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FORENSIC PSYCHOLOGISTS

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FORENSIC PSYCHOLOGISTS

INTRODUCTION

The seminar on 'The Role of Forensic Psychologists' in the Criminal Justice System conducted by the Australian Institute of Criminology from 26-28 January 1982 involved psychologists from all over Australia from different areas of psychological endeavour within the criminal justice or legal systems.

The seminar was planned after an approach to the Australian Institute of Criminology in July 1981 by the Forensic Psychologists' Group of the Australian Psychological Society, to allow psychologists working in correctional or forensic areas to meet on a national basis. The aims were to provide a broader perspective and understanding of the roles of psychologists in these settings, to facilitate communication, and to raise relevant issues for discussion.

Invitations to prepare papers were distributed and a number of speakers from public, private and teaching sectors presented papers on aspects of particular interest to them. The ten papers presented covered topic areas such as the roles of correctional psychologists within prison systems, the roles of forensic psychologists in courts of law, and the role of the psychologist in hostage negotiation. The three day programme, chaired by Mr C.R. Bevan of the Australian Institute of Criminology and assisted by various seminar participants, was organised to allow for a discussion period after each paper was delivered. Time was also devoted to open forums in which information on the structures of prison systems in different states was exchanged and the problems facing correctional psychologists were outlined.

The following report of the seminar summarises the material delivered by the speakers in their papers and presents points which emerged during discussions. As the papers seem to fall into three separate areas, they have been re-ordered from their original sequence of presentation to facilitate reporting. Also included is a summary of the open forums and a list of the participants in the seminar.

OPENING REMARKS

At the opening of the seminar the Director of the Australian Institute of Criminology, Mr W. Clifford, briefly addressed all participants welcoming them and wishing them an enjoyable seminar.

CORRECTIONAL PSYCHOLOGISTS WITHIN PRISON SYSTEMS

The Need for Correctional Psychologists to Build Up Their Image as Professionals - Mr P.N. Priest and Mr J. Piotrowski

Mr Priest began the presentation by addressing the problems of psychologists working within institutional settings. His main focus was that the boundaries of psychologists' contributions in institutional settings had not yet been reached mainly because of a lack of knowledge by non-psychologists of what the psychologist has to offer. The paper was aimed at summarising the strategies by which psychologists can increase their contributions.

He noted that whilst the psychologist is capable of making decisions on behaviour change, is skilled in the use of behaviour modification, and is capable of administration and clinical control of special environments, his fullest potential as an applied behaviour analyst has been to a large degree, untapped. He continued that there is a discrepancy between what psychologists can do and what they are doing presently and that often non-psychologists are unaware of the psychologist's skills and abilities. He indicated that as psychologists were often forced to tailor their interventions to institutional demands, their interventions were ineffectual and that the fruitful place for psychologists was in administration and policy planning.

Mr Piotrowski continued the presentation indicating the ways in which psychologists might make contributions to the prison system. Factors such as the absence of a treatment policy, short history of psychologists in correctional settings, and absence of correctional training for psychologists have shaped psychologists' roles and he outlined four professional models by which psychologists may presently conduct their activities. These models are the private practitioner, the organisational supporter, the organisational challenger, and the autonomous professional. The last of these models, he recommended, was the model that would have lasting and important impact on the correctional setting. The four features he regarded as common to the autonomous professional were:

- (i) having a knowledge base;
- (ii) having technical skills derived from such knowledge base;
- (iii) having standards of training; and
- (iv) having a service orientation of accountability based on a code of professional ethics.

This model permits intervention in many ways especially those that influence contingencies of behaviour in prison management. He

outlined some solutions for psychologist's interventions such as establishing new and more just programmes and providing a register of psychological research on prison management and indicated that, to establish their role as autonomous professionals, psychologists need to persuade prison staff and management to understand the role of psychologists and to know what to expect and not expect from them.

Mr Priest delivered the final section of the paper and utilised the analogy of marketing terminology to suggest how the role of the psychologist as an autonomous professional may be promoted. By (a) identifying the market (which may include administrative, custodial and medical staff) the psychologist can (b) develop selling strategies (by creating a concept of what psychologists do, such as testing and publishing results of treatment outcome) which may then be used to (c) describe what is being sold.

In further describing this latter part of the analogy, Mr Priest presented to the seminar a draft version of the Handbook of Professional Practice for Psychologists in the South Australian Department of Correctional Services. The handbook is aimed at accelerating the establishment of correctional psychology as a profession and promoting its possible contribution. The handbook includes chapters on the history of correctional psychology, views on incarceration, the legal position of psychologists, professional ethics, the use of aversive procedures, general rules and procedures, and writing of psychological reports. Whilst still in a final draft stage, Mr Priest hoped to receive feedback for future editions.

In closing, Mr Priest reiterated the need for correctional psychologists to enhance their image and added that all too often psychologists have given themselves away all too cheaply.

Discussion

Discussion arising from this paper centred around the growth and promotion of psychological services in South Australian Corrections. Mr Hart mentioned that the model did not have a clinical component and asked how far the model departed from the clinical role. Mr Priest replied that clinical psychologist was the title and that psychologists had clinical training but if they were going to be effective, they needed to forego other areas.

The Psychologist's Role in Maintaining Existing Functions and Purposes of Correctional Institutions or Altering Them - Mr M. Hart

Mr Hart's paper complemented the previous presentation and provided theoretical background and research data that may assist psychologists to implement worthwhile changes to prison systems. His paper outlined the main reasons behind the need for structural reform in correctional institutions and related these to the role of the forensic psychologist.

