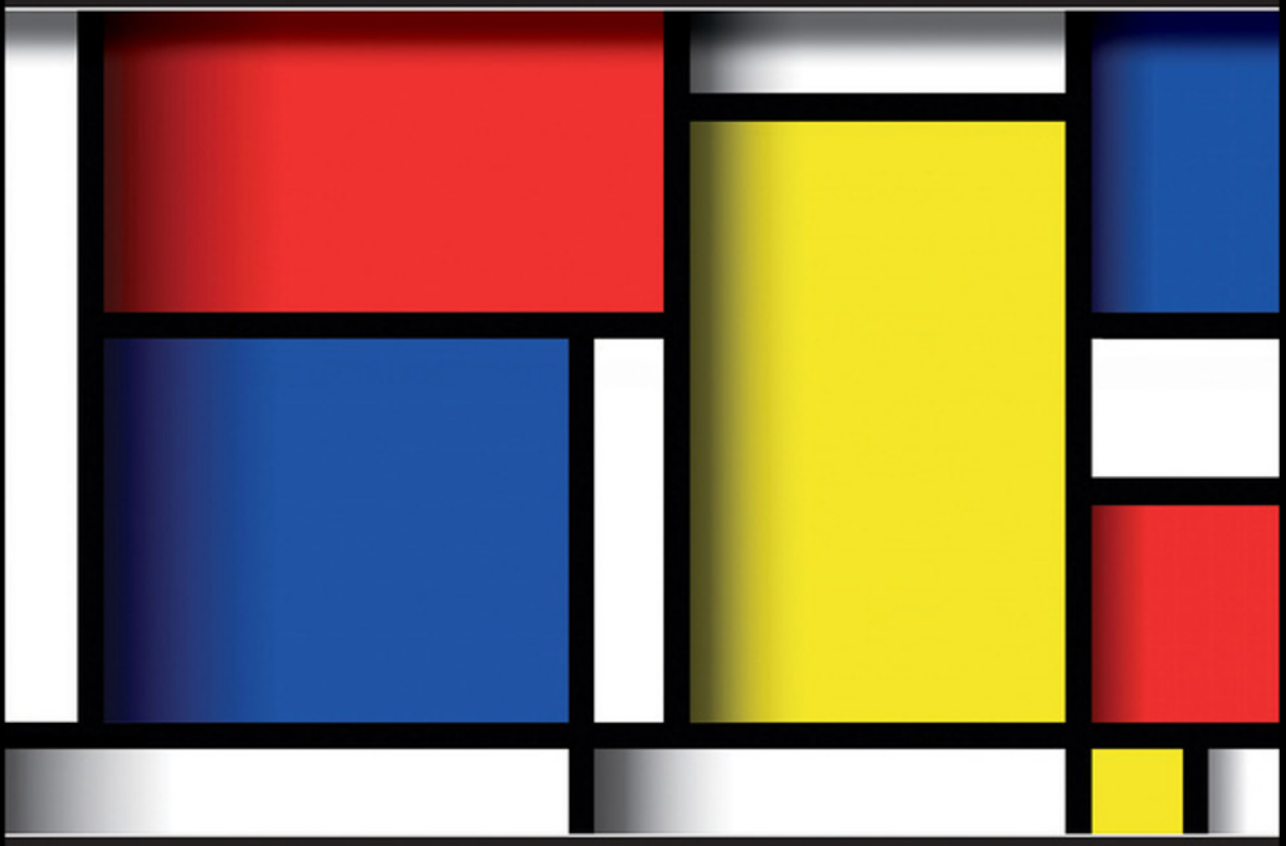

Edited by
William R Lindsay and John L Taylor

THE WILEY HANDBOOK OF

Offenders with Intellectual and Developmental Disabilities

Research, Training and Practice

WILEY Blackwell

The Wiley Handbook on Offenders with Intellectual and Developmental Disabilities

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In memory of Bill Lindsay.
Friend, mentor, and inspiration.

