OFFENDERS WITH DEVELOPMENTAL DISABILITIES

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OFFENDERS WITH DEVELOPMENTAL DISABILITIES

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Offenders with Developmental Disabilities
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John Wiley & Sons Inc., 111 River Street, Hoboken, NJ 07030, USA

Jossey-Bass, 989 Market Street, San Francisco, CA 94103-1741, USA

Wiley-VCH Verlag GmbH, Boschstr. 12, D-69469 Weinheim, Germany

John Wiley & Sons Australia Ltd, 33 Park Road, Milton, Queensland 4064, Australia

John Wiley & Sons (Asia) Pte Ltd, 2 Clementi Loop #02-01, Jin Xing Distripark, Singapore 129809

John Wiley & Sons Canada Ltd, 22 Worcester Road, Etobicoke, Ontario, Canada M9W 1L1

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Library of Congress Cataloging-in-Publication Data

Offenders with developmental disabilities / edited by William R.
Lindsay, John L. Taylor, and Peter Sturmey.
p. cm.—(Wiley series in forensic clinical psychology)
Includes bibliographical references and index.
ISBN ISBN 0-470-85410-3 (cloth : alk. paper)—ISBN 0-471-48635-3 (pbk. : alk. paper)
1. Offenders with mental disabilities. 2. Offenders with mental disabilities—Rehabilitation.
3. Developmentally disabled—Rehabilitation. 4. People with mental disabilities and crime.
5. Criminal psychology. I. Lindsay, William R. II. Taylor, John L. (John Lionel), 1961– III. Sturmey, Peter. IV. Series.

HV6080 .O46 2004
365′.66—dc22 2003021217

British Library Cataloguing in Publication Data

A catalogue record for this book is available from the British Library

ISBN 0-470-85410-3 (hbk)
ISBN 0-471-48635-3 (pbk)

Typeset in 10/12 pt Palatino by TechBooks Electronic Services, New Delhi, India
Printed and bound in Great Britain by Antony Rowe Ltd, Chippenham, Wiltshire
This book is printed on acid-free paper responsibly manufactured from sustainable forestry
in which at least two trees are planted for each one used for paper production.

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SERIES EDITORS' PREFACE

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

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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.

August 2003

Bill Lindsay
John Taylor
Peter Sturmey

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

Offenders with Developmental Disabilities. Edited by W.L. Lindsay, J.L. Taylor and P. Sturmey.

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, stillborn 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.