OFFENDERS WITH DEVELOPMENTAL DISABILITIES

Edited by

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ABOUT THE SERIES

At the time of writing it is clear that we live in a time, certainly in the UK and other parts of Europe, if perhaps less so in other parts of the world, when there is renewed enthusiasm for constructive approaches to working with offenders to prevent crime. What do we mean by this statement and what basis do we have for making it?

First, by “constructive approaches to working with offenders” we mean bringing the use of effective methods and techniques of behaviour change into work with offenders. Indeed, this might pass as a definition of forensic clinical psychology. Thus, this might pass as a definition of forensic clinical psychology. Thus, our focus is application of theory and research in order to develop practice aimed at bringing about a change in the offender’s functioning. The word constructive is important and can be set against approaches to behaviour change that seek to operate by destructive means. Such destructive approaches are typically based on the principles of deterrence and punishment, seeking to suppress the offender’s actions through fear and intimidation. A constructive approach, on the other hand, seeks to bring about changes in an offender’s functioning, or increased awareness of the pain of victims.

A constructive approach faces the criticism of being a “soft” response to damage caused by offenders, neither inflicting pain and punishment nor delivering retribution. This point raises a serious question for those involved in working with offenders. Should advocates of constructive approaches oppose retribution as a goal of the criminal justice system as incompatible with treatment and rehabilitation? Alternatively, should constructive work with offenders take place within a system given to retribution? We believe that this issue merits serious debate.

However, to return to our starting point, history shows that criminal justice systems are littered with many attempts at constructive work with offenders, not all of which have been successful. In raising the spectre of success, the second part of our opening sentence now merits attention: that is, “constructive approaches to working with offenders to prevent crime”. In order to achieve the goal of preventing crime, interventions must focus on the right targets for behaviour change. In addressing this crucial point, Andrews and Bonta (1994) have formulated the need principle:
Many offenders, especially high-risk offenders, have a variety of needs. They need places to live and work and/or they need to stop taking drugs. Some have poor self-esteem, chronic headaches or cavities in their teeth. These are all “needs”. The need principle draws our attention to the distinction between criminogenic and noncriminogenic needs. Criminogenic needs are a subset of an offender’s risk level. They are dynamic attributes of an offender that, when changed, are associated with changes in the probability of recidivism. Noncriminogenic needs are also dynamic and changeable, but these changes are not necessarily associated with the probability of recidivism. (p.176)

Thus, successful work with offenders can be judged in terms of bringing about change in noncriminogenic need or in terms of bringing about change in criminogenic need. While the former is important and, indeed, may be a necessary precursor to offence-focused work, it is changing criminogenic need that, we argue, should be the touchstone of working with offenders.

While, as noted above, the history of work with offenders is not replete with success, the research base developed since the early 1990s, particularly the meta-analyses (e.g. Lösel, 1995), now strongly supports the position that effective work with offenders to prevent further offending is possible. The parameters of such evidence-based practice have become well established and widely disseminated under the banner of What Works (McGuire, 1995). It is important to state that we are not advocating that there is only one approach to preventing crime. Clearly there are many approaches, with different theoretical underpinnings, that can be applied. Nonetheless, a tangible momentum has grown in the wake of the What Works movement as academics, practitioners and policy makers seek to capitalise on the possibilities that this research raises for preventing crime. The task now facing many service agencies lies in turning the research into effective practice.

Our aim in developing this Series in Forensic Clinical Psychology is to produce texts that review research and draw on clinical expertise to advance effective work with offenders. We are both committed to the ideal of evidence-based practice and we will encourage contributors to the Series to follow this approach. Thus, the books published in the Series will not be practice manuals or “cook books”: they will offer readers authoritative and critical information through which forensic clinical practice can develop. We are both enthusiastic about the contribution to effective practice that this Series can make and look forward to it developing in the years to come.