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Jessica R. Wheeler joined the Department of Psychiatry, University of Cambridge, UK as a Research Assistant on a Department of Health funded multisite pathway study of people with intellectual disabilities referred to services because of offending/offending-type behavior. She completed her PhD on Environmental factors and alleged offenders with learning disabilities in 2011. Dr Wheeler then worked on a National Institute for Health Research (NIHR)-funded project examining the provision of "good support" for people with intellectual disabilities who had contact with the criminal justice system. She then moved to the Institute of Criminology (University of Cambridge) as a Research Associate to work on a project concerning health and social care support for vulnerable populations with the Cambridge Migration Research Network.

Preface

In 2004, Bill Lindsay and I – in collaboration with Peter Sturmey in the United States – edited and published what was at the time considered to be a comprehensive compendium of the evidence supporting clinical work with people with intellectual and developmental disabilities who offend or are at risk of offending (Lindsay, Taylor, & Sturmey, 2004). Since that time there has been a huge amount of research in every area of this field. There have been developments in the assessment, treatment, and management of various types of offenders with intellectual disabilities including violent offenders, sexual offenders, and firesetters. There have been significant developments in research on risk assessment and management of people with intellectual disabilities who offend or are at risk of offending. There have also been interesting, and to some extent unforeseen, developments in research into the epidemiology of offending in this population, pathways into services, and the trajectories of the criminal careers of those who will later go on to offend.

In response to the increasing amount of work going on and material being published in this field, Bill and I decided several years ago to update the 2004 text. When we started to think about the structure and content of the revised text, however, it became clear to us that this would be a bigger and longer project than we had originally envisaged. Also, our publishers thought that the increased scope of the proposed volume warranted the revised text being classed as a "handbook" that would pull together in one place this work and provide a ready reference for the reader. Unfortunately, Bill Lindsay died suddenly just as we were finishing the project and it is a great sadness that he didn't see the handbook go into production.

Our starting point was that, historically at least, low intellectual functioning has been viewed as a determinant of criminal behavior and people with lower levels of intellectual functioning have been considered a threat to society. Although there would seem to be a clear relationship between offending behavior and level of intellectual functioning, when studies are extended to include people within the intellectual disability range this relationship does not appear to be simple or linear. And while people with intellectual disabilities may, by definition, have greater difficulty in understanding and learning the rules and conventions of society, the available evidence would suggest that they manage to do this to a similar level of competence as people in the general population. Despite this, it would seem that disproportionate numbers

of people with intellectual and developmental disabilities are detained in secure settings because of offending or offending-type behavior, are detained for longer periods, and suffer more adverse experiences while incarcerated than their nonintellectually disabled counterparts.

Partly in response to this phenomenon, the biggest policy initiative in intellectual disability services in England in more than a generation, *Transforming Care* (NHS England, Local Government Association & Directors of Adult Social Services, 2015), aims to reduce the lengths of stay of detained patients with intellectual disabilities and to reduce significantly the number of hospital beds available for this population. Unfortunately, it would seem that this policy is in danger of compromising the care and safety of offenders with intellectual and developmental disabilities (Taylor, McKinnon, Thorpe, & Gillmer, 2016). This is particularly concerning given that the policy is atheoretical and appears to lack any credible evidence or analysis to support its primary aim of slashing specialist services for this population.

It is hoped that this handbook is an antidote to this lack of empiricism. The chapters herein deal with a range of theoretical, conceptual, ethical, assessment, treatment, and service development issues that confront practitioners in the real world. They are arranged into four broad, and sometimes overlapping, sections. Part I discusses historical, theoretical, epidemiological, and legal, and ethical considerations and provides a conceptual framework for the succeeding chapters. These consider assessment and evaluation, treatment approaches, and the future development of systems, services, and staff working with people with intellectual and developmental disabilities who offend or are at risk of offending.

