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EDITORIAL – *Editor: Professor Mirko Bagaric*

The Need to Implement Cop-a-Con instead of Incarceration for Young Offenders 3

ARTICLES

Substance Induced Psychosis and Bradford-Hill Criteria for Causation – *Olav Nielssen and Peggy Dwyer*

Substance induced psychosis is unusual among the categories described in systems of psychiatric classification in specifying a cause of the condition. However, despite a clear association, the strength of the causative inference is by no means clear. In this article, the criteria for causation proposed by the pioneering epidemiologist Sir Austin Bradford-Hill are applied to what is known about the relationship between substance use, in particular, the use of cannabis and stimulant drugs, and psychotic illness, in order to examine the validity of the diagnostic category of substance induced psychosis, and whether a causative inference should be drawn in making the diagnosis in many cases. The article will also discuss recent changes to the status of substance related psychoses in criminal law in New South Wales. 6

Victim Legal Representation, Procedural Change and Adversarial Criminal Trial Reform: Systemic Support for Sex Offences Victims and Survivors in Victoria – *Tyrone Kirchengast*

The Victorian Law Reform Commission’s (VLRC) 2021 report, *Improving the Justice System Response to Sexual Offences*, makes several recommendations to transform the adversarial criminal trial by encouraging systemic change in greater support of sex offences complainants. By recommending funded legal representation up until jury trial and across related hearings, the VLRC has gone further than past inquiries by offering representation across the criminal trial process. Legal representation would be tasked with protecting the interest of victims by exercising limited rights, specifically: privilege in relation to evidence, including confidential communication, access to alternative arrangements, special protections, and intermediaries; rights to privacy in relation to personal information, including sexual history, during cross-examination, or lifting suppression orders; rights to compensation; and advice on the consequences of participating in restorative justice referrals. This article assesses the scope of change proposed by the VLRC to transform the adversarial criminal trial experience for sex offences survivors. 15

Pushing the Boundaries of Automatism with Sexsomnia: R v DB – *Brendon Murphy*

Automatism is a common law defence based on the principle that a person who commits a crime involuntarily is not criminally responsible for their actions. Over time the doctrine has evolved into distinct categories of sane and insane automatism, without a finding of sane automatism triggering an acquittal, and insane automatism enlivening mental illness provisions. Recently, a phenomenon known as sexsomnia has started to appear in criminal courts as a discrete aspect of the automatism defence. This article examines the decisions

in *R v DB* which resulted in an acquittal and explores some of the problems associated with
sexsomnia when the issue comes before criminal courts. 26

Victoria’s New Offence of Grossly Offensive Public Conduct – *Pascale Chifflet and
Steven Tudor*

In August 2022, the Victorian Parliament created the new indictable offence of “grossly
offensive public conduct” in s 195K of the *Crimes Act 1958* (Vic). This was in direct
response to the notorious conduct of Richard Pusey in the immediate aftermath of a fatal
accident on Melbourne’s Eastern Freeway in 2020, which resulted in a charge of “outraging
public decency”. The present article examines the background to and the elements of the
new offence, before comparing it with existing offensiveness offences in Victoria and
with the England and Wales Law Commission’s 2015 proposal for a statutory version
of outraging public decency. The article argues that the new offence does not respond
to a demonstrated gap in the law and is a clear example of penal populism. The article
concludes with a policy argument for why offensive conduct offences should in principle
only ever be summary offences. 42

Sentencing Review 2021–2022 – *Lorana Bartels*

Nearly one in five finalised defendants in the Australian courts has at least one matter
involving domestic and family violence (DFV), highlighting the significant impact of such
matters on the courts’ workload. DFV may be relevant to sentencing in two ways: when
the courts are sentencing someone for an offence committed in the context of DFV and
when they sentence a person for breaching a civil order designed to prevent such conduct.
This article examines the legislation, case law and recent research in relation to both these
circumstances. The article also considers serial family violence offender declarations and
the benchbooks available to support judicial officers who sentence in this context and
relevant recent research. 56