law at the current time in the United Kingdom despite being about the 1983 Act alone. It does not include an analysis of publications which did not include original data, something which may be significant in an area where attitudes and opinion can be so important and influential. It does, however, contain substantial listings of review papers, as well as those concerning related matters in other jurisdictions and countries. It clearly identifies a number of important areas which have been under-researched. In addition it serves to confirm the view that findings from research into mental health law and allied areas are published relatively infrequently in widely read general journals, but that certain more specialist publications such as the *Psychiatric Bulletin*, are an increasingly rich and important source of information.

Has the review come too late, published at the same time as the Scoping Study Committee's report on the 1983 Act and the consultation document, both of which anticipate new legislation? In some ways the answer must be yes, as presumably certain parts of the 1983 Act will have no equivalent and therefore become obsolete when the new law is enacted. On the other hand the review provides a vital starting point for consideration of future research and serves to emphasise very clearly the need to put in place systems for the collection of data and review of operation of the new Act from the outset. Read carefully it also provides an insight into areas of practice which should be considered again in far greater detail before any new law is passed.

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- 1 See Kennedy, I. & Grubb, A., *Medical Law: Text with Materials* (2nd ed., 1994) at pp. 1011-1024. The history of human research and experimentation has highlighted how vulnerable members of society can be abused by unethical researchers or political regimes: Katz, J., *Experimentation with Human Beings* (1972) as quoted in Kennedy & Grubb, pp. 1012-1024; Beecher, H.K., "Ethics and clinical research" (1966) 274 *New England Journal of Medicine* 1354; and National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, *The Belmont Report: Ethical Principles and Guidelines for Protection of Human Subjects of Research* (1979).
 - 2 A brief summary of the experiments is to be found extracted in Kennedy & Grubb, *op. cit.*, n. 1 at pp. 1012-1013.
 - 3 A further ethical dilemma is the use to which the results of such experiments may be put. E.g., the hypothermia experiments carried out for the benefit of the Luftwaffe "produced a range of data which is genuinely useful in the avoidance and treatment of the victims of hypothermia" (Gunn, M. & McCoubrey, H., "Medical Ethics and the Laws of Armed Conflict" (1998) 3 *Journal of Armed Conflict Law* 133, at p. 148.) Probably the appropriate ethical conclusion is that, despite the abhorrence rightly felt for the experiments, the results should nevertheless not be ignored. To ignore the results would be to heap insult on top of almost unimaginable injury.
 - 4 Kennedy & Grubb, *op. cit.*, n. 1 at p. 1067.
 - 5 See, e.g., McHale, J., "Guidelines for Medical Research" (1993) 1 *Medical Law Review* 160. See also Kennedy & Grubb, *op. cit.*, n. 1, at pp. 1032-1042 and Kennedy, I., "Research and Experimentation" in Kennedy, I. and Grubb, A., *Principles of Medical Law* (1998-), at paras. 13.55-13.56.