Divided into a number of sections, Mr Hart's presentation began with a consideration of the changes introduced into the New South Wales prison system by Dr Vinson and juxtaposed these to the history of progress in the physical sciences. He pointed out that progress was not based on incremental steps in knowledge but on revolutions in it and drew on examples in psychological and organisational theory to illustrate his point.

He then turned to a consideration of 'structural certainties' of a society or organisation and 'institutionalised behaviour' as illustrations of the structural qualities of a social organisation or prison system and suggested that if one is seeking to establish a revolution, the particular structural qualities in the system must become the target of change. Whilst defining these targets as they apply to correctional systems is still a matter for empirical investigation, he indicated that psychologists, by virtue of their training and tools of trade, were in the best position of all correctional employees to undertake these analyses and, in so doing, to provide a viable alternative for prison management.

In expanding on the role of psychologists in identifying structural certainties, he considered organisational and personological variables. He outlined research data showing that prisoners differ from the general population on some personality scores and that prison officers differ from youth officers on demographic and certain personality variables. From this research data he suggested that the mixing of a group of prisoners with a group of prison officers would generate a rigid, rule-bound, judgemental, coercive, but chaotic organisational system. Whilst these data suggest no obvious changes that could be made, Mr Hart maintained that the effectiveness of any changes would rely on such personological variables being taken into account. To this end, the role that the psychologist can play is paramount. For example, he suggested that psychological testing may lead to identification of groups of prisoners with personality modalities which predispose them to certain treatment groups or special units and that the psychologist's training in research methodology could be utilised to evaluate the success in predicting the performance of prisoners in such groups.

Prison psychologists, Mr Hart remarked, are in a unique position to assess the organisational variables which define the elements of structural certainties. They can collect data on conformity to norms and sacrosanct assumptions that may be utilised to design appropriate

change strategies. Mr Hart added that psychologists, in their capacity to advise on human behaviour, are in a position to establish, or send prisoners to, a new or different part of the prison system designed to deal with particular problems. Here he drew on the example of the Special Care Unit at Long Bay Gaol.

In latter sections Mr Hart addressed the dilemmas of prison psychologists to either settle into the system as it exists and perform the best possible job they can, given their circumstances, or to resist the pressure of the bureaucracy not to rock the boat and challenge the sacrosanct assumptions of the system to effect change. He suggested that a viable alternative would be to investigate the possibilities, from within Australia and overseas, of structures that are based on participatory management principles.

Discussion

Regarding referral to the Special Care Unit, Mrs McCarthy pointed out that prison officers often view quiet prisoners as being ideal, and assume they are capable of adjustment upon release, whereas acting out prisoners, who may be more capable of change, are the ones usually referred to the special unit rather than the quiet ones who may be in greater need. Mr Hart agreed that the special unit may be incorrectly rejecting such inmates.

It was raised that separating prison officers into special unit environments causes separatism which may promote or inhibit support between officers and it may be useful to know what effect this may have on arrangements at Bathurst. It was noted that peer pressure and 'machismo' attitudes are a problem with developing new systems and that backup and support by psychologists to say that only certain officers are suitable may be required. The opinion was voiced that it is sometimes difficult to make serious and effective changes when confronted with rigid senior management attitudes. Mr Hart suggested that the psychologist's role was perhaps not very clearly defined and whilst there seemed to be some recognition, further definition would be advantageous.

Planning a New Corrective Establishment - Mr P. Dunlop

Mr Dunlop's paper was similar to the previous two in that it addressed the issue of the psychologist's role within correctional settings. However, it differed from the two preceding papers in terms of style. It was subtitled by the author as being a personal viewpoint and illustrated a sensitivity and concern towards all persons working or contained within a prison system. Indeed, the points conveyed by Mr Dunlop provided some thought-provoking alternatives for the psychologist working in correctional institutions.

Mr Dunlop's paper was divided into three sections. The first covered the transitions and changes in the psychologist's role in the Western Australian Department of Corrections since the Conference for Psychologists in the Criminal Justice System held at Woorooloo in 1976. The second part addressed why there is a need for planning committees in correctional systems and the third aspect of the paper concerned the experience of being on the planning committee. In introducing his paper, Mr Dunlop pointed out that plans often contain more than is written and convey attitudes and beliefs, however overt or covert, that can constrain or expand one's thinking. Whether they constrain or expand depends, in his view, on how well they can accurately describe. He maintained that imprisonment is not about correction or rehabilitation but rather is concerned with enforced lack of freedom and that in planning a new prison all of these factors need to be taken into account.

Mr Dunlop described the state of the prison world at the outset of the psychologist's introduction to prisons. Reluctant prison staff, who were used to a particular way of running their institutions, seemed resistant to the introduction of theoretical views of psychologists, persons who shared friendly associations with prisoners which to them were untenable. The advent of psychologists to prison was not experienced without conflict, not only with the custodial staff but also among the psychologists themselves. Mr Dunlop indicated that the role of the psychologist has now shifted away from being solely concerned with the prisoner as client and has moved towards a greater involvement that includes working with prisoners, with prison personnel and in planning. There has been a shift away from crisis orientation to management planning and one aspect of the prison psychologist's role in Western Australia includes a stress-management programme for prison officers.

His presentation indicated that prisons do not operate without difficulties for the persons working or those contained within them. He said that whatever prison is about, it is about people and issues of power, conflict and control. It is because of these issues that planning is necessary and he stressed that planning committees are important not necessarily to allow the development of procedures and programmes but to get to know the prison as an alive and functioning entity. He outlined four points that were essential to successful management planning. Firstly, that those involved in planning must have a total and unambiguous commitment to it; secondly that the planners must also be the implementers; thirdly, that those who appoint

a planning committee must trust the committee's judgements; and fourthly, that induction and training programmes must include real opportunities for staff to contribute.