As in the 2004 volume, different contributors have differing and sometimes opposing views on particular issues, and the research evidence available in some areas may be interpreted differently by authors in their own chapters. Similarly, we have contributions from colleagues from around the world, so occasionally some cultural, language, and terminology differences arise. As editors, Bill and I felt it was important, perhaps essential, to permit these differences and perspectives to be laid out, relying on each author to justify their position and thus allowing the reader to be exposed to a range of views and requiring them to reach their own conclusions based on the arguments made. We hoped that this approach would make for a lively, nonuniform volume that would arouse readers' curiosity and even stimulate further research and enquiry.

Some discussion of 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 is required. In the United Kingdom the term "learning disability" is commonly used to describe people characterized as having (a) significant subaverage general intellectual functioning as measured on a standard individual intelligence test, (b) more difficulties in functioning in two or more specified areas of adaptive behavior 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-5) and American Association on Intellectual and Developmental Disabilities (AAIDD) diagnostic classification systems. The term "intellectual disability" is now widely used internationally in services and the research community to refer to the same syndrome.

We have included the term "developmental disability" in the title of 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 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 individualized and planned supports and assistance that may be lifelong. In addition to intellectual disability, the concept includes other conditions that do not necessarily involve significant subaverage intellectual functioning such as autism, epilepsy, foetal alcohol syndrome, and some other neurological conditions. For these reasons we consider that the term developmental disability provides a helpful description of some of those people with whom services work and are covered in this volume. However, we have not insisted that individual contributors stick rigidly to the terms intellectual and/or developmental disability, and some have preferred use other terms with which they are more comfortable.

We are grateful to our colleagues at John Wiley & Sons for their support and forbearance during the long gestation of this project. Particular thanks go to Darren Reed, Karen Shield, Silvy Achankunju, Elisha Benjamin, and Monica Rogers. We are also immensely grateful to our friends and contributors for their efforts in supporting us with this work. Finally, I owe a huge debt of gratitude to my co-editor Bill Lindsay for the amazing work he did on this book before his untimely death earlier this year.

John L. Taylor
December 2017

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Part I

Historical, Theoretical, Epidemiological, Legal, and Ethical Considerations

1

Historical and Theoretical Approaches to Offending in People with Intellectual and Developmental Disabilities

William R. Lindsay and John L. Taylor

Introduction and Historical Roots

Social theory, public policy, and clinical practice have long been susceptible to manipulation and distortion concerning offenders with intellectual and developmental disabilities (IDD). Crime and the issues surrounding crime can be incendiary topics for the media, then the public, and consequently politicians. Fear of crime can lead to the easy manipulation of public perception concerning the culpability of one section of society or another. People with IDD have a long history of being the target of such unwarranted scapegoating.

During the 19th century there were several important influences that came together with such potency that it seems to have taken those involved by surprise. First came the development of the concept of institutions as a solution to educating people with IDD. In 1844 John Conolly, chief physician at the at Hanwell Asylum in London visited two institutions in Paris – the Salpetriere and the Bicêtre, opened by Edouard Seguin, a French physician who pioneered educational approaches for children with IDD (Seguin, 1846). Conolly witnessed humane management of "idiots," education of even the most disabled, and a huge reduction in the use of restraint. His enthusiasm for Seguin's regime was reflected in his writings (Conolly, 1847), which were circulated throughout Britain and North America. This resulted in widespread enthusiasm for institutional care. One early North American institution for people with IDD was opened in South Boston in 1847 for people "condemned in hopeless idiocy" (Trent, 1994). The originators of these establishments were influential and similar institutions opened in New York and Philadelphia. The early institute superintendents wrote of the educative potential of these places and created the concept of idiocy as a social construction while offering an ostensibly humane solution in the form of institutions.

