

## ***Insane Consequences: How the Mental Health Industry Fails the Mentally Ill***

By DJ Jaffe, with a foreword by E. Fuller Torrey, MD.  
New York: Prometheus Books; 2017.

Reviewed by Ingrid Chen, MD

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**Key words:** severe mental illness; public policy; homelessness; criminal justice system

DJ Jaffe's *Insane Consequences: How the Mental Health Industry Fails the Mentally Ill* is a well-informed, unapologetic critique of the mental health industry in the United States. The book examines many systemic problems that have led to an overwhelming deficit of resource allocation to serve people with severe mental illness. While an estimated twenty percent of Americans are affected by any mental illness, it is the four percent of adults with persistent and severe mental illness that need the most help. Based on evidence cited in this book, patients with untreated severe mental illness are at increased risk for detrimental consequences that include homelessness, suicide, involvement with the criminal justice system, and violent behaviors.

In plain language, Jaffe presents a clear and compelling argument divided into seventeen chapters, along with an appendix and footnotes that further substantiate his arguments. The chapters are organized into seven thematic sections. The first two sections frame the discussion with an overview of serious mental illness (SMI), defined as schizophrenia spectrum disorders, major bipolar disorder, or major depression diagnosed in adults. The next three sections introduce major participants in the mental health industry (i.e., Substance Abuse and Mental Health Services Administration, Copeland Center for Wellness and Recovery, Bazelon Center for Mental Health Law, Mental Health America) and document the ways in which they reject scientifically based treatments in favor of unhelpful programs claimed to be evidence based. Section six identifies federal policies and U.S. Supreme Court

decisions that have impeded access to treatment for people with SMI, and section seven introduces potential solutions and a proposed reallocation of existing resources to optimize existing programs.

Jaffe, who died in September 2020, was an influential critic of the mental health system and self-proclaimed mental illness advocate for over thirty years. His advocacy work focused on severe mental illness and was largely inspired by his personal experience with a family member. The author served on boards of nonprofit organizations, including the National Alliance on Mental Illness and the Treatment Advocacy Center. In 2011, he founded and served as the Executive Director of Mental Illness Policy Org. Throughout his career, Jaffe made substantial contributions toward shaping mental health legislation, including New York's Kendra's Law and the 21st Century Cures Act.

*Insane Consequences* provides historical context regarding the deinstitutionalization of severely ill psychiatric patients through a summary of major federal initiatives and policies. The text describes how the movement toward deinstitutionalizing people with mental illness gained momentum in the 1970s, resulting in a decrease in hospital bed admissions with an expectation that community agencies would provide adequate treatment and housing. Community support for the most severely ill turned out to be significantly lacking, resulting in the same patient population being re-institutionalized in the criminal justice system. Jaffe additionally details how privatization of community treatment further selected for the most profitable patients and neglected those with persistent and severe conditions. Chapter 14 chronologically documents the federal government's failed attempts to reform the mental health system since 1946. While deinstitutionalization and lack of funding are acknowledged as contributing factors to the problem, Jaffe asserts that the fundamental matter is that the mental health industry and mental health advocates have consistently chosen not to focus their efforts on the most severely ill patient population.

Throughout his book, Jaffe makes a clear distinction between "mental health" and "mental illness," focusing the scope of the discussion on the ten million patients with SMI. He highlights how these patients generally receive the least amount of help from community programs and are consequently unable to maintain a high level of functioning. According to Jaffe, consequences of untreated SMI

are not easily palatable, resulting in a tendency for mental health service providers to be dismissive of this inconvenient reality: “not everyone recovers, sometimes hospitals are necessary, involuntary treatment is preferable to incarceration, and there is a group of the most seriously ill who left untreated become suicidal, homeless, criminal, incarcerated, and yes, sometimes violent” (p 23).

Jaffe does not refrain from casting blame on a number of mental health organizations and specifically criticizes the Substance Abuse and Mental Health Services Administration (SAMHSA) for their promotion of the “recovery model” in place of a more scientifically based “medical model.” Despite evidence supporting the effectiveness of medications and electroconvulsive therapy, intensive case management, assertive community treatment, and assisted outpatient treatment (AOT), Jaffe posits that insufficient funding has been allocated toward these proven strategies. He strives to further expose the mental health industry for its track record of obstructing involuntary treatments, opposing psychiatric hospitalizations through the Institute for Mental Disease (IMD) Exclusion in Medicaid, and openly expressing biases against the use of medications as evidenced by anti-medication advocacy groups.