ABOUT THIS BOOK

Developments in offender treatments over the past decade or so have, for the larger part, been aimed at white males with average intellectual abilities. The needs of people not in this category have been ignored to a great extent. Treatments designed to suit women, people with cultural backgrounds that are minority in our societies, and those with different abilities are few and far between. This text on the treatment of offenders with developmental disabilities takes us forward with at least one under-served group.
In working with people with developmental disabilities, some say that regular treatments may be adapted to suit and others say that altogether different treatments are needed. The answer to this matter lies in a comprehensive understanding of the prevalence, nature and development of offending by those with developmental disabilities. Basing treatment approaches upon theory and evidence is fundamental to good practice; anything else is simply taking a gamble on what might work. In this text, we are presented with an informed discussion of the knowledge base on which effective practice may be founded. Treatment cannot, of course, be planned effectively without attention to legal processes, treatment context and the professionals undertaking the treatment. Who is determined guilty by the criminal justice system and how do they go about this? How should services that offer treatment be configured? How do we ensure that treatment personnel are well trained, supported and supervised? Throughout all of these activities should run the thread of ethics; are our legal, clinical and management practices ethical? These issues are important in offender treatment in general, but take on an added dimension when working with people who may be less able to comprehend complex processes and assert their views in a domain that operates at a high intellectual level.

This book, admirably edited by Bill Lindsay, John Taylor and Peter Sturmey, addresses the issues raised. The editors have gathered scholarly contributions from eminent authors that undoubtedly place this text at the forefront of the field. We are delighted to include this important book in the Forensic Clinical Psychology Series.

August 2003

Mary McMurran and Clive Hollin

REFERENCES

PREFACE

Research and practice developments concerning offenders with developmental disabilities have been growing apace over the past ten to fifteen years. Much of the published work in this field has involved descriptive and epidemiological studies, issues concerning individuals’ competence to comprehend and participate in the criminal justice system, and treatment outcome case studies. While these types of studies have predominated, there has also been a steady, if gentle, flow of publications investigating the relationship between psychological variables and offending—such as work on the impact of mental illness, impulsiveness and other personality variables on offending, as well as studies on the assessment and evaluation of such behaviour. The impetus of this book has been to bring these developments together in one volume, not only to summarise and document these advances, but also to provide insightful and knowledgeable commentary from scientists and practitioners in the field. In the course of developing the book, contributors have also provided a wealth of new material for the interested clinician and researcher.

Those with developmental disabilities, and particularly those with lower intellectual functioning, have been overly identified with and blamed for disproportionate amounts of crime and delinquency in a most pejorative manner for more than a century. One only has to read of the outcry from suburban neighbourhoods when a group home for clients with intellectual disability is proposed in their vicinity to realise that these (mis)perceptions and prejudices are far from being historical phenomena. Yet generally these persons will be law abiding and peaceful neighbours. The thoughtful contributions in this book hopefully provide a counterbalance to some of society’s persisting prejudiced views and attitudes concerning people with developmental disabilities and histories of offending.

As for the contributions themselves, they combine to provide a comprehensive overview of contemporary work in this field. The chapters begin by placing the topic in a historical and theoretical context and then go on to describe epidemiological, legal and ethical frameworks in which to consider later chapters on assessment, treatment and staffing issues. The reader will note that on occasions different contributors have differing, even opposing, views on particular issues, and sometimes incompatible interpretations of certain research findings. As editors we have decided to allow these differing perspectives, relying on each author to justify their position rather than insisting on uniformity of views. Consequently the reader is
exposed to a range of differing views about particular issues that they then need to make their own minds up about. However, this approach emphasises that there can indeed be different interpretations of particular sets of data and other types of evidence. In this way we hope that we have produced a lively volume that will not only be helpful in the development of treatment and management endeavours but will also stimulate future research and inquiry.

We need to explain to readers the reasons for the choice of terminology used by the editors in the title and text of this book to describe the client group with whom we are concerned. In the United Kingdom the term “learning disability” is commonly used to describe people characterised as having (a) significant sub-average general intellectual functioning as measured on standard individual intelligence test, (b) more difficulties in functioning in two or more specified areas of adaptive behaviour than would be expected taking into account age and cultural context, and (c) experienced the onset of this disability before the age of 18 years. These criteria are broadly those included in the International Classification of Diseases (ICD-10), Diagnostic Statistical Manual (DSM-IV) and American Association on Mental Retardation (AAMR) diagnostic classification systems. The terms “mental retardation” and “intellectual disability” are commonly used in North America and Australia, respectively, to refer to the same syndrome.

