

CURRENT RESEARCH
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AND PSYCHOLOGY

Volume

Abnormal Offenders, Delinquency,

and the Criminal Justice System

Edited by

JOHN GUNN

and

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ABNORMAL OFFENDERS, DELINQUENCY, AND THE CRIMINAL JUSTICE SYSTEM

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Preface

This book is the first of a series on *Current Research in Forensic Psychiatry and Psychology* to be published by John Wiley and edited by ourselves. Books in this series will be concerned with the contribution of psychiatry and psychology to all aspects of crime, offenders, the law, legal processes, the treatment of offenders, and the criminal justice system. As the title of the series suggests, our emphasis will be on research, and we will be pleased to hear from anyone engaged in current research on forensic psychiatry and legal and criminological psychology who is interested in publishing in this series. As the list of contributors to this volume indicates, our scope is international. Our intention is not to compete with existing journals, but to complement them by publishing relatively long articles or books reporting the results of a substantial programme of research rather than short papers. We also hope to publish substantial reviews of the literature and theoretical articles, both of which are difficult to publish in journals.

The volume of psychiatric and psychological research on crime, legal processes, and the criminal justice system is relatively small, but it is fair to describe this as a growth area. Both researchers and funding agencies are more concerned than ever before to have 'applied' research relevant to current social problems. We hope that this book, and indeed this series, will help to foster the growth of this area. We believe that psychiatrists and psychologists can make a significant contribution to our knowledge and understanding of crime, legal processes, and the mentally abnormal offender.

November 1980

J.C.G.
D.P.F.

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CHAPTER 1

Introduction

JOHN C. GUNN and DAVID P. FARRINGTON

The chapters in this book include 'state of the art' reviews and reports of empirical research projects. As the table of contents indicates, the book is divided into three parts. Part 1 is concerned with contributions by psychologists to the criminal justice system and legal processes. Part 2 describes psychiatric and psychological research on delinquency, in four countries (England, Canada, the United States, and Iceland). Part 3 discusses mainly psychiatric contributions on abnormal offenders and their management.

Psychologists have worked in the criminal justice system for many years, and are now involved in a much wider range of activities than their original assessment function (see, for example, Farrington, 1980; Grayson, 1979). As a reflection of their increasing involvement, the American Psychological Association has recently completed a large-scale survey of the role of psychologists in the criminal justice system (American Psychological Association, 1978; Monahan, 1980). Edwin I. Megargee is well qualified to review this topic, as he has worked in criminal justice settings for more than 20 years. He is best known recently for his research on the classification of offenders (Megargee and Bohn, 1979). His paper contains examples of the contributions of psychologists to institutions, courts, law enforcement agencies and victims, and includes a valuable discussion of the training of psychologists to work in these settings.

In recent years, psychologists have been interested in behaviour modification with offenders (see, for example, Emery and Marholin, 1977; Trasler and Farrington, 1979), in attempts to measure the effects of incarceration (e.g. Haney *et al.*, 1973; Sapsford, 1978) and to improve the 'moral atmosphere' of prisons (Hickey and Scharf, 1980). In the United States, they have also been heavily involved in 'class action' suits, in which prisoners sued those responsible for prison conditions which allegedly violated their rights enshrined in the United States' Constitution (e.g. not to suffer cruel and unusual punishment).

A central issue in many of these suits was prison overcrowding. Although English prisons have not yet had to face this kind of litigation, prison overcrowding is also a very serious problem in England, and has been shown to have deleterious effects on recidivism (Farrington and Nuttall, 1980). Carl B. Clements and Stanley L. Brodsky are two American psychologists who have been centrally involved in a number of class action suits. The paper by Clements

is a detailed review of the issues arising in these cases and of the roles of psychologists in them. Brodsky, well known for his pioneering work as editor of *Criminal Justice and Behaviour* and for his important book *Psychologists in the Criminal Justice System* (Brodsky, 1973), investigates the aftermaths of these suits. It seems that, even when courts have ordered improvements in prison conditions, some prison administrators have been resistant to change.