Jaffe asserts that to date, the mental health industry is largely composed of groups that have continually convinced the government to divert funding toward programs that are not evidence-based. Billions of dollars are spent on programs targeting broad definitions of “at risk populations” and “prevention,” which lack rigorous research methodologies evaluating outcome measures and fail to demonstrate clinically meaningful outcomes. One key takeaway, according to Jaffe, is that there is plenty of funding available, 238 billion dollars, but the sickest patients are not receiving the care they need because of an inappropriate allocation of funds. In addition to advocating for increased access to the community programs mentioned above, Jaffe is a proponent of solutions that prioritize the most severely ill: eliminate the IMD exclusion in Medicaid and Medicare’s 190-day lifetime cap on psychiatric hospitalization; reform SAMHSA and dissolve anti-treatment Protection and Advocacy Groups; amend the Health Insurance Portability and Accountability Act and Family Educational Rights and Privacy Act to include parents or caregivers in treatment decisions; fund and optimize mental illness research; implement court supervised programs (AOT, mental

health courts); and provide standard training to all law enforcement officers, who regularly interact with individuals with SMI, on the basics of mental illness and how to connect such individuals to treatment.

This book effectively conveys a powerful message that the current mental health system fails the most severely ill patients. While the tone and delivery is provocative and relentlessly critical of agencies within the mental health industry, it is an approach that highlights the importance of this matter and the urgent need for mental health policy reforms. Overall, this is a worthwhile read for forensic practitioners or those in the mental health workforce with an interest in criminal justice, homelessness, and public policy.

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## Woke with a Kiss: The Media Controversy over Disneyland’s Snow White’s Enchanted Wish Ride

Reviewed by Kenneth J. Weiss, MD, and Michelle T. Joy, MD

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“When all the world is a hopeless jumble,”<sup>1</sup> we can nestle into fairytales with happy endings, such as Snow White and the Seven Dwarfs, Cinderella, Sleeping Beauty, and others. One iteration of Snow White, however, seems to be stuck in the craw of critics. We’re referring to the flap over a Disneyland ride with animatronic characters and other effects. The kiss planted on the sleeping princess’s lips is the offensive action. There was actually no kiss in the Grimm Brothers’ Snow White story.<sup>2</sup> The kiss was spliced into Disney’s 1937 *Snow White* film from the Grimms’ other tale, Sleeping Beauty (“Briar Rose”). Disclaimer: We have not personally experienced the ride, called “Snow White’s Enchanted Wish.” Significant portions of it can be seen online,<sup>3</sup> especially the prelude to the happy ending, “True love’s kiss awakened Snow White.”

Some critics say that the kiss constitutes a nonconsensual sexual advance, thereby claiming the moral high

ground and stamping “canceled” on the ride. It seems they forgot to suspend disbelief, writing in *SFGATE*:

The new grand finale of Snow White’s Enchanted Wish is the moment when the Prince finds Snow White asleep under the Evil Queen’s spell and gives her “true love’s kiss” to release her from the enchantment. A kiss he gives to her without her consent, while she’s asleep, which cannot possibly be true love if only one person knows it’s happening.<sup>4</sup>

Other critics and journalists question whether Disney is promoting nonconsensual intimacy versus being “too woke” if they were to remove the kiss element from the ride.<sup>5</sup> Here, we examine details of the 1937 movie that support an interpretation that the Prince’s kiss was in keeping with a substituted judgment standard of consent.<sup>6</sup> We argue that the wish in question was made (repeatedly and explicitly in the animated movie), constituting advance intent that the Prince make his move.

In the Grimms’ story and the Disney movie, Snow White is the victim of her stepmother, the Queen, who cannot bear the prospect of a woman more beautiful than she. The Queen makes serial attempts to kill her, eventually luring her into biting into a poisoned apple. Later, the Seven Dwarfs, at the Prince’s insistence, carry her glass coffin-enshrined, presumably dead body down the mountain. They stumble, dislodging the apple, which awakens Snow White (reanimation being a popular theme in the nineteenth century, for example, in *Frankenstein*). The Prince immediately knows they will marry. No kiss. The piece of “Sleeping Beauty” spliced into the Snow White movie is the kiss that awakens both princesses. In the Grimms’ “Briar Rose,” the original sleeping beauty, there is a suggestion of impulsive behavior on the Prince’s part: “There she lay, looking so beautiful that he could not take his eyes off her. He bent down and gave her a kiss” (Ref. 2, p 105). No consent and no information about what Sleeping Beauty would have wanted, but that is not the fairy tale at hand.

