

Psychiatry in Court

Expert evidence
Criminal Responsibility
Fitness to plead
Aggravating & Mitigating Factors
Amnesia

Expert Evidence

Legal System

- Sources of Law
 - International
 - Acts of Parliament
 - Common law
 - Customs or ‘conventions’
 - Guidance & codes of practice

Courts of England and Wales

- Supreme Court
- Appeals Court (s)
- Trial Courts
- Tribunals

Burden and standards of proof

- Civil courts / Tribunals
 - On the balance of probabilities
- Criminal Courts
 - Prosecution must prove beyond reasonable doubt
 - If defence is required to prove something – balance of probabilities
 - If put forward certain defences
 - Unfit to plead

Evidence

- Evidence is information that may be presented
 - Testimony
 - Documentary
 - Real
- Fact

Criminal Responsibility

Criminal Responsibility

- To be responsible for a criminal act, the person must do the act and be responsible for their actions
 - *Actus Reus*
 - *Mens Rea*
- What is the age of CR in England & Wales?
 - 10

Defences and partial defences

- Defence (legal term)
 - If proven, will reduce the defendant's liability for their crime
- Full Defence
 - Result in acquittal
 - *Insanity, automatism, duress*
- Partial Defence
 - Result in a lesser conviction
 - *Diminished responsibility, loss of control, suicide pact*

Fitness to Plead

Fitness to Plead

-  Criteria

Fitness to Plead

- Pritchard Criteria
- Can you list them?

Pritchard Criteria

*mute by malice or by visitation of God

The defendant must be capable of

- Understanding the charges and **deciding whether to plead guilty or not**
- **Following the course of the proceedings**
- Challenging a juror
- Instructing counsel
- Giving evidence to their own defence

Fitness to Plead

- Pritchard Criteria vs ECHR
 - Article 6(1)
 - Effective participation = broad understanding
- Future development = Capacity-based assessment?

Procedure – Unfitness to Plead

Criminal Procedure (Insanity & Unfitness to Plead) Act 1991

UTP → Trial of the facts

Disposals

- Hospital order +/- Restriction order
- Supervision and treatment order
- Absolute discharge

Remitted to court when fit to plead

Aggravating & Mitigating Factors

Aggravating Factors

Greater degree of harm

- Victimising vulnerable people
- Offending against someone serving public
- Multiple victims
- Causing serious injury / mental trauma
- Offending against / in presence of children

Greater degree of culpability

- On bail for another offence
- Hate crime
- Planning
- Professional criminal
- Under the influence
- Weapon
- Abusing position of trust

Mitigating Factors

Lower culpability or less severe harm caused

- Provocation (not for murder)
- Relevant disability or mental disorder
- Young / vulnerable / immature
- Limited role in offence
- Remorse
- Reporting to police
- Pleading guilty

Psychiatric Evidence

- May be instructed to prepare a report on a defendant's mental disorder for the purpose of sentencing
- May be used in mitigation
- May highlight aggravating factors

Sentencing

- Purposes
 - Incapacitation (public protection)
 - Punishment
 - Deterrent
 - Treatment
 - Rehabilitation
 - Reform
 - Reparation to the victim

Amnesia



James Holmes

Amnesia

- Amnesia for an offence is not a defence in law
- Clinical assessment – read EVERYTHING
- Dissociative amnesia
 - Patchy amnesia
 - Emotionally significant events
 - Other symptoms of dissociation must be present
- Alcohol-induced amnesia

Psychiatry in Court

Any Questions?

Thank you.