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Mentally Disordered Offenders in England and Wales and the Parole Process.

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Abstract

This paper examines the plight of mentally disordered offenders who are considered by the parole board. Offenders with mental health problems are often regarded with trepidation, fear and stereotypical judgments. Such offenders are also subjected to media sensationalism, which influences public policy and legislation. This research arose out of the increased focus by the public, government and professions, in England and Wales, on whether parole board decisions, and the risk assessments that inform those decisions, protected the public sufficiently, in the light of a number of inquiries into serious further offences (H.M Inspectorate of Probation, 2006a) and Home Office reports. (H. M. Inspectorate of Probation, 2006b).

Keywords: parole, risk assessment, OASys, prediction, Mentally Disordered Offenders

Introduction

There are many erroneous stereotypes, perpetrated by the media and ‘commonsense notions’ regarding convicted offenders with mental health problems. Certain high-profile scandalous cases, for example Christopher Clunis (Applin & Ward, 1998) and Anthony Rice (H.M Inspectorate of Probation, 2006a) lead to reactive policies and legislation in an

attempt to reassure the public that the government is on top of its remit in ensuring security and public protection. (Butler & Drakeford, 2005; Fitzgibbon, 2004) As Peay states,

Current policy in mental health and crime in England and Wales, as in many other Western countries, is not dominated by humanitarian concerns; rather, it is permeated by perceptions and attributes of risk. (Peay, 2002:747)

Herschel Prins (1999; 2005) and others (Gray, Laing, & Noaks, 2002, Gagliardi, et al 2004) argue that mentally disordered offenders are no more likely to commit offences, particularly those of a violent nature, than other people in similar situations without mental health problems.

This research attempts to respond to the increased focus on the dangers posed by mentally disordered people in society (H. M. Inspectorate of Probation, 2006; Prins, 2005; Social Exclusion Unit Report 2004; Gagliardi, G. et al 2004 Wadham, 2002) by exploring how public bodies, such as the parole board, deal with mentally disordered offenders who have served their sentences and are eligible to apply for parole. The research examined how mentally disordered offenders were received by the parole board and the probation service, when applying for release on parole licences. Specifically, it considered: how often their applications were successful, whether their needs were highlighted in parole reports prepared by the home probation officer, and seconded probation officer as well as the offender assessment system (OASys), the key risk/need assessment tool in use by the probation service. Bearing in mind the pressures on

probation officers and members of the parole board to make defensible decisions (Kemshall, 2003) and the fact that the practitioners tend to use their own pre-existing stereotypes to inform their risk decisions (Sutherland, 1992), the research sought to examine whether the parole process for mentally disordered offenders differed from other prisoners applying for parole licences.

Methodology

A small-scale research project was carried out at the Home Office by observation of three parole board sittings in July and September 2006. Each parole board considered 24 prisoner dossiers from all probation areas in England and Wales whose parole eligibility date had been reached. The sample therefore comprised 72 cases with a mixed range of demographic characteristics and offences. The dossiers for each prisoner were examined in detail prior to the parole board sitting and the focus was on the OASys full risk assessment, the OASys full risk of harm assessment, the seconded probation officers parole report and the home probation officers parole report. These documents were then discussed in detail by the parole board, and information recorded on spreadsheets. This information was later coded and tabulated in order for statistical analysis to take place.

The reports were examined in order to ascertain their quality, completeness and thoroughness. In order to ensure that the content analysis of each report was consistent and codeable, a series of criteria were used. These included identification of trigger factors for the current and previous offences, classification of the offender's background and personal characteristics, thoroughness of risk assessment in terms of harm to others

and to the self, liaison with other agencies/prison, previous knowledge of the offender and use of additional reports, i.e. pre-sentence reports, psychiatric reports etc. It was hoped that by using detailed criteria, the quality of the seconded probation officers report and the home officers could be compared to that of the detailed OASys risk assessment document.

Quality in this context is defined as the depth of information and analysis contained within the OASys. A good quality assessment will consider all parts of the assessment, the information having been cross-checked via other sources such as other officers, agencies and previous case records. The source of this data will be transparent and this information will be expanded upon within the script boxes to enhance the evidence contained within the tick boxed sections of the assessment. Poorer assessments have omissions, simplistic analysis and stereotypical assumptions would indicate a poorer assessment. In poor quality assessments a general lack of thoroughness in terms of liaison and reading case file materials would be evident.