There are several pieces of evidence that, as we interpret it, constitute an understanding of how the 1937 Snow White viewed her relationship with the Prince, what her amorous intentions were, and how she would have wished him to behave when he found her in an ambiguously inanimate condition. These details exist in the context of a minimalist storyline, allowing the imagery of the first full-length animated film to shine and underscoring their narrative importance. Nearly all

narrative development proceeds through movement, song, and conversation with animals, dwarfs, and a mirror. Thus, the sometimes subtle hints toward Snow White’s intent for intimacy are actually firm plot-drivers. In fact, the overarching narrative for the movie is Snow White’s wish to find the Prince, her one love. The following details of the movie are pertinent, with evidence for our argument marked with asterisks.

The opening musical number has Princess Snow White singing into a wishing well, “I’m wishing for the one I love to find me today,” with an audience of white doves. These are the doves who later anthropomorphically act out her wish for a kiss. While she sings this early song, the Prince rides up and overhears her, together singing the line “Today!” Self-conscious, Snow White flees, in rags, to her chamber and watches as he sings back to her, proclaiming his love for her as his “one love ... only for [her].” A coquettish Snow White kisses a dove on the beak, sending it out toward the Prince, who approaches him, blushes, and then pecks him on the lips, as she shyly pulls back balcony curtains.\* The dove, a metonymy representing Snow White, acts out her desire for physical intimacy with the Prince. Snow White finds herself dreamily happy, singing the Prince’s song about his love for her.\*

Meanwhile, Snow White’s stepmother, the Queen, orders her assassinated after learning that she is more beautiful. After a failed hired hit by the Huntsman, aware of the love affair,\* the furious Queen morphs into an old hag and sets out to assassinate her beautiful step-daughter. After collapsing in a nightmarish forest, Snow White reaffirms her bond and ability to communicate with animals, as she did with the doves. In need of lodging, the animals escort her to the Seven Dwarfs. Even as they jointly clean the dwarfs’ home, she sings about love, easing her workload by pretending the broom is her romantic interest.

Despite an ongoing death threat, the short-statured bachelors make merriment with Snow White. Then, they ask her to tell a story: “a true story ... a love story.” She admits that it is “very easy” for her to fall in love with the Prince.\* When asked if the Prince stole a kiss, she says, “He was so romantic I could not resist,” thus sharing responsibility for their physical intimacy.\* She sings “Someday My Prince Will Come,”\* asserting her hope that they will meet again, and that her love is in fact the Prince she already met.\* The Princess kneels at her bedside, praying for the dwarfs and that her “dreams come true,” a clear statement that this Prince will make it happen.\*



The Queen prepares a poisoned apple to bring about a “sleeping death.” She also discovers a possible antidote: “The victim of the sleeping death can be revived only by love’s first kiss” (spliced in from *Sleeping Beauty*). The animals know the Queen’s unspoken, murderous intent and try to disrupt her plan, but the Queen tells Snow White that the fruit is a magic wishing apple: “One bite and all your dreams come true . . . Now make a wish and take a bite.” Snow White admits there is someone she loves, the Prince, who she wants to carry her away and with whom she’d like to live happily ever after.\* She sinks her teeth into the fruit as another statement of intent to be with the Prince, before falling into the special death.\* The dwarfs hold a candlelight vigil over the Princess. Too beautiful to bury, “even in death,” they make a glass coffin and maintain the vigil. The Prince learns of the situation, reprises his love song, finds Snow White in the coffin, and kisses her still-lifelike lips. She awakens, surrounding the Prince with open arms, as the soundtrack plays a choral rendition of “Someday My Prince Will Come,” a final iteration of intent.\* Her friends, the animals and dwarfs, delight in their recognition of her dream for true loving being actualized.

