

May 1966

## Current Medical-Moral Comment

Thomas J. O'Donnell

Follow this and additional works at: <http://epublications.marquette.edu/lnq>

---

### Recommended Citation

O'Donnell, Thomas J. (1966) "Current Medical-Moral Comment," *The Linacre Quarterly*: Vol. 33 : No. 2 , Article 17.  
Available at: <http://epublications.marquette.edu/lnq/vol33/iss2/17>

# Current Medical-Moral Comment

THOMAS J. O'DONNELL, S.J.

Reviewing the basic ethical considerations regarding human experimentation and clinical research in *The Georgetown Medical Bulletin* two years ago,<sup>1</sup> I suggested certain specific problems which merited further consideration. The basic guide rules for such research demand an informed and free consent of the subject and the strict limitation of serious danger.<sup>2</sup> These considerations though pose special problems in connection with research involving mentally retarded populations and with the use of prisoners in research projects.

## CLINICAL RESEARCH AND MENTAL INCOMPETENCE

The use of retarded children and other mentally incompetent individuals as subjects for medical research poses a problem because of their inability to give an informed consent. While their confinement in a controlled environment and their frequently sound physical health makes them ideal subjects for research, their status of mental incompetence (frequently as wards of the state) make many research men sensitive to the

Father O'Donnell is professorial lecturer in medical ethics at Georgetown Medical School. By arrangement with the editor of *Georgetown Medical Bulletin* this column in that journal appears concurrently in *LQ*.

<sup>1</sup> O'Donnell, T. J.: A note on some ethical considerations of drug testing in humans. *Georgetown Med. Bull.*, 17:156-157, February, 1964.

<sup>2</sup> O'Donnell, T. J.: *Morals In Medicine*. Second Edition, Newman Press, Westminster, 115-120, 1959.

danger of an violation of human rights in such projects or of any viewing of these subjects as *second class citizens*.

The difficulty is a very practical one. The answer which seems consistent with the proper concept of the human worth and dignity of any human is fairly obvious but quite restrictive. No procedure should be undertaken without the consent of the next of kin or other responsible agent, and then only those procedures should be admitted which are very minor, entirely safe and minimal uncomfortable. In general, the procedures should be such that one would expect any competent parent to give immediate and unhesitating consent for them. It seems to me that this restriction should be followed most faithfully. The only possible exception being that the experimental procedure is designed, in its immediate context, to help this particular patient. In the latter case I believe the ordinary norms of human experimentation could be followed. If such consent has not been explicitly denied by the next of kin, the consent of the patient could be presumed.

## CLINICAL RESEARCH AND PRISON POPULATIONS

The fact that research projects with the inmates of approximately 16 federal prisons are currently being conducted in the United States indicates the timeliness of the ethical questions involved in this context.

The purpose of the incarceration is fourfold. The first two: punitive and reformative, are directed more of convicted criminals can be listed immediately to the criminal himself; while the second two: socio-protective and exemplary-deterrent, look respectively to the protection of society and the prevention of crime. By keeping medical research on prison volunteers within the context of the parole system it can be readily shown that it does not necessarily compromise any of these four purposes of incarceration. And it can indeed advance the reformative process.

The presumption of the parole system is that reduction of time in prison as a reward for good behavior or meritorious service, coupled with supervision of the parolee after release, are reformative of selected criminals and without undue risk to the social well-being of the community. Participation in clinical research for the benefit of one's fellow man can certainly be classified as meritorious service. Participation in clinical research has also been shown frequently to be occasion of a reawakening of self-respect, personal fulfillment, and a sense of responsible solidarity with society.

There are, however, two important considerations to be made in this regard. The first is that such research procedures must be kept within the same moral limits, regarding the degree of danger involved, as any other human experimentation

<sup>3</sup> Report of a committee appointed by Governor Green of Illinois on prisoners as subjects of medical experimentation. *JAMA*, 136:457-458, February 14, 1948.

or clinical research. In evaluating this it must be realized that a proper proportion between the individual's worth and human welfare on the one hand, and the possible advance of medical science for the benefit of humanity on the other, would preclude any serious risk of death or disabling injury in the experiment. Perhaps though there was a real hope of averting an immediate grave threat to the common good and it could be averted in no other way. The prisoner status of the subject does not alter the degree of acceptable risk. Since the experimentation cannot justly be part of the punitive aspect of prison life in view of the exposure to not totally predictable risk and the probability of unequal and ambiguous punitive effects inherent in such a concept, the degree of acceptable risk is not altered.

Secondly, since participation by prisoners in a research project must be a voluntary participation, to which they give a fully informed and free consent, great care must be taken lest the offering of extremely desirable rewards vitiate the true voluntary spirit of the participants.<sup>3</sup>

## CAPITAL PUNISHMENT AND CLINICAL RESEARCH

Another question concerns the moral propriety of the state decreeing capital punishment by deep anesthesia. The state would be permitting concomitant dangerous clinical research on the anesthetized criminal prior to anesthetic death (which might be delayed for hours or weeks) on those condemned criminals who would request that they

be allowed to fulfill the capital sentence in this way.

This type of proposal has received rather wide publicity in recent years, particularly under the impetus of J. Kevorkian, M.D. He does not take a stand for or against capital punishment but writes: "as long as capital punishment is in effect, and whenever it is in effect, there is a far more humane, profitable and sensible way to implement it."<sup>4</sup>

The moral issues involved here might be summed up as follows: The state does have the right, under certain conditions, to impose capital punishment and to implement it by those methods which are designed to achieve its punitive and exemplary-deterrent objectives without exceeding the bounds imposed by a proper sense of human decency. One such accepted method: the gas chamber, does approximate the concept of execution by terminal anesthesia. In this context it would seem that the state could, at the

request of the condemned, officially decree execution by human experimentation under deep anesthesia, culminating in a painless, anesthetic death, if not in the experiment itself.

This view, however, is presented as theoretical rather than practical. There is a certain human incongruity in the medical profession participating in the public execution of criminals, even to the extent of being appointed as executioners, notwithstanding the fact that this would be in the interest of clinical research. Moreover, the concept of prolonging the terminal anesthesia for days or weeks as the experiment progresses, and the even subconscious overtones of the ideal *human guinea pig* situation realized in the person of a condemned criminal could scarcely be without the danger of a deleterious, materialistic and dehumanizing influence on the research team, and the community itself. Thus, although what is done and why it is done might be morally defensible, the circumstances necessarily concomitant to the doing of it lead us to regard the act as morally unacceptable.

<sup>4</sup> Kevorkian, J.: Capital punishment or capital gain? *Journal of Criminal Law; Criminology and Police Science*, 50:50-57, 1959.

**FAMILY LIFE BUREAU, National Catholic Welfare Conference, publication — *Abortion and Public Policy* — original, documented study prepared by Russell B. Shaw, available from their office, 1312 Massachusetts Ave., N.W., Washington, D. C. 20005. Price \$1.00 a copy. Order direct.**