

# Psychiatry in Court

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## Insanity & Automatism

# Insanity

# Not Guilty by Reason of Insanity (NRGI)

- Lack of *mens rea*
- Legal concept – NOT a medical one
- What is the test for insanity?
  - M’Naghten Rules

# Daniel M'Naghten



PORTRAIT OF DANIEL M'NAUGHTEN.

THE MARKETS.

# M'Naghten Rules

At the time  
of  
committing  
the act:

- 1. The accused was labouring under a defect of reason;
- 2. Arising from a disease of the mind;
- 3. So as not to know the nature and quality of the act;
- 4. Or if he did know, he did not know it was wrong

# Defect of Reason

- Complete inability to use reasoning skills
- Temporary or permanent
- Defect of reason is not
  - Failure to reason
  - Impulsivity
  - Absent-mindedness
  - Confusion
  - Irresistible impulse

# Disease of the mind

- Mind = mental faculties of reason, memory and understanding
- Any disease that affects the proper functioning of the mind
- Internal cause – intrinsic manifestation

# Disease of the Mind

- Includes
  - Arteriosclerosis (R v Kemp 1956)
  - Alcohol-induced brain damage (R v Burns 1974)
  - Epilepsy (Bratty v AG 1962)
  - Hyperglycaemia in diabetes (R v Hennessey 1989)
  - Sleepwalking (R v Burgess 1991)



# Nature and quality of the act

- Nature and quality are not separate constructs
  - R v Codere 1916
  
- Ordinary man test



# Did not know it was wrong

- R v Windle [1952] 2 Q.B. 826
  - *“I suppose they’ll hang me for this”*
  - Wrong?
- R v Johnson [2007] EWCA Crim 1978
  - Wrong?
- Wrong = contrary to law
  - Area for much debate
  - *“..even persons who are grossly disturbed generally know that murder and arson are crimes.”* Butler Report 1975

# Defence of NGRI

Defence (balance of probabilities)

Prosecution (beyond reasonable doubt)

Court

Jury verdict

Written / oral evidence of 2 medical practitioners (1 s12 approved)



# Elderly woman 'beheaded in rampage'

An 82-year-old woman was beheaded in her garden by a man who went on a 45-minute rampage through a north London neighbourhood, a court hears.

11 hours ago | London



# Disposals following special verdict

1. Hospital order +/- Restriction Order
2. Supervision Order
3. Absolute discharge

# Automatism

# Automatism

- Insane automatism = Insanity
- “an involuntary movement of the body or limbs of a person...that, at the material time had occurred...a complete destruction of voluntary control”

# Automatism

- Internal / External factor debate in law
  - Less clear clinically
- Important because of disposal
  - Insane automatism (insanity) → disposals as discussed
  - Sane automatism → acquittal



# Examples of automatism

- Unconscious whilst driving due to being hit by a stone
- Overcome by a sudden illness
- Attacked by a swam of bees
- Concussion
- Being under hypnosis
- Being under the effects of anaesthesia



# Examples of automatism

## Epilepsy

- Case law has found insanity to be appropriate defence
- Out of keeping with medical understanding

## Sleepwalking

- Led to findings of both sane and insane automatism
- But can sleepwalking be a defect of reason?

# Examples of automatism

## Diabetes

- Internal / External factor divide
- Hyperglycaemia → insane automatism
- Hypoglycaemia → non-insane automatism
- Medical evidence show both hypo and hyper-glycaemia are features of disease

# Insanity or Automatism?

# Example 1

A lorry driver is going down the m62 in slow-moving traffic. He has a sneezing fit and drives into the car in front, leading to a domino effect involving 7 cars.

Insanity (insane automatism) or Non-insane automatism?

**Non-insane Automatism**

## Example 2

T took part in a robbery and was charged with robbery and ABH. She raised the defence of automatism as at the time of the offence, she was in a dissociative state, suffering from PTSD caused by the external factor of rape.

Insanity or non-insane automatism?

**Non-insane automatism**

## Example 3

J has schizophrenia and whilst psychotic he drove his car into an oncoming car, killing his passenger who did not have his seat belt on. J reported that he had seen the headlights of the oncoming car and knew that he was driving through a portal to heaven.

Insanity or non-insane automatism?

**Insanity**

## Example 4

F was at a party and had been drinking heavily. He fell asleep on a sofa. G and her husband had fallen asleep in the same room. G woke to find F on top of her, groping her and he flipped her onto her back. Her husband awoke and stopped the attack. He was charged with sexual assault. He claimed he had been sleeping at the time.

Insane or non-insane automatism?