The experience, Mr Dunlop continued, of being on the planning committee for the Canning Vale Medium Security Prison was fruitful and rewarding. The planning began with a statement of policy in which the over-riding objective was to create a management style and atmosphere throughout the prison which gave recognition to the aspirations of all staff, prisoners and their families that offset as far as possible within the constraints of security and good order the destructive effects of prison experience. Mr Dunlop's presentation conveyed the difficulty with which the members of the planning committee struggled to produce a plan for the operation of the prison and a philosophy for its management that was consistent with this policy. He said it was based finally on the concept of intrinsic human worth that we find institutionalised in the fabric of society and law. Mr Dunlop made available to the participants at the seminar a draft of the report of the planning committee and the preface to that report indicated the effort and extensive work involved in developing a management plan for imprisonment with not just a human face but with a human heart and soul.

Mr Dunlop concluded his paper on two points concerning the role for psychologists in management planning. Firstly, the psychologist's role is of value in terms of the knowledge and experience of human behaviour and ethical guidelines that he brings. Secondly, the psychologist's role was not to implement his own preferred psychological theories but to listen to and understand the thoughts of others, consolidating and communicating their issues. He remarked that if we do this we are more likely to be valued and respected.

Discussion

It was pointed out by Mr Priest, and confirmed by Mr Dunlop, that an appeal to human dignity is to be considered for inclusion into planning rather than bringing any specific psychological approach. Mr Priest asked whether the other members of the committee asked for personal or psychological input to which Mr Dunlop replied that his viewpoint was not necessarily personal but alternative. Miss Brown remarked that the paper had cut through the professional edge of psychology and it was appropriate that such a paper should conclude the seminar.

Management of Occupational Stress in Prison Officers -
Dr R. Fitzgerald

Dr Fitzgerald's presentation was concerned with occupational stress-management and how such programmes are run by psychologists in Western Australian prisons for prison officers. His paper contained a theoretical outline of stress, including background research into stress in the correctional setting, and illustrated a programme package that is presently conducted in Western Australia. His presentation differed from other papers in that it consisted of an outline of the paper which was followed by an activity designed to give participants at the seminar a first hand impression of the programme. Indeed, his paper was very useful as it provided psychologists from other correctional settings with the necessary information to implement such programmes, if they desired, in their own States.

In his paper Dr Fitzgerald pointed out that the role of the prison officer is now more ambiguous and conflicted than in the past and for these and other reasons it is more stressful. The aim of his paper was to examine the nature of occupational stress in the workplace, to place the prison officer in perspective in relation to this, and to explore what contributions psychologists may be able to make to the prevention and alleviation of stress associated with the occupation of a prison officer. The benefits of such contributions would enhance the personal lives of prison officers, provide indirect benefits to prisoners and enhance the acceptance of psychologists in the correctional system.

The paper continued with various definitions of occupational stress and identified categories of work stressors which included 'stressors intrinsic to the job', 'the worker's role in the organisation' and 'organisational structure and climate'. These and other categories were described and examples were given of how these factors may produce stress. Attention then turned towards a consideration of studies of occupational stress in corrections. For example, the findings of one study that was cited indicated that officers attempted to resolve their role stress by reverting to more traditional custodial attitudes which influenced the officers' perceptions and interpretation of prisoner behaviour.

Dr Fitzgerald pointed out some methods and rationale in preventing or alleviating stress. These methods included; education and training prior to the job; training in management of stress; communication skills and recognition and awareness of stress; improved officer selection and appraisal procedures; referral and counselling; and relaxation training. He also indicated three readily identifiable intervention points at the administrative, middle management and prison officer levels.

Finally Dr Fitzgerald outlined a simple training package aimed at increasing staff awareness of occupational stress in themselves and others. The package has been utilized as a one-day workshop during

training courses for senior officers and revolves around examination and discussion of four key issues:

- (a) What is job stress?
- (b) What are the sources of job stress?
- (c) How can we recognise stress in ourselves and our subordinates?
- (d) What can we do to deal with job stress?

The activity section of Dr Fitzgerald's presentation involved separation of the seminar into small groups, each group being given the task of discussing three questions similar to the above (viz., What things are stressful in your environment? What signs or symptoms do you see in yourself indicating stress? How do you cope personally or assist subordinates and what strategies do you find useful?).

Although the time allocated to the task was relatively short, the participants returned to the larger group with some replies as follows:

Sources of Stress - competing demands; role conflict; competing responsibilities; confidentiality and adverse reports; adverse or unknowledgeable superiors; information overload; unreasonable role expectations; conflict with other professionals.

Symptoms of Stress - changes in bowel habits; changes in physiological responses; sweating; sleeping and waking up thinking about work problems (it was noted that different jobs have different stresses and one's experience might be home-related also).

Solutions to Stress - order tasks into a priority; jogging and thinking; take a quiet time to cope with information overload and formulate solutions; avoid situations; sleep in in the mornings; change temporarily to another aspect of work.

Discussion

Discussion involved reporting on some of the outcomes of the programmes with prison staff. Generally the programmes seem to work and although it often takes time for participants to warm up it seems to assist with the recognition of their problems. Whilst evaluation studies have yet to be conducted the immediate benefits for prison staff seem to be increased awareness of stress and support from others which may lead to providing further treatment options. One benefit appears to have been the opening of communication channels which assists in problem identification and policy planning.