The study of the law and legal processes has been one of the fastest growing areas of research by psychologists in the last decade (see, for example, Farrington *et al.*, 1979; Lloyd-Bostock, 1980). Among the topics of concern have been eye-witness testimony (e.g. Loftus, 1979; Yarmey, 1979), identification evidence (e.g. Clifford and Bull, 1978), the psychologist as an expert witness (e.g. Haward, 1979), and decision making by judges and juries (e.g. Bermant *et al.*, 1976; Saks and Hastie, 1978). One of the pioneers in this field is June Louin Tapp, well known for her work on legal socialization and for her book *Law, Justice and the Individual in Society* (Tapp and Levine, 1977). In her paper, she reviews recent developments in the United States, and concludes that too much attention has been devoted to the criminal justice system and the trial process, and not enough to the development of ideas about the law and to behaviour in real legal contexts.

The paper by Catherine Fitzmaurice and Ken Pease describes a series of studies attempting to explain judges' choices of lengths of sentences using psychological (psychophysical) theories. Pease is perhaps best known for his work on community service orders (e.g. Pease *et al.*, 1977; Pease and McWilliams, 1980). Their chapter represents an attempt to quantify the concept of retribution, and they conclude by advocating changes in judicial training and in the control of judicial discretion.

Four studies of delinquency are described in the second part of the book. One difficulty in drawing conclusions about delinquency is that most research is non-experimental. In an experiment involving random allocation of subjects to conditions, subjects in one condition are comparable to those in any other, and it is possible to conclude that the difference in conditions produced any subsequent difference in delinquency. In non-experimental research, it is hard to disentangle influences on delinquency in this way. Another difficulty with most delinquency research is that, typically, a group of officially processed delinquents is compared with a control group of non-processed persons, making it impossible to determine which factors are related to delinquent behaviour and which to official processing (either consequences of it or determining selection for it). The best way of disentangling official processing from delinquent behaviour is to carry out a longitudinal survey in which factors are measured both before and after official processing.

The research described by Joan McCord is notable because it is experimental *and* longitudinal in design, involving the remarkably long follow-up period of 30 years. Very few other researches on delinquency extend over such a long time period (see Farrington, 1979). McCord's paper is concerned with broken homes,

and she concludes that the number of parents is less important in relation to delinquency than the quality of the home life. For example, an intact home with disharmonious parents produced a higher delinquency rate than a broken home where the remaining parent was affectionate. These results suggest that, in some instances, it may be better for disharmonious parents to separate than to stay together 'for the sake of the children'.

David R. Offord's paper is important because it includes information on male and female delinquents in comparison with matched male and female control groups. Although research on female delinquency is less rare than in former years and is increasing rapidly, unbiased empirical evidence is hard to find, and this paper will help to fill the void. One of Offord's most interesting theories concerns male potentiation of delinquency, suggesting that male siblings or companions encourage antisocial behaviour while female siblings or companions suppress it. This is in agreement with the long-held view that marriage is the only effective treatment for male delinquency!

Perhaps the best known psychological theory of delinquency, at least in England, is that propounded by H. J. Eysenck (1977). The paper by David P. Farrington, Louise Biron and Marc LeBlanc reviews and evaluates this theory, using English data collected as part of the Cambridge Study in Delinquent Development (see, for example, West and Farrington, 1977) and also data collected in a follow-up study of Canadian adolescents. They conclude that the Eysenck theory is of limited use in the explanation of delinquency.

Unlike the United States, Canada, and England (the other three countries covered in this part of the book), little is known about delinquency in Iceland, the subject of Gisli Gudjonsson's paper. He reports a follow up of boys sent to an institution, and finds the same kinds of factors predicting reconviction (such as criminal parents and siblings, parental disharmony, and separations from parents) as identified in studies in the other three countries.

Ron Clarke's contribution is in contrast to the more traditional approach which has characterized the earlier papers in Part 2. He questions the utility of the dispositional approach to the origins of crime and gives us some examples, based on research, of how a society might approach crime control in practical, engineering, and management terms. This approach is not only imaginative and likely to produce practical results, but raises all kinds of interesting philosophical questions about the nature of criminal man and society's approach to offending. Clarke is well qualified to discuss these issues as he has spent many years in the Home Office Research Unit, working on Government sponsored research, as a Senior Principal Research Officer. He is well known as a co-author of the Home Office report *Crime as Opportunity* (Mayhew *et al.*, 1976) and for questioning the validity of the controlled trial approach to research in institutions (Clarke and Cornish, 1972).