We have preferred the term “developmental disability” in this book. It refers to the definition given in the United States Developmental Disabilities Assistance and Bill of Rights Act (2000) and is a broad concept covering the equivalent terms of mental retardation, learning disability and intellectual disability. In general terms developmental disability means a severe, chronic disability of an individual that (a) is attributable to a mental or physical impairment (or combination of mental and physical impairments), (b) is manifested before the individual attains age 22, (c) is likely to continue indefinitely, (d) results in substantial functional limitations in three or more areas of major life activity, and (e) reflects the individual’s need for individualised and planned supports and assistance that may be of life-long duration.

In addition to mental retardation, the concept includes other conditions that do not necessarily involve significant sub-average intellectual functioning such as autism, epilepsy and some other neurological conditions. For these reasons we consider that the term “developmental disability” provides the best description of the population described in this volume. However, we have not insisted that individual contributors stick rigidly to this term, and some have preferred to use other terms with which they are more comfortable.

Inevitably in a volume comprising contributions from colleagues around the world, occasionally other minor cultural/language differences arise. For example, the word “disposal” has a particular meaning in the UK criminal justice system that relates to the type of sentence received following conviction for a crime. This does not translate in the same way in Australia or North America, where the word has connotations of getting rid of something, often something unpleasant.

A number of people at John Wiley have been helpful and patient while we produced this book. Notably Lesley Valerio and Dr Vivien Ward have all shown the patience of those who have the wisdom of experience. Dr Mary McMurran has
been helpful, supportive and constructive throughout the process. Most of all we are extremely grateful to Charlotte Quinn who prepared the finished manuscript, a task that was well beyond the call of duty.

Bill Lindsay
John Taylor
Peter Sturmey

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PART I

THEORETICAL ISSUES
Chapter 1

NATURAL HISTORY AND THEORIES OF OFFENDING IN PEOPLE WITH DEVELOPMENTAL DISABILITIES

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This chapter reviews the natural history and theories about the development of offending behaviour in people with intellectual disabilities, and the extent to which current theories on the genesis of offending behaviour are relevant to this client group. If they are relevant, then what are the limits on this relevance and what other factors do we have to take into account because of intellectual disability itself? The first part of this chapter provides a summary of descriptive studies relating crime to intelligence and other potentially relevant factors. The second part investigates the various hypotheses about the development of offending behaviour such as genetic factors, familial influences, intelligence, environmental factors, peer group influences, the role of the media, developmental factors and the way in which criminal careers may develop in this client group. In the final section we provide an overview of this volume.

NATURAL HISTORY OF OFFENDING RELATED TO DEVELOPMENTAL DISABILITIES

Intelligence and Offending

History

There is little doubt that intellectual disability was seen as a prime factor in criminal behaviour in the late nineteenth century and the beginning of the twentieth century. Although the early and mid-nineteenth century were periods of relative optimism...
about the educability of people with intellectual disability (Scheerenberger, 1983), Social Darwinism and the eugenics movement were major influences in the development of scientific and popular thought at the time as well as in the subsequent development of public policy.

In 1889 Kerlin put forward the view that vice was not the work of the devil, but “the result of physical infirmity” and that physical infirmity is inherited (Trent, 1994, p. 87). He went on to write that inability to perceive moral sense was like inability to perceive colour in the colour-blind and “the absence can not be supplied by education” (Trent, 1994, p. 87). Hence, Kerlin’s views directly challenged the optimism of earlier authorities that viewed people with developmental disabilities as full of potential and remediable by suitable education. For the next 50 years Kerlin’s views were dominant. Terman (1911), an author of one of the earliest IQ tests, wrote that “There is no investigator who denies the fearful role of mental deficiency in the production of vice, crime and delinquency . . . Not all criminals are feeble-minded but all feeble-minded are at least potential criminals” (p. 11). This quotation gives us an idea of the extent to which individuals who were lower functioning were considered a menace to society. Goddard (1921), author of The Criminal Imbecile, concluded that “probably from 25% to 50% of the people in our prisons are mentally defective and incapable of managing their affairs with ordinary prudence” (p. 7). Sutherland (1937) also concluded that the 50% of delinquents in prisons were feeble-minded.