FORENSIC PSYCHOLOGISTS WITHIN JUDICIAL SYSTEMS

The Psychologist in the Courts - *Miss Patricia Brown*

Miss Brown's paper was written from the stance of personal experience, considered the role of the psychologist in the Children's and Family Courts and emphasised the problems that may be encountered by psychologists as expert witnesses in court appearances.

The paper began with a description of the functioning of the Children's Court Clinic in Melbourne and elucidated the psychologist's role in relation to court involvement. Psychologists, on request from the magistrate, may provide assessment reports and offer advice on children appearing before the court. In this situation, psychologists are rarely involved in the process of proving guilt and there is usually no cross-examination of the author of such reports by barristers. On occasions, psychologists may wish to offer unsolicited comments in the nature of a pre-court submission; such comments are not perused until after proof is established and a barrister could potentially call the author of a pre-court submission as an expert witness. Lately, psychologists from hospital and private practice settings are beginning to have a function in the Children's Court, usually in cases of alleged child abuse, and may be called to give evidence as expert witnesses. Their evidence, then, is usually given almost exclusively in relation to matters of proof and the psychologist may be cross-examined.

Miss Brown remarked that reports submitted by psychologists to the Family Court are almost always subject to cross-examination and whilst most reports are tendered by psychologists working in the setting, outside psychologists may be approached to accept cases. Miss Brown advised that if one accepts such cases it is best to consult with Family Court Psychologists about protocol and be prepared to be cross-examined, to give no explicit recommendations, and to accept the fact that clients almost always have access to reports through their solicitors.

Miss Brown indicated that whilst Children's and Family Court proceedings are somewhat relaxed and informal, County and Supreme Court situations can seem intimidating to the expert witness on first acquaintance. She continued with an entertaining account of a personal experience as an expert witness in the Supreme Court that pointed up some valuable advice concerning court appearances. She enumerated a number of points that psychologists who are to appear in court should know. These included:

- . that the expert witness has to show cause, by stressing qualifications, training and experience, why he should be considered to have expertise outside that of judge and jury;

- . that normal and not technical language is required;
- . that at times a statement of probability rather than possibility is required;
- . that the psychologist should remain an impartial witness;
- . that a moderate manner impresses while pompousness, lack of confidence or defensive interchange may minimise the value of evidence, and
- . that barristers may not realise what to ask of their expert witnesses and may need to be briefed.

Miss Brown raised some problems concerning students who write reports under supervision and questioned whether students or supervisors should be called as expert witnesses. She noted that university departments are even now showing only tentative interest in post-graduate training for court appearances.

Miss Brown suggested that negotiating the areas of expertise between psychologists and psychiatrists is an issue and she pointed out that it is ethically inappropriate for psychiatrists to include psychologists' data in their reports. Another important point she raised was that authors need to be very careful and selective of the wording of their court reports.

In concluding, Miss Brown addressed the question of training for court appearances and listed a number of suggestions for workshop and seminar content.

Discussion

A number of seminar participants commented on the need for training in court appearance and that the number of requests for psychologists to appear in court was increasing. Miss Brown commented that the Congress on Psychology, Psychiatry and The Law was an appropriate forum in which psychologists could speak up and give important input to the judiciary. Such forums, she maintained were beneficial. Mr Bent suggested that psychologists might seek membership of medico-legal societies in their States as he felt psychologists had a lot to offer these forums.

Mr Dunlop raised the issue of client access to reports saying that in prisons, for example, there is an ethical problem if the prisoner first seeks contact and a report written is used adversely against him. Dr Brumley suggested that psychologists might be careful of what is written so as to avoid attitudinal misinterpretation.

There was some continued discussion concerning psychiatrists using psychologists' data or reporting on their behalf. Mr Priest shared Miss Brown's experience of psychiatrists inappropriately using psychological reports and suggested that psychiatrists should attach psychological reports to their own in order to keep them clearly separate. Mr Bent indicated that the code of ethics prevents psychologists from allowing their reports to be used by other professionals.

Mr Bevan suggested that psychologists might become involved in examining the judicial system, especially the adversary system, and seek to assist with the introduction of alternatives such as a 'diversion scheme' which may allow circumvention of legal procedures in certain cases. He indicated that psychological assessment and reporting might have an important role in such a scheme.

Mr Dunlop recognised the benefits of gaining recognition for psychologists in court but raised the point that whilst psychologists hold truth as important, the legal system deals not with truth but admissible evidence. Mr Bent pointed out that it was not uncommon for barristers to 'shop around' psychologists to find one that will provide an opinion that is favourable to their case. It was raised as a matter of concern that some less ethical psychologists might offer incomplete or misleading reports for this purpose and that general discreditation of psychologists in the courts may result.

Mr Hart suggested that the rational alternatives for sentencing had not been explored and called for psychologists to become involved in sentencing and acting in an advisory capacity. Miss Brown pointed out that it is possible to give treatment or sentencing opinions which may be acceptable but that psychologists should be wary of encroaching on the court's domain. A number of comments from people in various States indicated that it is common for psychologists to be involved in providing pre-sentence reports.

Reporting to Courts - *Dr R.D. Francis*

Dr Francis' presentation expanded on some of the issues raised in Miss Brown's paper by providing a number of suggestions that would assist psychologists in constructing forensic reports and presenting them in court. He indicated that there is no comprehensive and formal guide to forensic report writing as situations vary and each report is different. The aim of his paper was not to say how a report should be written but rather to frame the questions which need to be answered in order to structure the report.