The information regarding the consistency and accuracy of the risk assessments in forming the parole dossiers was written up in an article entitled 'Fit for Purpose? : OASys Assessments and Parole Decisions' (Fitzgibbon 2008). However in order to examine the data for the purposes of this article, a review was undertaken of those cases which had current or previous mental health problems in order to focus on this sub-group's particular needs (13 cases). A comparison was then made of their parole application process in terms of successful outcomes and release conditions with the original sample, comprising all 72 cases.

Findings

Identification of Mental Disorder

When trying to identify which prisoners had mental health problems it was encouraging to discover that the home probation officers assessment and the seconded probation officers assessment correlated in the vast majority of cases (disagreement only occurred in 2 out of 13 cases (15%)). However, what was interesting in this subgroup was the fact that the home probation officer had previous knowledge of the prisoners in 38% of cases (n=5). This compared with none of the seconded probation officers - which is quite surprising, considering the length of the prisoners' sentences.. Previous knowledge, in this instance, refers to working with the offender on previous occasions and having either verbal or face-to-face contact. Bearing in mind the importance of a trusting, consistent relationship, in order to ensure risk assessments on mentally disordered offenders, in particular, are accurate (Canton, 2004; Fitzgibbon, 2007; Prins, 2005), this is a worrying difference. In terms of identifying mental health problems, there does not appear to have be any adverse affect in terms of agreement between the home probation officer and the seconded probation officer despite this lack of previous knowledge. However, as these research findings will illustrate, discrepancies are present, in particular concerning dual diagnosis (see below), which indicate this prior relationship is important to ensure accuracy of assessments.

Risk Assessments

Considering the levels of risk identified by the home probation officer and the seconded probation officer when compared with the OASys risk assessment, there again appears to be a level of consistency despite the fact that some offenders (n=5 38%) had OASys forms that were either incomplete or missing. This correlates with the findings of the general sample where 44% of the OASys forms in the parole dossiers were missing or incomplete. The fact that the Home Office wants the OASys form to be the primary risk assessment undertaken on all offenders makes this statistic a concern, particularly in a climate where risk is the dominating principle governing offender management.

As regards the level of risk of harm to others identified in the mentally disordered offenders subgroup, the home probation officer reports rated 8 out of the 13 cases as high risk (61%), whilst the OASys forms, and seconded probation officer reports identified 7 out of the 13 cases as high risk (53%). When compared to the overall sample (72 cases), although there was much more variation between those rated as high risk in the home probation officer assessment (39%), seconded probation officer (25%), and OASys (22%), what is striking is the higher level of risk identified in the mentally disordered offenders subgroup. This is despite the fact that only four out of 13 (30%) of this subgroup had aggression or violence in their reports, compared with 29% in the general sample. Thus it would appear that, although, as previously mentioned (Prins, 2005) mentally disordered offenders are no more violent than the general population of offenders, they are rated at a higher level. The perception of practitioners (Warner &

Gabe, 2006) and the way the OASys risk assessment tool guides the practitioner in their decisions regarding risk levels, by virtue of certain triggers and criminogenic needs, would appear to detrimentally affect the way mentally disordered offenders are judged in terms of their risk assessment (Maurutto & Hannah-Moffat, 2006). This would support claims that mentally disordered offenders are pre-emptively criminalised and once incarcerated, find it very difficult to be seen as 'non-risky' ex-offenders. (Fitzgibbon, 2004; Fitzgibbon, 2007) One could argue that where the emphasis on mentally disordered offenders is focused on the negative aspects of risk, rather than identifying protective factors, which reduce reoffending and therefore risk, this is to be expected. (See Stubner, Grob, & Nedopil, 2006)

Risk of suicide

However, when one examines the risk of self-harm and suicide in the subgroup of mentally disordered offenders, the inconsistencies between the home probation officer and the seconded probation officer are striking. In only one case (7.5%), in the subgroup did the home probation officer voice concern regarding possible risk of suicide. This is compared with the seconded probation officer, identifying three cases (23%), which caused concern in this area. Another interesting finding was that the OASys risk assessment identified 4 cases (30%), more than both other types of parole reports prepared. This finding is particularly worrying when this is placed in the context of high suicide rates, both in prison (Rickford & Edgar, 2005), and in the mentally ill population, compared to the general population (Peay, 2002). Also, some research has identified that

mentally disordered offenders and other offenders are often reluctant to seek help/receive help when they are experiencing suicidal thoughts (Skogstad, Deane, & Spicer, 2006).

This concern regarding inconsistencies in assessment of suicide risk, and a seeming reluctance on the part of practitioners to highlight or recognise such issues, would seem to be supported by the findings in the researcher's exploration of parole reports generally (see Fitzgibbon 2008).