Scheerenberger’s (1983) History of Mental Retardation is replete with the historical association between intelligence and crime in the late nineteenth and first half of the twentieth century. At that time intellectual disabilities came to be viewed as part of a broader degeneracy, which included moral degeneracy, child abuse and neglect, criminality, drunkenness and sexual promiscuity. In Gallager’s (1999) cameo of race politics and eugenics in Vermont in the early part of the twentieth century, we see that part of the menace of the feeble-minded in Vermont was their menace to respectable, White property owners, whose property might be stolen. Family trees of degenerate families duly noted the criminals, sex offenders and those incarcerated in correctional institutions alongside the blind, alcoholic, still-born and feeble-minded (Gallager, 1999, pp. 88–9, 181). Thus, in the late nineteenth and early twentieth centuries criminal behaviour and intellectual disability were firmly linked in the ideology of the menace of the feeble-minded (Trent, 1994). Whereas institutionalisation, segregation of the sexes and community placement contingent upon sterilisation could be effective in protecting the Anglo-Saxon gene pool, other strategies were also implemented. This was continued during the Nazi era, when Jews, Romanies, people with intellectual disabilities or psychiatric disorders, homosexuals and persistent criminals were gassed or taken out and shot, in order to preserve the Aryan gene pool (Burleigh & Wippermann, 1991).

Research findings

In a review of the role of intelligence in the development of delinquency, Hirschi and Hindelang (1977) concluded that the relationship between intelligence and delinquency was at least as strong as the relation of either class or race and delinquency.
They also noted that in the 1960s and 70s this relationship was denied by many influential writers, in spite of the ample available scientific evidence. In a study of 9,242 juvenile males, Reiss and Rhodes (1961) found that the rate of referral to juvenile court for those boys with the lowest IQ was slightly over twice that found for individuals with the highest IQ. In addition, they also found that IQ and occupational status varied at around the same rate with delinquency. Hirschi (1969), in an examination of over 3,600 boys in California, found that IQ was a stronger predictor of delinquency than the education of the father or parental occupation. West and Farrington (1973) reported the results of a longitudinal study of 411 boys conducted over a period of 10 years. By comparing those boys with an IQ of over 110 with those who had an IQ of less than 90, they found that quarter of the former group had a police record while half of the latter group had such a record. Further analysis revealed that one in 50 of those with an IQ over 110 recorded recidivism while one in five with an IQ of less than 90 reoffended. West and Farrington concluded that “low IQ was a significant precursor of delinquency to much the same extent as other major factors” (pp. 84–5). This relationship has now been found repeatedly by a range of authors (e.g. Goodman, Simonoff & Stevenson, 1995; Kirkegaard-Sorenson & Mednick, 1977; Rutter, Tizard & Whitmore, 1970; West & Farrington, 1973).

The relationship between IQ and offending is a robust one. However, the main criticism of the hypothesis that there is a *causal* relationship between IQ and delinquency in that the data are correlational. Thus, some other variable or variables other than IQ *per se* may account for the relationship. For example, the relationship between socio-economic status (SES) and delinquency or social deprivation and delinquency may account for the correlation between IQ and delinquency (Simons, 1978).

Two carefully controlled studies, (Moffit, Caspi, Dickson, Silva & Stanton, 1996; Moffitt, Gabrielli, Mednick & Schulsinger, 1991) investigated the relationship between SES, IQ, parental disorder and delinquency. Parental disorder included schizophrenia, character disorder, psychopathic disorder and normal controls. In their first study of 129 males they found that offender status was significantly predicted by IQ *independent* of parental disorder or SES. In their second study, data from 4,552 males available from Danish birth cohort information were used (Schaie, 1965). They again found a small but significant correlation between IQ and delinquency, independent of the effect of SES.