Dr Francis approached the presentation by considering a number of headings. The first two concerned which court is the report being written for, for example, criminal, civil, magistrate's, supreme, and at which stage of proceedings is the report to be submitted, for example, pre-trial, pre-sentence. In discussing the investigation process during which data will be gathered to write the report, Dr Francis suggested the author may consider:

- . Who is the client?
- . Who, in addition to the subject, should be seen?
- . Where, how many times, and for how long will they be seen?
- . What psychological techniques should be employed.

In considering the writing of the report itself Dr Francis addressed questions concerning:

- . Content, length and use of sub-headings.
- . Whether it should establish or refute hypotheses.
- . Who will be reading it.
- . Whether the report should contain recommendations.

Dr Francis indicated that there were very few criteria common to all reports. He said they are usually concerned with objective evidence that is uniquely offered by psychologists and presented in a rational and deductive form.

In the final section headed 'Caveats', Dr Francis raised a number of points that may assist the author to present his report in court.

These points included:

- . Stressing one's qualifications.
- . How to interact with the barrister whilst under examination.
- . The use of psychological reports within psychiatric reports.
- . The style of report writing.
- . Consulting with colleagues on reports.
- . The need to obtain professional indemnity insurance.

Discussion

Miss Brown raised a point concerning subpoenaed and commissioned reports. Whilst the latter may be tailored to the courtroom situation, the former were not always so. The implication was that psychologists who have their reports subpoenaed may find themselves disadvantaged in court. Dr Brumley concurred that with commissioned reports the psychologist can decide to take the brief or not and is in a different position from public servants.

In discussion of whether a report should contain recommendations, Dr Francis advised that psychologists should not usurp the function of the bench. Miss Brown suggested that it was possible to give gentle hints at recommendations. Dr Francis added that it is possible to give information to help in making a decision, for example, the likely outcome of a line of action or treatment.

Concerning professional indemnity insurance it was questioned whether government employees, and students under their supervision, are covered. Dr Francis remarked that private insurance was not readily available.

Mr Joblin raised the need for better liaison amongst psychologists appearing in court. He also recommended liaison with prison psychologists for if the client becomes imprisoned the handing on of testing or interview data, with client consent, may be useful.

Mr Dunlop suggested that psychologists need to clearly explain terms like 'psychopath' or 'mental defective' or perhaps to avoid using such terms. He put forward the point that there is really no such thing as an objective report as any words chosen to describe the individual may adversely influence how the subject of the report is perceived.

The Court Counsellor's Role in Conflict Resolution - Mr P.N. Mark and Ms F. Smyth

In this paper Mr Mark and Ms Smyth described the psychologist's role as counsellor in the Family Law Court. Their paper was particularly interesting as it described a developing role in which psychologists may provide an alternative to the court system.

Court Counsellors act as buffers between the public and the court. They provide an alternative to the adversary system and aim to bring about conflict resolution through conciliation. As they deal mainly with people in conflict, their job is to intervene in conflict to prevent it escalating into overt damaging behaviour. Much of their initial intervention is to shape more appropriate ways of dealing with stress, to model conciliatory attitudes and structure interactions between clients. In this way their role is instructive, facilitative and innovative. It differs from the conservative pragmatism of the legal system in that counsellors work towards assisting clients to achieve realistic goals.

They believe that it is important for people undergoing separation and divorce to retain power and maintain control over their own lives rather than abdicate responsibility to the courts. They feel that the adversary system reinforces the idea of superiority of one person over the other and perpetuates conflict. The tension produced reduces creative capacity and ability to perceive alternative solutions, increases hostility, and can lead to destructive effects on the family and the individuals concerned.

In order to deal with the conflict involved in separation and divorce, the Court Counsellors have developed specialised skills. Mr Mark and Ms Smyth's paper discussed some of the strategies and described the most difficult types of clients. One of the strategies employed is to act in the children's best interests. Parents who care about their children are willing to listen and become committed to the process of coming to a mutually satisfactory arrangement rather than one that is imposed from above. Counsellors try to focus on the problem and direct their clients away from dwelling on hurt or unhappy feelings.

In concluding their paper, Mr Mark and Ms Smyth reiterated the counsellor's role as keeping conflict within bounds and avoiding reinforcement of negative attitudes and expectations. They pointed towards the need for more public education about useful strategies to avoid the harmful effects of conflict and suggested the need for establishment of more facilities in which trained professionals can assist people in conflict to work out joint solutions to their problems.

Discussion

The presentation stimulated a number of questions concerning the work of court counsellors. In response to questions on testing Ms Smyth indicated that testing was not conducted due to the possibility of cross examination and because of the pressure of workload. Mr Mark said that reports may be based on observation at home especially during meal-times to investigate interpersonal coping of family members. He added that the focus is on behavioural assessment and cases may be referred elsewhere for diagnostic assessment or treatment if necessary.

Involvement with Court Counsellors is usually by court referral. Dr Francis asked questions concerning client's legal rights. Ms Smyth said that clients are not forced to talk; usually if they are unwilling to make bona fide agreements they are advised that they can return to court for a contested case which is emotionally and financially costly. Clients have a choice of counsellor. Dr Fitzgerald asked about involvement with children. Mr Mark indicated that children are often involved in making family decisions but counsellors may protect them from pulling from either parent if the children are given too much power. Due to pressure of work there is little time to conduct group work with children which is left for outside agencies to perform.

Miss Brown asked about staff turnover and it was remarked that staff at present seem happy and work well. Dr Brumley asked about job role being overlapped with social workers and whilst Mr Mark replied that there was no real overlap and that counsellors assist with decision making, Mr Bent suggested that there appeared to be little to distinguish the psychologist in the role of court counsellor from any other graduate of helping professions.