Turning to the third section on the mentally abnormal offender we come up against the major British preoccupation in forensic psychiatry at the moment,

which is simply where and how to manage psychiatrically disturbed people who are disturbing or dangerous, or otherwise come into conflict with the criminal law. Some of this problem is technical but a great deal relates to attitudes, and so the first paper in this section comes from Sir Denis Hill who, until very recently, was the Professor of Psychiatry at the Institute of Psychiatry (the Maudsley) in London. Sir Denis is perhaps best known for his contributions to the field of epilepsy and electroencephalography, but for many years he has been one of Britain's leading general psychiatrists and held the most important psychiatric teaching post in Great Britain. Throughout his lifetime he has taken a great interest in medico-legal matters and in the mentally abnormal offender. He was a member of the Butler Committee which so clearly set out the problems of contemporary forensic psychiatry (Home Office, DHSS, 1975). His paper on public attitudes, which was given at a weekend residential conference to the Forensic Section of the Royal College of Psychiatrists, sets the backdrop to the other papers in this section. Almost all of them are, in one way or another, reflecting or discussing the problems created by the attitudes of the public towards what so many people still call 'criminal lunatics'.

Graham Robertson's paper, carried out while he was a Lecturer in the Forensic Section of the Department of Psychiatry, Institute of Psychiatry, shows how attitudes towards the mentally abnormal offender have failed to improve and how, during the last 20 years of very far-sighted mental health legislation, such patients have gradually been pushed to the back of the queue as other important changes in the mental health services have occurred. We are aware that this chapter carries the problem of many contributions in forensic psychiatry, of being somewhat parochial to the country in which it was carried out. Some of its findings cannot even be generalized to Scotland, Graham Robertson's own country! However, if readers in other countries can forgive the references to particular legal devices such as restriction orders and the like, they may well see something of a more general problem which crosses the barriers created by legislators. Many countries are now finding that all kinds of devices, formal and informal, some spurious, are being developed to create extra barriers to the mentally abnormal offender getting into the ordinary psychiatric health care system. This paper is of particular importance for the British Government at the present time, as it is considering introducing new mental health legislation.

The paper on schizophrenia and violence by Dr Pamela Taylor, a Senior Lecturer in Forensic Psychiatry at the Institute of Psychiatry, is a preliminary review as part of the work she is now undertaking at one of Britain's big remand prisons, Brixton, where so many seriously mentally ill people now find themselves and where so much psychiatric assessment work has to be carried out. Although the madman is a traditional object of fear, and although it is clear that severe psychoses can sometimes lead to bizarre antisocial behaviour, the relationship between such antisocial behaviour and psychosis is still very ill-understood and poorly researched. Nevertheless there is a growing interest in the behavioural problems created by the schizophrenic and Dr Taylor has managed

to put together a useful review of the information which is available at the present time. She hopes to go on to answer some of the questions raised by this review in her own research at Brixton prison.

Remaining within the British prison system the paper by Gunn and Robertson is a condensed version of their attempt to evaluate one important psychiatric facility which exists entirely within the penal system. As is explained within the paper Grendon prison is a prison in every sense of the word, taking men on ordinary sentences, but offering them, while they are serving their sentence, the opportunity of being within a therapeutic community. The paper describes the work carried out at the prison, and challenges some of the more traditional ways in which such systems are evaluated.

In Britain mentally abnormal offenders can also be sent to maximum security hospitals known as Special Hospitals. Tony Black, the Chief Psychologist at Broadmoor Hospital (the Special Hospital which takes mentally ill offenders of average intelligence) has carried out a careful follow-up study to show how many of his patients break down or reoffend during the first 5 years after they return to the community. Susanne Dell, in a complementary study, has also looked at the population leaving the Special Hospitals. Her study, however, concentrates on the difficulties which Special Hospital staff have in getting ordinary psychiatric hospitals to accept their patients. Her important paper must also be read by the British Government preparing to change legislation, for like the earlier papers in this section, it illustrates that attitudes are overwhelmingly important in this sensitive area. The paper also gives a different perspective on Special Hospital problems. The staff in these hospitals are usually criticized for letting people out too quickly, or keeping them in too long. The difficulties of relating patients, who no longer need maximum security, but who need further hospitalization, to the ordinary services illustrate poignantly the problems faced daily by staff at maximum security institutions.

The final paper is different in many respects, but also illustrates the attitudinal difficulties faced by mentally abnormal offenders, especially when they are ready for rehabilitation. Shelley Channon, a Research Worker in the Forensic Section of the Institute of Psychiatry, University of London, has studied, in some detail, a specialist hostel set up in order to rehabilitate epileptic offenders. She has set her work in the context of a more general study of the problems faced by epileptic offenders. Her paper gives a fascinating glimpse into the problems faced by all mentally abnormal offenders by studying in detail one small facility looking after one particular type of psychiatric patient who occasionally comes into conflict with the law.