In their prospective study of boys living in London, West and Farrington (1973) reported that 9% of multiple offenders had an IQ of 100 or greater while 28% of recidivistic delinquents scored below an IQ of 90. Therefore, the relationship between IQ and delinquency would seem to hold fairly firmly even while other major variables are controlled within the statistical design.

While a relationship between IQ and delinquency has been established, most of these studies are looking at predictive value or differences between groups at one or two standard deviations around the mean. It would be irresponsible in this volume not to consider the much smaller amount of available evidence investigating these relationships around and greater than two standard deviations below the mean. Chapter 2 by Tony Holland looks at this relationship in more detail, as do some other chapters throughout the book. However, it is interesting to note some
more specific studies at this point. McCord and McCord (1959) evaluated an
interesting early intervention study with 650 underprivileged boys in Massachusetts. The Cambridge-Somerville Youth Study was set up “to prevent delinquency and to develop stable elements in the characters of children” (McCord & McCord, 1959, p. 2). The boys were divided into 325 matched pairs and assigned to treatment and control conditions. There was a relationship between IQ and rates of conviction in that for the treatment group, 44% of those in the IQ band 81–90 had a conviction while 26% of those with an IQ above 110 had a conviction. However, the 10% of individuals in the lowest IQ group (less than 80) had an intermediate rate of conviction at 35%, that is lower than that recorded in the IQ band 81–90. Furthermore, of those in the higher IQ band who were convicted of crime, none went to a penal institution while the highest percentage going to a penal institution, 19%, were in the lowest IQ band. The results were similar in the control group, with 50% in the IQ band 81–90 convicted of crime and 25% in the IQ band less than 80 convicted (although numbers in the latter cohort were small).

Maughan, Pickles, Hagell, Rutter and Yule (1996) and Rutter et al. (1997) followed up children who had shown severe reading difficulties at school. It might be considered that a significant proportion of the children with severe reading difficulties had developmental and intellectual disabilities. Surprisingly, they found that the rate of adult crime among boys who had had significant reading difficulties was slightly lower than the rate of adult crime in the general population comparison group. This finding still held true independently of psychopathology or social functioning. Similarly, antisocial behaviour in childhood was less likely to persist into adult life when it was accompanied by reading difficulties. Therefore, while the relationship between IQ and delinquency seems firmly established, there is some evidence that this relationship may not hold when considering individuals 1.5 or more standard deviations below the mean.

The intellectual differences between high and low delinquency samples tends to be greater for verbal than non-verbal IQ (Hirschi & Hindelang, 1977). Kandel et al. (1988) identified high- and low-risk samples of men, based on accepted risk predictors for criminality. A cohort of individuals whose father had had at least one prison sentence had received 5.6 times greater a number of prison sentences themselves (39.1% versus 7%). These individuals were then further split into four groups: high risk with prison sentence, high risk with no record, low risk with prison sentence, and low risk with no record. For both high- and low-risk groups, individuals with a criminal record showed lower IQ scores than those with no record. The high-risk subjects with no criminal record had considerably higher verbal, performance and full-scale IQs. IQ differences between criminal and non-criminal cohorts were seen only in the high-risk group. There was no IQ difference between the low-risk criminal conviction ($N = 20$) and the low-risk no registration ($N = 24$) subjects.

Comment

The crude relationship between IQ and delinquency is robust. However, several caveats apply. First, when other factors such as SES are controlled for, the
relationship is considerably attenuated. Second, because many studies have fo-
cused on the IQ range of 80–120 the relationship to intellectual disability can only
be inferred in many studies. Indeed, the few available studies suggested that when
the sample was extended to IQs below 80, there was no simple linear relationship
to IQ. Third, no studies investigated criminal behaviour in people with severe and
profound intellectual disabilities. Few people with severe and profound intellec-
tual disabilities commit many criminal acts since acts of crime assume *mens rea*; if
they do enter into the justice system they are presumably diverted to the mental
health, intellectual disability or forensic mental health service system via the courts.
Nevertheless, in their review of US penal institutions, Brown and Courtless (1971)
reported that 1.6% of inmates had an IQ score below 50 and, remarkably, a tiny
proportion of individuals fell below an IQ of 25.