Mr Hart asked about proportions of men to women referred. Mr Mark said women usually seek separation first and Ms Smyth added that many men regard women solely as homemakers which may be the factor which precipitates action. Mr Lillie asked about workload to which Mr Mark replied that their work structure was set up so that counsellors could cope with emergencies, new referrals, cases, phone calls and reports and that it was usual to see between 15 and 30 clients per week. Miss Brown asked what percentage of persons do not become divorced after counselling. Mr Mark said about one case per month and Ms Smyth added that the pattern with some clients is that they get angry, run off to their solicitor and are carried into court by which time they may feel ambivalent or sorry. She said it would be good to get to these people first before the lawyers.

The Role of the Experimental Psychologist in the Courts with Particular Reference to the Ratten Case - Dr D. Thomson

Dr Thompson's presentation was aimed at describing the role of the experimental psychologist and outlining his potential role within the judicial system. In his paper he discussed firstly whether or not the experimental psychologist qualifies as an expert witness, secondly, the reasons why experimental psychologists' opinions have not been sought or have, in some cases, been excluded from the courtroom, and finally the ways in which experimental psychologists can contribute to the judicial system.

As definitions of expert witness consider specific skill or knowledge acquired either through formal training or experience, Dr Thomson advocated that an experimental psychologist would qualify as an expert on the basis of his formal academic training.

He said that in the past the opinions of experimental psychologists as expert witnesses have been excluded from the court because they contribute no more than common sense. However, the point made by Dr Thomson was that common sense is not always helpful and, at times, may be quite misleading. He cited an information retrieval study which illustrated this point and suggested that there is a need for systematic documentation of human competency which may contribute to the modification of the judicial system. Dr Thomson stated that modifications are suggested by the findings of experimental psychology. Three of these pertain to:

- (a) the type of testimony that may be admitted;
- (b) the procedure for identifying offenders;
- (c) courtroom procedures.

(a) Type of Testimony Admitted to Courts - Dr Thomson indicated that witness testimony, the basic datum of the courts, is often given months or even years after the event in question and emphasis is given to what the witness recalls rather than the original statements made soon after the event in question. He cited studies showing that details of an event are rapidly lost with time or distorted with subsequent experiences and he consequently suggested that original statements should be the first evidence admitted. Some discussion of possible objections to this was included.

(b) Identification Procedures - Dr Thomson maintained that the act of recognising or identifying someone as a person seen before is a complex one which calls inferential processes into play. He discussed this in relation to the assumptions inherent in Piagetian object constancy and person recognition research. The research that Dr Thomson cited indicated that identification of relatively unfamiliar people is influenced by factors such as similarity of clothing, activity and background, and pressure to respond. He advocated that the identification procedure

should be modified in two ways: firstly, participants in line ups should wear similar clothing and be in a similar background and activity to that of the offender; secondly, an authority, independent of the police force, should conduct the identification parade.

(c) Courtroom Procedures - Dr Thomson considered two matters. The first concerned situations where evidence is ruled inadmissible. The research studies presented suggested that the act of instructing people to forget information contaminates the perception of subsequent information. The point made by Dr Thomson was that the act of directing a jury to disregard inadmissible evidence may undermine the fairness of the trial. The second matter concerned the implicit belief that the credibility of a witness may be judged by the confidence he exudes while testifying and the guilt of the accused may be assessed by his demeanour. Dr Thomson reported studies suggesting the physical characteristics of a person may influence how we assess what a person says or how we judge them. One implication of this was that some innocent people may be judged guilty and some guilty people may be acquitted.

The point of his argument was that experimental psychologists are in a position to contribute to the administration of justice by advising the court of pertinent research findings, by providing the court with details of an individual's competency on a particular task, and by evaluating evidence tendered in court. In concluding, Dr Thomson illustrated the role of the experimental psychologist in relation to three court cases.

Discussion

Miss Brown asked what had been done to pass on this information to the judiciary. Dr Thomson replied that by presenting seminars and joining bodies that are involved in law reform, the work of psychologists is being made more visible. He added that the work should be of high quality, be acceptable and difficult to refute.

Mr Dunlop commended the work of Dr Thomson concerning what should be acceptable in court. He pointed out, however, that the courts are not dispassionate and that the adversary ritual with its associated drama is a part of the judicial system. Dr Thomson replied that the Appeals Court is less passionate and makes informed decisions based on relevant facts. He added, though, that passion is perhaps an important part of the courts and that this may be an empirical question worthy of further investigation.

Forensic Psychology with Aborigines in Central Australia -
Mr I.A. Joblin

Mr Joblin's presentation pointed up the absence of treatment services and facilities for Aboriginal offenders in the Northern Territory and considered some of the problems for the judicial system and authorities in general when dealing with Aboriginal offenders.

He introduced his paper by presenting two cases he was involved with for Central Australian Aboriginal Legal Aid in Alice Springs. The picture he presented was of two offenders, both with extensive histories of mental disturbance, neither of whom had received adequate treatment in the Northern Territory. These were only two of the many cases he had encountered in the Northern Territory. He said that petrol sniffers, psychotics, glue sniffers, alcoholics, sex offenders and neurotics are all present in the Aboriginal population as they are in Victoria. The big difference was that, whilst in Victoria there are some facilities, in the Northern Territory such facilities are non-existent and this may help to explain the high recidivism rate of Northern Territory Aboriginal offenders.