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PART I

PSYCHOLOGY, LAW,
and the
CRIMINAL JUSTICE SYSTEM

CHAPTER 2

Reflections on Psychology in the Criminal Justice System

EDWIN I. MEGARGEE

Although most psychologists are well aware that 1979 marked the 100th anniversary of psychology as a science, few realize that it was also the 70th anniversary of correctional psychology. It was in 1909, 30 years after Wundt established his Leipzig Laboratory, that William Healy, a psychiatrist, and Grace Fernald, a psychologist, founded the first juvenile court clinic in three rooms on the ground floor of the Chicago Juvenile Detention Home.

Despite the fact that we have been in business for 70 years, many regard criminal justice psychology as a recent area of specialization. In 1959, when I first entered the area by joining the staff at the Alameda County Probation Department Guidance Clinic, psychology had been flourishing in juvenile court settings for half a century. Nevertheless, I recently saw myself referred to as a 'pioneer' in the *Newsletter* of the American Association of Correctional Psychologists.

THE CRIMINAL JUSTICE PSYCHOLOGIST AS A PIONEER

Stripped of its romantic connotations, there is something to be said for likening ourselves to pioneers, for it is possible to discern at least three ways in which our history over the past 70 years parallels the experience of the real pioneers who first settled the North American continent. Like them, we were unprepared for the new problems we faced, like them we antagonized those who were already established in the new lands, and like them we were looked down upon by our peers. Let me elaborate on these similarities.

Our ancestors who first settled in North America were singularly unprepared for the problems they encountered. Although they had skills in varying degrees, few had any specific training for the tasks they faced in this new area.

So, too, with most correctional psychologists. One thing we shared was expertise in the traditional areas of psychology; the other was abysmal ignorance of the criminal justice system. We had to learn by experience, and as Vernon Law once said, 'Experience is the worst teacher; it gives the test before presenting the lesson'.¹

When a person is confronted with something that is new and unfamiliar, there is a natural tendency to attempt at first to apply familiar techniques and methods. Our forefathers tried to plant seeds brought from Europe and manufacture the items they had made there. Similarly, those of us who were moving from traditional settings to the criminal justice system usually began by attempting to diagnose psychopathology, giving tests, setting up therapy groups, and so on. Why? Because a careful study convinced us that these procedures best met the needs of the agency's clientele? No. Because these were the things we knew how to do.

We were not always successful. Just as some early colonists decided to quit and return home to more familiar climes, some psychologists left the criminal justice system and returned to the traditional mental health settings to which their repertoire of skills was better suited. Others stubbornly persisted in doing their own thing, but the best grew and in time adapted to the new setting. These were the men and women who were able to learn from experience and regard the new demands imposed by the criminal justice system as a challenge rather than a threat.

Healy, trained in Berlin, Vienna, and London, was convinced that delinquent behaviour stemmed from psychopathology and named his clinic the 'Juvenile Psychopathic Institute'. In this he was departing from the prevailing Lombrosian notion that criminal tendencies were inherited. His first case was a girl who falsely accused others of committing sexual offences; after evaluating her, Healy concluded she was an hysteric rather than a born criminal. This orientation led to an emphasis on treatment aimed at uncovering the unconscious determinants of delinquency (Reisman, 1966).

Although Healy, like the rest of us, first imposed his familiar frame of reference on the unfamiliar terrain of the juvenile court clinic, he and his associates were able to adapt. Healy devised new assessment devices better suited to the needs of the clinic's clientele, including the Healy Picture Completion Test and the 'Own Story' technique, in which the delinquent reported his or her feelings and attitudes towards parents, teachers, and others. Grace Fernald constructed a set of character tests to measure moral consciousness. Augusta Bronner, who joined them in 1913 after taking her degree with Thorndike at Columbia, reported how delinquents' test-taking attitudes could adversely affect their scores, a finding that was not only of importance to the area of delinquency but to the whole fledgling testing movement as well.

A continuing emphasis on research, which soon led them to rename their clinic the 'Institute for Juvenile Research', helped those early psychologists adapt to the special needs of the criminal justice system. Although he never abandoned his faith in treatment for delinquents and criminals, Healy eventually concluded that although psychoanalytic treatment of criminals was extremely informative to the therapist, '... the curative results in the face of long-standing internal conditionings and external vicissitudes were meager' (Reisman, 1966).