A final limit on these data is that they have focused on delinquency rather than
white-collar, corporate or government crime. Thus, the relationship between IQ
and delinquency, focusing on limited kinds of readily observable criminal acts,
may obscure any relationship between IQ and criminal behaviour more widely
defined.

**Social and economic factors and crime**

That delinquency and crime are related to social circumstances and SES is undeni-
able. Schuerman and Kobrin (1986) reviewed demographic changes in areas of Los
Angeles County. They compared areas which had moved from low crime rates to
high crime rates over 20 years, those with gradually increasing crime rates over 20
years, and those with stable high crime rates over the same time period. They con-
cluded that certain sociological factors were associated with increasing crime rates.
These included multiple dwelling and rent or occupied housing, a rising propor-
tion of minority ethnic groups, unattached individuals and single-parent families,
and greater deprivation as measured by a range of SES variables. Correspondingly,
McDonald (1986) reported the opposite trend in areas of emerging gentrification.
McDonald (1986) studied 14 such areas in Boston, New York and San Francisco into
which middle class individuals were settling. Analysis of crime rates between 1970
and 1984 were less persuasive than the data from Schuerman and Kobrin (1986),
but did tend to suggest that crime rates might be falling over this period. Given
that most individuals with intellectual disability (ID) are unemployed, unattached
and come from lower SES groups, it is a reasonable hypothesis that these factors
may have an influence on this population.

**Race and crime**

The associations between race and crime have interested criminologists for decades.
The main comparisons have generally been with White, western society males.
Crime rates in Japan have historically been recorded as relatively low, and rates
among Black youths relatively high (Wilson & Herrnstein, 1985). That there are
large differences between ethnic groups and convictions and imprisonment for
crime is indisputable.
How to interpret these facts is controversial: ethnicity is confounded with many factors. The relative contribution of socio-economic status, education, criminal justice procedures, cultural differences in behaviour, differential access to legal services, affluence, child rearing practices, differential sentencing practices in courts and mandated sentencing practices that differentially affect different ethnic groups, such as the “three strikes and out” rule, may all be important factors that explain these observations.

What data there are in the literature on people with ID are meagre and weak. In Edgerton’s *Cloak of Competence* studies he compared rates of drug use, including illegal drug use, in four samples including a group of White and African American subjects with mild mental retardation who had been released from institutions in the 1950s and the 1960s (Edgerton, 1967). He noted relatively low rates of illegal drug use compared to the general population in all samples and no clear pattern of illegal drug use between ethnic groups. In any case, the samples were small and not representative of any particular population and so no conclusions can be drawn from these data on this issue.

Pack, Wallander and Brown (1998) compared the rates of a variety of health risk behaviours in African American adolescent students with mild ID living in an urban area of the United States with those of White students with mild ID. They found that although the prevalence of alcohol consumption was lower in the African American students, their prevalence of binge drinking was higher. An additional concern was that many of both the White and the African American adolescents also had access to weapons and engaged in drunk driving and were thus placed in significant personal danger. However, like the data from Edgerton, these data were very limited because of high rates of sample attrition which means that it is not possible to know if these data are representative of either group.

Given the very limited and flawed data we have available on this issue, no firm conclusions of any kind can be made.

**THEORIES OF OFFENDING RELATED TO INTELLECTUAL DISABILITIES**

**Genetic Theories**

The main purpose of research in this area is to determine the extent to which biological mechanisms of inheritance effect the likelihood of criminal behaviour. Most studies of antisocial behaviour in children or criminal behaviour in adulthood note the relatively high frequency with which these variables are associated with similar problems in parents (Farrington, 1995). Kandel *et al.* (1988) compared the sons of 92 fathers who had received at least one prison sentence with the sons of 513 fathers who were not registered with the police. They found the risk of serious criminal behaviour was 5.6 times greater among the cohort whose fathers had been severely sanctioned than among the cohort whose fathers had no registration for any offence. Farrington, Gundry and West (1975) found that convicted teenagers in their sample tended to have fathers and mothers who also had convictions. They noted that only 5% of families in their sample provided half the convictions.