**Insane automatism**





# Insanity & Automatism

## MCQs

1. Which of the following is not part of the M’Naghten rules?
  - A. Disease of the mind
  - B. Mental disorder of nature or degree
  - C. Defect of reason
  - D. Nature and quality of the act
  - E. Did not know that it was wrong

# Insanity & Automatism

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# Insanity & Automatism

## MCQs

2. Disposals following a finding of NGRI include?
  - A. Absolute discharge
  - B. Hospital order
  - C. Hospital order with restriction order
  - D. Supervision Order
  - E. All of the above

# Insanity & Automatism

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# Insanity & Automatism

## MCQs

3. Automatism is.....?
- A. Where the person acts without *actus reus*
  - B. Where a person is mentally disordered but with voluntary motor control
  - C. Where a person acts in a state of complete consciousness
  - D. Where a person acts in a state of unconsciousness
  - E. When a person has no recollection of events

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# Personal Hx

- Ms B
- Born in South America
- Older brother, 2 younger sisters
- Physically hit within cultural norms by mother
- One episode of abuse age 7 – fathers friend
- “A bit naughty” pre school but at school was “teacher’s pet”
- Aspired to be vet in early years
- Parents divorced age 9
- Came to UK to live with aunt aged 12

# Personal Hx

- Attended school in London. Some bullying due to being from different country. Stayed until visa ran out (approx 2 years)
- Initially went back with mother – 3 months then with father
- Completed high school in Brazil – straight As
- Mother came to UK with younger siblings, then Ms B joined to help
- Stayed at home until age 17 – did “party” and use drugs at weekends then confrontation at home
- Sister felt mother used as justification for her to leave home



# Personal Hx

- 2 hostels then got council accommodation aged 24
- Married at age 18 – divorced by age 24
- Enrolled on BSc Forensic Neuroscience age 25, completed in 3 yrs
- Aimed to get MSc, started working as an escort
- Use of drugs started again aged 28, January
- Caught in possession April
- No other forensic Hx

# Psychiatric Hx

- Definite concerns over mental health from October. Family tried to exorcise and she saw a psychic.
- Sister became concerned and rang services but told she needed to ask for help herself
- Sister came to stay with her for weekend
- Became increasingly preoccupied with the cat
- Eventually set fire to cat. Charged with unnecessary suffering to an animal and Arson with Intent

# Prison Assessment – ST Dr

*“I met Ms B at the healthcare wing of HMP Holloway. Due to concerns in relation to Ms Bs recent violent behaviour (she had physically attacked a prison officer and was placed on three-man unlock) my nursing colleague ..... and I were asked to conduct our interview via the hatch of Ms B’s prison cell. I explained that it would be extremely difficult to get an accurate impression of Ms B’s mental state via the hatch, so it was agreed that we would speak to her with the door ajar. We were warned that only the week before Ms B had seriously assaulted a prison officer in an unprovoked attack by kicking him in the groin and biting his arm.*

*Ms B was asleep when we went to her cell. The prison officers had some difficulty in waking her and, once awake, Ms B shouted “turn off the light, turn off the light!” When we explained that we needed to keep the light on in order to conduct our assessment, Ms B hid her head under her duvet and declined to speak with us. After a couple of minutes she brought her head out from beneath her duvet and told us to “fuck off!” I explained that ..... and I were visiting from ..... as there had been some concerns about her mental health. Ms B appeared to be irritable and said, “Big deal, who the hell do you think you are? Why would I speak with you? Just fuck off!”*

*I explained that we had come to help her and needed to ask her some questions. Her reply was mocking and sarcastic. She said, “I’ve already spoken about this and I’m not going to speak about it again with you or anyone else. I burned a cat and that’s that. Now I’m here because of that and I have to do the time.” As she had brought up the subject of her index offence I decided to ask her questions along these lines:-*

*I asked, “Why did you burn the cat?”*

*She said, “Are you fucking stupid? I burned it because it was a fucking portal, OK?”*

*I said, “I don’t understand, sorry. What is a portal?”*

# Prison Assessment

*She replied, "The cat was a portal to the devil. It was evil."*

*I asked, "I'm sorry, I'm still not sure what you mean?"*

*She replied, "A connection... with the Devil and Uranus..."*

*I asked, "You mean the planet Uranus?"*

*She replied, "Yes of course I mean the planet Uranus. I told my client that too..."*

*I asked, "You have clients?"*

*She replied, "I'm an escort, OK? Is that a crime?"*

*After this Ms B declined to answer any further questions and told us to leave. I was, however, able to ask some final questions regarding insight:-*

*I asked, "Do you think that you're unwell in any way?"*

*She replied, "No I'm not."*

*I asked, "Do you think you need help with your mental health?"*

*She replied, "Are you stupid? I've had enough of this, fuck off!"*

# The cat

- Belonged to friend
- Initially thought it was causing her harm so put it outside
- Tracked down by neighbour
- Told by psychic it would “protect me”
- “Everyone was mentioning the cat” so “realised” it “was a portal to evil”. When it was awake evil people would visit and it wouldn’t when she was asleep.
- Thought the world would be saved if destroyed

# Insanity & Automatism

Any Questions?

Thank you.