Intimacy, such as true love’s kiss, is judicially considered to be a private matter. The Supreme Court, permitting couples to have birth control, established a right to privacy within an intimate relationship against the intrusion of government, which Justice Douglas considered “repulsive to the notions of privacy” (Ref. 7 p 486).<sup>7</sup> Courts later extended this right to include abortion, communication, family relationships, procreation, child-rearing, and education,<sup>8</sup> and eventually to populations including juveniles<sup>9</sup> and same-sex partners.<sup>10,11</sup>

The above cases establish a specifically guaranteed right to privacy on which we can examine the Prince’s kiss as an intimate matter. Turning to the Prince’s kiss, sexual assault may include instances in which the victim cannot consent: asleep, incapacitated physically or mentally, intoxicated, or underage. The concern that the critics have is that Snow White was incapacitated, either dead, asleep, or some liminal state, unable to affirmatively consent to the kiss.

Legal precedent, however, already carves out the ability for a person to provide consent in such instances. Throughout the movie, Snow White would appear to meet Chief Justice Benjamin Cardozo’s 1914 delineation of “sound mind” as a requirement for determining “what shall be done with [an individual]’s own body” (Ref. 12, p 93), an opinion that

began the lineage of judicial respect for self-determination even in cases of incapacity. The courts and legislatures have since proceeded through a series of decisions and laws enshrining individuals’ right to determine what happens with their own bodies. They include cases of invasive medical procedures during coma, right to life, and end of life scenarios.<sup>6,13,14</sup>

Advanced directive documents permit individuals to give consent for what is done with their body when incapacitated. The Snow White character, in essence, made her wishes known, as tracked above: anthropomorphic doves, love songs, wishes, etc. We are thus able to use the principle of substituted judgment to assert Snow White’s wishes. Substituted judgment has a long legal precedent<sup>6</sup> and allows others to make decisions for a person unable to do so, in this case the dwarfs, who were Snow White’s caregivers. This standard uses evidence of a person’s own wishes to make the decision(s) that the person would likely make, not simply what looks best to an observer. Given the abundance of data we have for Snow White’s wishes, it is likely that she would have accepted, if not sought, the kiss. Substituted judgment has even been proposed as a standard for determining the desires of a person with neurocognitive disorder, such as dementia, when unable to decide about intimacy.<sup>15,16</sup> While the best-interest standard is inferior to substituted judgment, community norms for what would have been best for Snow White would support that it would be in her best interest to accept the kiss and awaken to a chance at a lifetime of happiness.

It is important not to invoke substituted judgment if a person is competent to provide or deny consent. Snow White, at the time of the kiss, however, could not have rejected the kiss, as she was in her sleeping death and unable to decide. In real life, one could consider whether the Prince knew her desire, versus merely taking advantage of her. He hears her singing for her true love and receives the dove’s kiss from her, providing evidence of her desires.

Situations in which substituted judgment has been used erroneously have included marital rape (i.e., that marriage provides for continual sexual consent between partners) and rape of sex workers (i.e., that their line of work implies consent, rather than an act for payment). These are not applicable to Snow White, who lives as a simple maid, and then homeless attempted-murder victim, with one true love.

While the tale of Snow White has had numerous variations over the ages, the kiss is Disney’s take on the story. A forensic take stands in contrast to the

critique that one “cannot possibly” give consent in advance of a kiss, at least in a world where we have the well-founded standard of substituted judgment.

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## Psychiatry in the Everyday Practice of Law (5th ed.)

Edited by M. G. Blinder. Toronto: Thomson Reuters; 2019. 1238 pp, \$390.

Reviewed by Marvin W. Acklin, PhD

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**Key words:** forensic psychiatry; expert witness; psychiatry and the law; expert testimony

This massive tome contains 20 chapters with six appendices, tables of laws and rules, a table of cases,

and index. The handsomely hardbound volume is indexed in legal text format. Previous versions of the text were subtitled “a lawyer’s manual for case preparation and trial.” The first edition, based on lectures at the University of California Hastings College of Law, was first published in 1974.

Chapters include foundational concepts (psychological and psychiatric), fundamentals of the psychiatric examination, and a broad range of psycholegal topics. These include mental competence, testamentary capacity, brain damage, psychic trauma, criminal behavior, criminal responsibility, and the criminal trial. The text addresses substantive areas of law: eye-witness reliability, marital dissolution and child custody, psychiatric malpractice, negotiations, trial psychology, and jury selection. Trial-related topics include direct and cross-examination of the psychiatric expert, admissibility of psychiatric testimony, and professional concerns between the attorney and the expert witness. Appendices include model forms for release of psychiatric records and appointment of guardians, a model for treatment of posttraumatic stress, mechanics of finding an appropriate psychiatric expert, a table of commonly used psychological tests, and a glossary. The text is extensively cited with statutory and case law, and case citations. The text is addressed to attorneys who are not fluent in the concepts and practice of psychiatry through the application of psychiatric principles to a range of cases and topics commonly encountered in the practice of civil and criminal law.