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By 1858, however, influential figures were already asserting a link between idiocy and delinquency. Isaac Newton Kerlin, a very important figure in the field of IDD who coined the term "moral imbecile" (1858), published a series of 22 case illustrations in which he wrote, of one case:

> He was a moral idiot, he recognised no obligation to God nor man and having some appreciation of the value of money and property, nothing that could be appropriated was safe from his reach.…His honest face covered the most mature dishonesty. (Kerlin, 1858, p. 48)

Here, there is not only the explicit linkage of low intelligence and moral decrepitude, but also an attribution of cunning and culpability – together with an expedient view of capacity – that was to seep into the wider culture and society. These early associations found fertile ground in the latter part of the 19th century following the revelations of Mendelian laws of heredity and Charles Darwin's writings on evolution and natural selection.

Subsequent institution superintendents were particularly successful in exploiting the supposed links between IDD and criminality to make an argument for the expansion of their services, with medicine rather than education becoming the dominant ethos. Consequently, increasingly persuasive arguments were made for removing people with IDD from society for their own, as well as for society's, good. State funding followed, leading to the expansion of many such establishments and the increasing segregation of people with IDD (Scheerenberger, 1983). Institution heads in the US began to be perceived as having unique knowledge of the issues in IDD and they certainly believed that, segregated from wider society, people with IDD could become self-sufficient in isolated communities. Martin Barr, chief physician of the Pennsylvania Training School for Feeble-Minded Children, said in his 1897 Presidential address to the Association of Medical Officers of American Institutions for Idiotic and Feeble-Minded Persons that "the imbecile, separated from the world and forbidden to marry, shall become a self-supporting, self-respecting citizen" (Barr, 1897, p. 3), while Mary Dunphy (1908), superintendent of Children's Institutions, Randall's Island in New York city, wrote that "it is in the interests of the public as well as for their own sakes, that [people with IDD] be prevented from coming in to contact with those of normal minds." As others had done, Dunphy put her protective remarks in a threatening context, saying "moral instincts are almost always lacking in the mentally deficient so even in ordinary intercourse…they are a menace to the welfare of society" (p. 334). The reader may experience no small sense of schadenfreude on learning that after surviving a series of scandals Mrs Dunphy was dismissed as superintendent of the New York City Children's Hospital and Schools and publicly disgraced by the New York City State Board of Charities in 1915.

Up until the middle of the 19th century, people with IDD were generally considered a burden on, rather than a menace to society. Scheerenberger (1983) wrote that during the 18th and 19th centuries, living conditions were harsh and unremitting for people with IDD especially in urban areas with growing industrialization. In rural areas, they tended to work long hours in poverty but in industrial settings were unable to maintain employment or be accepted into apprenticeships. As mentioned, the impetus for change was Darwin's theory of evolution and the establishment of Mendelian laws of heredity which Galton (1869) employed to argue for the role of

genetics in individual greatness in his book *Hereditary Genius.* Others, notably Goddard (1912), applied the same methods of dynastic study to IDD, with devastating effect.

In fact, these authors were part of a general movement sympathetic to eugenics which increasingly regarded IDD as a menace. Scheerenberger (1983) notes that:

> By the 1880s, mentally retarded persons were no longer viewed as unfortunates or innocents who, with proper training, could fill a positive role in the home and/or community. As a class they had become undesirable, frequently viewed as a great evil of humanity, the social parasite, criminal, prostitute, and pauper. (p. 116)

In 1889, Kerlin developed his theories on the association between IDD and crime and argued that crime, rather than being the work of the devil, was the result of an individual's inability to understand moral sense and also their physical infirmity, both of which were nonremediable and inherited (Kerlin & Broomall, 1889). Others also linked IDD to a range of social vices including drunkenness, delinquency, prostitution, and crime. Barr (reported by Trent, 1994) stated:

> One hundred thousand of the feeble minded in the United States alone, consistently increasing by birth and immigration….crowd our schools, walk our streets and fill alike jails and positions of trust, reproducing their kind and vitiating the moral atmosphere. Science and experience have searched them out. (in Trent, 1994, p. 144)

For Barr, the solution was to increase the number and capacity of the institutions for the protection of both the person with IDD and the public. Here we see both the insinuation of moral deficiency and, importantly, the underpinning and validation from "science" which is an early indication that scientists (many of us writing and reading chapters in this book) can follow and amplify, through their perceived dispassionate legitimacy, the prevailing culture of the day. In this passage from Barr there is also mention of another pernicious insinuation, that those with IDD are particularly fecund and will, therefore, increase significantly in numbers and the threat they pose to moral rectitude.