Mr Joblin continued by pointing out some of the problems in dealing with Aboriginal offenders and the factors possibly related to their imprisonment rate. He said that Aboriginal offenders are often subject to double punishment by tribal law and white law and that the Courts are not obliged to recognise the existence of tribal law nor to ascertain whether the defendant will be or has been punished by his own community. He added that if murder is committed, the failure to allow tribal retribution to take place, because of white law intervention, may provoke hostility between the extended families involved. He also said that, for those who have committed crimes, have long offence histories and have distinct psychological abnormalities, they are prone to reoffending because of the lack of treatment facilities. A further reason put forward by Mr Joblin for the high imprisonment rate of Aborigines was the conflict between tribal and white laws and customs. He said that the courts and authorities in general have shown an apparent lack of recognition of these differences. He pointed out, for example, that we have problems with language, a lack of skilled interpreters, a lack of previous research, and problems with the lack of diagnostic facilities; psychologists are hindered by the absence of norms for assessing Aboriginal's intellectual abilities.

In concluding, Mr Joblin indicated that controlled research and improved facilities were required and in this way the problems may be ameliorated.

Discussion

Mr Bevan indicated that some research into Aboriginal imprisonment had been conducted in the Department of Corrections in Western Australia and Dr Wardlaw mentioned that the Australian Institute of Criminology is currently developing a resource information centre for research in relation to Aborigines and Criminal Law. Mr Bevan added that the Australian Institute of Criminology is concerned about Aboriginal problems with white law and said they have already conducted two seminars in this area.

Dr Francis suggested that it could be possible to have tribal courts if Aboriginal elders are held in esteem and suggested that it may be useful to use the American Indians as a model.

Mr Dunlop called for the need to look into the process of how Aborigines are entering the judicial and prison systems, as in Western Australia nuisance offences are more prevalent and shape public and police attitudes to Aborigines. He said that it may be possible to introduce Aboriginal elders into white law and mentioned trial programmes where tribal elders are sworn in as justices and sit on magistrates' benches. He added that they, as psychologists, were most concerned with issues of testing and diagnosing of Aborigines. Mr Joblin said it was very difficult working with Aborigines as we are not familiar with their culture or their language and we do not know if certain tests are appropriate for use with Aborigines. He said the Queensland test is useful but has the difficulties of not being appropriately normed and being out of print. The Raven's Colour Progressive Matrices, he added, are useful but we need to remember that Aborigines are not educated according to white standards.

Mr Dunlop mentioned the work of Dr Judith Kerins in the Department of Psychology at the University of Western Australia. Dr Kerins' work on intellectual functioning has apparently led to a new conceptualisation of Aborigines. As an Aborigine's survival is dependent on finding food and water, they apparently have well developed spatial relationship abilities. According to Mr Dunlop, Dr Kerins found that even part Aborigines perform better on spatial relationships tasks and he suggested that this sort of investigation will be of help in developing appropriate tests.

Mr Bevan mentioned that imprisonment in the Northern Territory is high for both black and white persons. He pointed out that even if facilities for treatment are available, their effectiveness in reducing the problems there will depend on the attitudes of the people running them. Mr Joblin remarked that the treatment facilities are still poor and sending Aborigines interstate is no answer.

Mr Dunlop informed the seminar about the work of Trish Lowe, a psychologist working in Broome. Apparently Ms Lowe, in working with Aborigines, obtains her information from friends and relatives of the Aborigines. He said it is apparently much easier for them to talk about others than about themselves. Information of this sort will assist in dealing with Aborigines.

OTHER ROLES FOR PSYCHOLOGISTS

The Psychologist's Role in Hostage Negotiation - Dr G. Wardlaw

This paper was particularly interesting as it highlighted the increasing incidence of hostage taking which may extend to the prison environment. An amount of discussion was stimulated on this topic. Dr Wardlaw's paper clearly outlined the roles and contributions that psychologists could make in hostage negotiation.

As a number of psychological processes, such as communication and high stress levels may be involved in hostage-taking incidents, many authorities initially thought that it would be appropriate to include a psychologist or psychiatrist to assist in negotiation. Whilst many textbooks list a psychologist or psychiatrist, by virtue of their knowledge of human behaviour, as a vital member of a negotiating team, Dr Wardlaw pointed out that there is little justification for this assertion and he indicated that psychologists (or psychiatrists) may know little more about terrorists than anyone else. It was the purpose of his paper to delineate the competencies of psychologists in this area.

The thrust of his paper was that psychologists may make some useful contributions to hostage negotiation provided they are limited to certain specified roles and are carefully chosen in terms of appropriate experience and training. Such role limitation and training may enhance the perceived usefulness of psychologists and reduce unrealistic expectation.

He indicated that psychologists or psychiatrists are not necessarily better than police members at making decisions in hostage situations and that although psychologists (psychiatrists) may have skills in communication, they may not necessarily be appropriate as negotiators. Dr Wardlaw pointed towards the literature, which indicated that psychologists and psychiatrists are often unable to accurately predict dangerousness: further, that decisions in hostage situations are often made on the basis of prior experience and police members are more likely to have had such prior experience. He also suggested that the presence of a psychologist as a negotiator may imply to the hostage-taker that he is crazy and this may obstruct the development of rapport.

Frequently police forces employ a negotiating team to assist with hostage situations and it is as a member of such a team that a psychological consultant can prove most useful, particularly if the psychologist has trained with the other team members and has been exposed to specific information about hostage situations. In this role the psychologist may, for example, act as a resource person and a monitor of other team members' behaviour, provide emotional support to team members and post-trauma counselling for hostages, and act as

an intelligence gatherer in order to assist with making tactical decisions. Outside the hostage situation the psychologist may assist with selection and training of team members and conduct research to develop actuarial decision aids for use in hostage situations. Dr Wardlaw maintained that the limitations and conditions of the consultancy role should be clearly specified. For example, as it may be necessary to capture or kill the hostage-taker, the psychologist should be prepared to accept this possibility.