The text includes dozens of vignette case studies, which, with the integration of psycholegal topics, is one of the text’s chief assets. These cases provide the human side of the law and psychiatry interface. Benefitting from the author’s elegant writing style, the book reads uncommonly well as a literary work, neither a dry recitation of legalisms nor of a compendium of psychiatry. Any chapter in the book, which can be read at the armchair or bedside, is enlightening and actually entertaining.

The text’s author is a distinguished senior psychiatrist with a five-decade long career as a clinician, scholar, professor of psychiatry and law, and nationally recognized expert witness.

Since the first edition, with a background history of tension and antagonism between psychiatry and the courts, there has been an explosion in the role of psychiatric and psychological expert witnesses in legal arenas. Tensions between psychiatry and the courts,

the early history of which were characterized as an interprofessional boundary dispute over enhanced authority and public prestige, have given way to the widespread emergence of forensic psychiatric and psychological expertise in the courts. During this time, forensic psychiatry and psychology have emerged as forms of psycho-legal practice based on experimental methodology. Neuroscience and the fledgling profession of forensic neuroscience have made their appearance. There has been an exponential increase in the psychological and psychiatric literatures addressing topics of forensic relevance.

Not surprising in a volume polished through five editions, the author has a decided point of view, representing a distinctive, sometimes humorous, and ironic psychiatric perspective. The author's perspective is not in the mode of biological psychiatry or neuroscience but as a humanistic discipline similar to the disciplines of social, community, and cultural psychiatry that have wilted under the hegemony of biological psychiatry. In the author's outlook, forensic psychiatry is an interpretive viewpoint on the human condition. Blinder's psychological anthropology (his theory of human nature, broadly psychodynamic in nature) situates persons into legal dramas. The vivid case studies provide thickly textured description and explanation.

Eschewing the whims of DSM-based psychiatric nomenclature, the author describes those psychiatric disorders most common to law practice. In plain language, the author describes the manner in which these conditions typically present in actual litigants. He demonstrates the way in which the conditions may be legally disabling. He reports what we know (or think we know) about causation. Finally, the author establishes the place of these conditions in the applicable legal contexts.

Blinder considers the *DSM* useful as little more than an "abridged glossary, and as such contains only a tiny fraction of what is known about each condition described" (p 11). "It is no textbook of psychiatry, and certainly no substitute for clinical experience or a psychiatric education" (p 11). He advises attorneys to make only the most casual reference to *DSM*, consistent with the *DSM*'s own admonitions on the limitations of psychiatric nomenclature in legal contexts.

The text's format and point of view, as a nearly seamless description of lives in the dock, is especially interesting in considering forensic psychiatry as a discipline. As a "*mixtum compositum*,"<sup>1</sup> forensic psychiatry, unlike, for example, child or geriatric psychiatry is not merely a subspecialty, but a transdisciplinary integration of two foundational traditions and bodies of literature addressing the human condition. Placed in the context of the history of professions, Blinder's text provides a demonstration that forensic psychiatry is not merely a medical or even a psychiatric subspecialty, but an independent, transdisciplinary interpretive discipline, with permeable boundaries.<sup>2</sup>

Given the fast pace of the forensic psychiatric and psychological literatures, it is not unexpected that references are dated. Many areas of recent provenance are not included, including emerging neuroscience and violence risk assessment. The book serves as a polished overview that has a primary audience for lawyers and psychiatric practitioners approaching the field. This book is an engaging, persuasive, and readable overview, targeted not to a specialist audience but law students and legal practitioners and psychiatrists wishing to broaden their practice. As an overview, it does not delve into the depth of intricacies of any of the topics reviewed, some of which have developed into whole literatures themselves (e. g., eyewitness testimony, jury selection, competency to stand trial, the insanity defense).

As a classic text, the volume joins other broad scope compendia including Melton et al., *Psychological Evaluations for the Courts: A Handbook for Mental Health Professional and Lawyers* (3rd ed.), Kaplan and Sadock's *Synopsis of Psychiatry* (11th ed.), and Rosner and Scott's *Principles and Practice of Forensic Psychology* (3rd ed.), all of which contain scientific, clinical, and humanistic wisdom.

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