Dual diagnosis.

The term dual diagnosis refers to the fact that mentally disordered offenders suffer from the combination of substance/alcohol abuse and mental health problems. When looking at the subgroup of mentally disordered offenders applying for parole, it was noted that many abused alcohol (69%), and drugs (46%). This would correlate with other studies indicating that alcohol and substance issues are present in 60 to 70% of mentally disordered prisoners (Social Exclusion Unit, 2002) Other researchers place this figure even higher (see Bullock, 2000; Social Exclusion Unit, 2002). However, what was of interest in the current research was the inconsistency between rates, identified by the home probation officer noted above, and those highlighted by the seconded probation officer in their reports, which for alcohol (38%) and drugs (38%) were both significantly reduced. One could speculate that this may highlight the importance of having a previous working relationship with mentally disordered offenders if an accurate assessment is to be achieved. However, if one is trying to ascertain accurate risk

assessments and appropriate treatment plans on release, this discrepancy is of concern. This is particularly true in the light of inquiries which reinforce the link between dual diagnosis and increased risk of violence (Prins 2005).

Parole license conditions.

One of the most significant findings when examining the subgroup of mentally disordered offenders applying for parole was the number of conditions imposed on the prisoners either in order to allow parole to be awarded or before parole release would be considered. As one parole board member, stated, mentally disordered offenders seemed to be ‘tied up like a kipper’ before consideration for and ultimate parole release. Hence the title of this article. Mentally disordered offenders were rarely considered for parole without at least three conditions (30% of our sample). Others received five conditions (16%) or four conditions (8%) of our sample. In many of the cases considered by the parole board, the parole reports did not even explore possible conditions, either due to the assessments lacking robust or appropriate release plans (46%) or the parole board considered the identified release plan as being inadequate. Despite the fact that in the majority of cases (77%) the home probation officer and the seconded probation officer recommended similar release plans in many of the parole reports, there was a decided lack of detail regarding the mental health problems of the offender and treatment. The parole board voiced their concerns about this lack of assessment detail and exploration of support once the mentally disordered offender was released.

Conclusion

To summarise the findings of this research project, a number of key factors are evident. Firstly mentally disordered offenders continue to be assessed in a more negative manner than the general population applying for parole licence. It can be argued that this is due to the fact that assessments concentrate on the negative impact of risk and mental disorder rather than on treatment or protective factors. (Fitzgibbon, 2007; Fitzgibbon & Green, 2006; Stubner et al., 2006) This also could be a consequence of the disembodied nature of risk assessment, which splits the individual into a data self (Aas, 2004) and removes their behaviours from the context or history of the person. Thus evidence of mental disorder is equated with a higher risk score and removed from many contextual meaning, which could provide insight into protective factors or strengths, which could lead to desistance (McCulloch, 2005; McNeill, 2006; Stubner et al., 2006).

It could also be surmised that if, as some research indicates, risk assessment takes place in 'a gendered landscape' (Warner & Gabe, 2006) the fact that the majority of probation practitioners undertaking risk assessments are female may influence the levels of risk identified, particularly when it has been shown that women tend to assess risk higher than their male counterparts, when assessing both young men and those with mental disorder. (Ryan, 1998; Warner & Gabe, 2006) As the central preoccupation now within social work and mental health work, as well as the probation service, is risk and dangerousness (Gagliardi, et al 2004), welfare concerns/social work have been abandoned by the criminal justice system (Oldfield, 2002; Ryan, 1998; Smith, 2005; Smith & Vanstone) Thus one could argue one of the consequences of this shift is that issues such as self-harm

and suicide are not prioritised or focused on by those practitioners undertaking risk assessments. This may also go some way in explaining why there is such a discrepancy in assessment of the dual diagnosis issues in our subgroup sample.

Finally, this research would seem to support the fact that due to preoccupation with risk, making defensible positions (Kemshall, 2003) and the fact that low morale in practitioners is likely to lead to negative risk assessments (Sutherland, 1992), it is hardly surprising that parole release plans on mentally disordered offenders appear to be restrictive and failed to concentrate on issues of treatment or rehabilitation. The main emphasis from the sample observed would appear to be on containment and high levels of monitoring (Rose, 2007). If any real work is to be done to engage, rehabilitate and integrate mentally disordered offenders on release, the researcher would argue that more emphasis on these aspects needs to be incorporated within parole reports by probation officers and models which focus on holistic strength based protective factors need to be in equal balance with those concentrating on monitoring risk. (Canton, 2004; Fitzgibbon, 2007; Robinson & Raynor, 2006)

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