Goddard (1910) developed this trope using arguments on Mendelian laws of heredity and the innovation of mental testing. Interlinking these developments he introduced the term "feeble-mindedness" to include all forms of cognitive impairment and intellectual disability. Those with the mental age of two years or less were termed "idiots"; those with a mental age of three to seven years were "imbeciles"; and those with a mental age of eight to 12 years "morons." Crucially, the addition of the latter category more than doubled the number of people assimilated into the feeble-minded rubric. His interest in genetics led Goddard to conclude that there was a causal relationship between feeble-mindedness and social vice. The conceptualization of people with IDD, and their sudden and alarming apparent growth in numbers, escalated this group from a mere social burden to a social menace. Goddard (1911) and others proposed two solutions for this increasing problem – segregation and sterilization – which continued to have a significant impact for decades to come.

In the spirit of Galton and his work on genius, several authors, including Goddard (1911) published pedigree studies apparently confirming the inherited nature of

feeble-mindedness and its causal link to crime. Trent (1994) summarizes these studies writing that they "reinforced the belief in the linkage of rapidly multiplying mental defectives and a host of social problems: crime, prostitution, abusive charity, juvenile delinquency, venereal diseases, illegitimate births, and drunkenness" (p. 178).

The advances being made in mental testing had similarly damning effects on people with IDD. With the introduction of the categories of mild intellectual disability (mental deficiency) and borderline intelligence the supposed prevalence of those with feeble- mindedness more than trebled immediately. Terman (1911), one of the pioneers of psychometric testing, 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). In his book, *The Criminal Imbecile*, Goddard (1921) 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). From 1910 to around 1925, with the influence of Mendelian theories of inheritance, advances in mental testing and concerns about increasing numbers, the association between intellectual disability and delinquency transformed into an acceptance that feeble-mindedness caused crime. In a contemporary review of the available scientific studies, MacMurphy (1916) concluded:

> Mental defectives with little sense of decency, no control of their passions, with no appreciation of the sacredness of the person and the higher reference of life, become a centre of evil in the community, and inevitably, lower the moral tone…perverts and venereal diseased are overwhelmingly mental defective, as in public drunkenness and shoplifting and the picking of pockets are acts of the feeble minded and one of the large proportions shown by statistics. (from Scheerenberger, 1983, p. 153.)

As an enthusiastic contributor to this narrative, Fernald (1909, 1912) initially wrote and spoke emphatically about the link between intellectual disability, its widespread prevalence, and a range of social problems including prostitution, crime, sexual perversion, poverty and their menace to the community. He said that "every imbecile… is a potential criminal…the unrecognised imbecile is a most dangerous element in the community" (Fernauld, 1909). However, despite his significant influence as a persuasive orator, unlike many contemporaries he also seems to have paid some attention to empirical evidence. He reviewed the discharges from the institution with which he was involved from 1890 until 1914 and the results startled him. Although less than half of the 1,537 individuals who had been discharged during this period could be followed up, he found that around 60% of the men and 36% of the women who could be followed up were doing well in the community. These positive results, although not remarkable by modern standards, were a surprise to him and others working with the certainty of the causative link between intellectual disability and crime (Fernald, 1919). Consequently he altered his position considerably and began advocating innovative programs and even community placement:

> We know that a lot of the feeble minded are generous, faithful and pure minded. I never lose an opportunity to repeat what I am saying now, that we have really slandered the feeble minded. Some of the sweetest and most beautiful characters I have ever known have been feeble minded people. (Fernald, 1918, reported in Trent, 1994, p. 158)