

# Assessing detainees' 'fitness to be interviewed'

## Implications for senior registrars' training

*David Protheroe and Gerard Roney*

The police are increasingly requesting assessments of detainees' fitness to be interviewed. Senior registrars in psychiatry are often asked to perform this task. Gudjonsson has derived a set of guidelines from a judge's ruling following a recent court case. Our survey identifies that the current practice of a group of senior registrars in psychiatry falls short of these guidelines. Reasons for this and implications for training are discussed.

Mentally disordered offenders frequently come into contact with the criminal justice system. Their vulnerability in police interviews is now widely recognised. Police interviews with such individuals are governed by the provisions of the Police and Criminal Evidence Act (PACE) 1984 and its associated code of practice (Home Office 1985; 1991). Police surgeons and psychiatrists are regularly asked to assess the subject's fitness to be interviewed by the police. However, Gudjonsson has recently reported on a case in which a confession was ruled inadmissible in court despite the fact that the requirements of PACE had been satisfied (Gudjonsson, 1995).

The case in question involved a man with a history of psychiatric illness arrested on suspicion of murder. A forensic medical examiner (police surgeon) and a consultant psychiatrist both examined the individual and concluded that he was fit to be interviewed. This view was shared by the attending appropriate adult, who was a psychiatric social worker. In court, statements made during interview were ruled inadmissible under Section 78 of PACE which relates to the retention of the power of the courts, previously held at common law, to exclude any evidence at their discretion (Zander, 1990).

Gudjonsson has examined the official transcripts of the judge's ruling and derived three key elements which he proposes should be considered during assessment of fitness to be interviewed.

1. Does the detainee understand the police caution after it has been carefully explained to him or her?
2. Is the detainee fully orientated in time, place and person and does he or she recognise the key persons present during the police interview?
3. Is the detainee likely to give answers which could be seriously misconstrued by the court? For example, are they able to understand the consequences of their answers. In some cases detainees may admit to anything in order to fulfil their immediate needs, for example, the ending of the interview.

In many parts of the United Kingdom the responsibility for carrying out psychiatric assessments in police stations rests with senior registrars taking part in general psychiatric on-call duty rotas. We were interested in the extent of that group's awareness of the issue of fitness for interview, the frequency of such assessment requests, their experience of training in this area and what criteria were applied, if any, to judge fitness to be interviewed.

### The study

A questionnaire was sent out to all senior registrars (and lecturers holding honorary senior registrar contracts) employed in the Yorkshire Regional Rotational Schemes in general psychiatry, old age psychiatry and mental handicap psychiatry ( $n=30$ ). The questionnaire asked respondents to supply information about assessments on 'fitness to be interviewed', the criteria they currently employ and the training that they had received. Replies were anonymous and a stamped addressed envelope was supplied.

### Findings

A total of 22 replies were received, a response rate of 73%. Eight replies were received from senior

registrars on the old age psychiatry rotation, thirteen from the general psychiatry rotation, one from the mental handicap rotation and two from psychotherapists. The median number of months of senior registrar on-call, completed by the respondents, was 12.5 (range 0–60).

A total of 14 of the 21 senior registrars who had completed at least one month of senior registrar on-call, had made 'fitness to be interviewed' assessments at the request of the police.

Out of 22 respondents one senior registrar had received formal training while he was a registrar in forensic psychiatry and three had received advice from consultants. Four senior registrars had discussed the issue with, for example, senior registrar colleagues. Thirteen of 22 had received no advice or instruction at all.

None of the senior registrars mentioned the police caution. However, seven mentioned that the detainee should be assessed on whether they understood the nature and purpose of the interview. Six would make a cognitive assessment to determine whether the detainee was orientated. Three indicated that they would assess whether the detainee would be likely to make statements which might be misconstrued by the court, such as false confessions. Many senior registrars had other criteria for establishing a detainee as fit to be interviewed, such as "no evidence of psychosis", "no evidence of mental impairment", "along the lines of fitness to plead". Four senior registrars recommended that if in any doubt a responsible adult should be present at the police interview.

### Comment

The majority of senior registrars have been asked to make an assessment of a detainee's fitness to be interviewed at the request of the police. The issue is important because even if two doctors and a psychiatric social worker agree, as in the case described by Gudjonsson, the evidence may

be thrown out months later by the trial judge. If the assessment is not satisfactorily carried out it may result in a mentally disordered person incriminating themselves being wrongly detained and even convicted.

The current criteria used by the senior registrars surveyed varied greatly and did not cover the criteria suggested by Gudjonsson. Although senior registrars are being asked to assess detainees' fitness to be interviewed they have received little formal training in this important area. We believe that informal advice from consultants and discussions between senior registrars is no substitute for formal training.

The assessor's task is made more difficult because of the lack of official guidelines. The anomaly of doctors being requested to perform an important task, but with no guidance on how to perform that task, has been partially rectified by Gudjonsson. Since these are the only criteria that we can find, we recommend that they should be used as the current standard.

### References

- HOME OFFICE (1985) *Police and Criminal Evidence Act 1984*. London: HMSO.
- (1991) *Police and Criminal Evidence Act 1984. Codes of Practice*, Revised Edition. London: HMSO.
- GUDJONSSON, G. (1995) 'Fitness for interview' during police detention: a conceptual framework for forensic assessment. *Journal of Forensic Psychiatry*, **6**, 185–197.
- ZANDER, M. (1990) *The Police and Criminal Evidence Act 1984*. London: Sweet and Maxwell.

\*David Protheroe, *Senior Registrar in Psychiatry, Department of Liaison Psychiatry, Leeds General Infirmary, Great George Street, Leeds LS1 3EX;* and Gerard Roney, *Consultant Forensic Psychiatrist, Newton Lodge Regional Secure Unit, Ouchthorpe Lane, Wakefield WF1 3SP*

\*Correspondence