In summary, a psychologist is best employed as a consultant not as a negotiator. Psychological consultants should be selected for their relevant experience, orientation to the police mission, and knowledge of hostage negotiation theory and practice. Psychological expertise should be viewed simply as an additional source of input to the decision-making process which is the ultimate responsibility of the law enforcement agency.

Discussion

Mr Dunlop raised the question of negotiation with unions and asked if there were any similarities. Dr Wardlaw replied that with trade negotiations it is possible to leave at any time and that courses in trade negotiation include how not to argue oneself into a brick wall. Mr Dunlop remarked that it is helpful to understand the process of negotiation and asked if there have been any studies of process or stages in negotiation. Dr Wardlaw replied that some studies suggest the first few minutes are most important; after that boredom takes a significant role. He added that there are two theories to negotiation: containment may cause boredom which may lead to surrender; alternatively it may be possible to raise and lower the hostage-taker's stress levels in a controlled fashion, a tactic that may permit an attack to take advantage.

Miss Brown asked if there have been any attempts to train psychologists as negotiators. Dr Wardlaw answered that some police forces do use them as such but it was better to use psychologists as advisers. He said that no psychologists have been trained because until recently there had been no-one to train them.

Mr Priest commented that the professional ethics of psychologists may be counter-productive to hardline police action. Dr Wardlaw reiterated that the police need to make clear policies concerning the consultancy role. Mr Dorey added the independent observer role may serve to regulate the actions of negotiation teams. Dr Fitzgerald commented that concerning riot procedures in prisons, psychologists need to introduce communication that would lead prison officers to reflect on their choice of weapons. Psychologists may be able to encourage them to seek alternatives. Dr Wardlaw similarly suggested that terrorist managers are mainly interested in hardware rather than peaceful negotiations and that psychologists may have useful input here. Mr Dunlop commented that the psychologist's role may be to de-escalate explosive situations.

It was of concern that some prison departments may adopt a no negotiation policy if a psychologist or prison officer is taken hostage and the need was raised to negotiate with departmental directors on this policy.

Mr Hart asked if there were any instances where the 'Stockholm Syndrome' was reversed, that is, where the terrorists become allied with the hostages. Dr Wardlaw said no real reverse was documented but that friendship bonds do develop. Whilst terrorists may try to remain uninvolved with hostages, Dr Wardlaw pointed out that becoming friendly with the terrorists may have the benefit of reducing the hostage's chances of being shot.

Mr Bevan was not optimistic about the feasibility of training negotiators as no two situations are the same. He suggested general skills training and information may be best. Mr Bent added that whilst it may not be possible to provide a cookbook approach it may be possible to disseminate experience.

Dr Francis asked if there was any research into the effectiveness of timing or temperature changes during negotiations. Dr Wardlaw replied that this seemed to fit the stress model and that as yet there was insufficient data to make useful predictions.

REPORT ON OPEN FORUMS

A time-slot was provided for participants to break into groups of their choice to hold open discussions on topics of interest. Two groups formed, one of forensic psychologists who discussed court reports and the other of correctional psychologists who wished to exchange information on their relevant State prison systems.

A participant from the forensic psychologists reported that discussion concerned various points of court presentation and report writing raised in Dr Francis' paper.

The correctional psychologists set about describing the organisational structure of the prisons in each State for the benefit of participants from other States. Some mention was made of particular programmes being conducted or developed by psychologists in prisons. It became apparent that time was insufficient to complete this task and discussions became sidetracked into discussion of mutual concerns common to psychologists working in the prison system.

In order to maximise gains from the gathering of correctional psychologists from all States, it was decided to conduct a luncheon workshop to clarify and order the issues previously raised. Mr Dunlop and Dr Fitzgerald were co-facilitators of the workshop and indicated that the issues raised may need further work at a subsequent workshop or conference in order to formulate resolutions or recommendations.

The nominal group method was utilised by Dr Fitzgerald to elicit the concerns of psychologists working in correctional settings and classify these concerns into broad headings. Each participant wrote down two concerns, which were then categorised by a group process and each category classified by a heading. In all, eight headings were produced:

- (i) The lack of psychological input into institutions.
- (ii) Feelings of ineffectiveness experienced by psychologists in terms of lack of support, lack of contact with others and lack of staff.
- (iii) Low morale of psychologists and prison officers throughout the system.
- (iv) Access to psychological services, staffing and policy issues.
- (v) Misuse of psychological theory within the forensic area.

- (iv) Information repression, problems involved in not giving reasons for decisions.
- (vii) Autonomy of the profession and lack of professional recognition.
- (viii) Management policies, problems with people not being represented, conservative attitudes and enforced policies.

It was suggested by Mr Dunlop that each of these headings be taken away by various participants and be used to develop workshops, papers or strategies for discussion that may be presented at a future workshop.

Mrs McCarthy proposed that the conference of the Forensic Psychologists' Group of the Australian Psychological Society would be an appropriate occasion on which to continue this work. Persons responsible for development of workshops or discussions were asked to forward their contributions and the conference location and date were announced as Department of Corrective Services, Sydney, 29th and 30 May 1982.

Appendix I

PARTICIPANTS LIST

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|----------------|-----------------------------------------------------------------------------------------------------------------------------------|
| Mr C.R. Bevan | Assistant Director (Training) Australian Institute of Criminology Canberra A.C.T. |
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