



Précis Paper

Psychology and Criminal Justice

A discussion about forensic psychology and the role of forensic psychologists in an advisory capacity in the courtroom, assessment capacity in prisons and their role in the development of programs in prisons and probation and parole settings.

Discussion Includes

- History of criminal psychology in Australia
- The Alan Bond case
- Expert v Opinion Evidence
- Terrorist cases
- Illicit Drugs and their impact on criminal behaviour
- Treatment programs in the correctional setting
- Escalating demands on practitioners
- Bruno Grollo
- Takeaways

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Psychology and Criminal Justice

In this edition of BenchTV, Tim Watson-Munro and Steven Griffiths discuss forensic psychology and the role of forensic psychologists in an advisory capacity in the courtroom, assessment capacity in prisons and their role in the development of programs in prisons and probation and parole settings.

History of criminal psychology in Australia

1. In 1981 there were four psychologists described as forensic psychologists in Melbourne who were giving advice to the courts and briefed by lawyers.
2. With time, the profession has evolved and now there are far more people undertaking assessment work and acting as advisors to the court, but also more generically working within prisons, developing programs in prisons, working with probation and parole as well as in the civil jurisdictions.
3. Forensic psychology is now a specialty sub-branch within the Australian Psychological society and having gained traction and credibility over many decades it is now far more accepted as a legitimate voice in courts of Australia.

The Alan Bond case

4. In the Alan Bond case, there was an issue about his competence in regard to impaired memory. Watson-Munro gave evidence about Mr Bond's memory, concluding that it was genuinely impaired, and this was accepted by the court.
5. In cases such as these, the Court wants to know the subjectives in the case which differentiate the offender from other offenders. This may include whether they had an impoverished childhood, whether they were on drugs at the time, whether they suffer from depression or anxiety or any other circumstances which may mitigate against the penalty provided they are getting treatment and they have some prospects of rehabilitation.

Expert v Opinion Evidence

6. An expert in terms of a trial has to be an expert in the field they are giving evidence. The rules of evidence for expert evidence are very tight, however the rules of evidence are much broader when it comes to opinion evidence
7. Opinion evidence is the opinion of a person. It is based on expertise that is derived from experience and backed up through solid history taking, psychological testing and a comprehensive report tendered to the court.

8. The case of *R v Verdins* (2007) 16 VR 269 shows that various criteria must be taken into account when sentencing that relates to the psychological and psychiatric condition of the accused at the time as well as the impact of incarceration on that individual given that they may be psychologically fragile.
9. *R v Ramage* [2004] VSC 508 – is another case which relates to the assessment of psychology in the courtroom. Following this case, there was substantial outrage in relation to the decision and provocation as a defense to murder in Victoria was abolished.
10. The assessment of a person's psychological and mental state is also important in relation to immigration law where persons who are sentenced to more than 12 months in custody are generally subject to having their visa disqualified and placed in detention centers awaiting deportation under section 501 of the *Migration Act 1958* (Cth).
11. The immigration minister has discretion in relation to this and what the Government wants to know is whether the individual is going to be a continuing threat to the community, If it can be shown that the risk of their reoffending is low, there is a chance that they will be able to stay in the country.

Terrorist cases

12. *Faheem Khalid Lodhi v Regina* [2007] NSWCCA 360 was a case which involved the first person to be convicted under anti-terrorism laws.
13. The defendant, Mr Lodhi's lawyers wished to have a psychological report carried out to speak to the issues that might explain his behaviour to the court and possibly mitigate sentencing.

Illicit drugs and their impact on criminal behaviour

14. Over the last 10-15 years the dominant drug that leads to criminal behaviour is ice. Ice effects the pre-frontal cortex of the brain which is responsible for judgement, forward planning, consequential thinking, and the stability and integration of personality. This means that people who take ice have little judgement, poor impulse control, no insight and are filled with false confidence.
15. Some people can develop psychotic reactions to ice that can cause them to hear voices, see things, be intensely paranoid and when they are coming down they can experience rebound depression and become suicidal

Treatment programs in the correctional setting

16. There are a number of treatment programs in the correctional setting including the Custody Based Intensive Treatment (CUBIT) program for sexual offenders, Get Smart program for drug and alcohol persons and one-on-one counselling for some. There is also medication available to prisoners who need it through medical professionals.

17. The problem is that the resources in jail cannot keep up with the numbers of prisoners in jail. As a result, prisoners tend to suffer escalating levels of anxiety which leads to spontaneous acts of violence.

Escalating demands on practitioners and professionals

18. There are high rates of suicide and depression in the professions of psychology, law and medicine because people lack appropriate coping skills to cope with pressures when they arise and they are often oblivious to this until they hit a wall
19. There is now greater discourse on the influence of information technology on stress levels and professional obligations and it is about being aware and setting boundaries around when professionals can be contacted and when they cannot

Bruno Grollo

20. At the time, the case of Bruno Grollo and was the longest running criminal trial in Victoria was a case which involved a defendant in a psychiatric ward for the criminal insane and his fitness to stand trial which applied principles to stand trial from the case of *R v Presser* [1958] VR 45.

Takeaways

21. It is important for professionals to take care of themselves. Whilst there are professional obligations to adhere to, it is most important to stay mentally and physically healthy.

BIOGRAPHY

Tim Watson- Munro

Criminal Psychologist - Sydney

Tim has been practising in Melbourne and Sydney since 1981. He is involved in the assessment and treatment of individuals in all jurisdictions both civil and criminal. He also has considerable expertise in the treatment of Substance Misuse Disorders inclusive of alcohol and drug abuse. His practice has evolved and it now also entails immigration work.

He provides expert testimony throughout all States of the Commonwealth.

Tim consults throughout Australia and Internationally. His evidence has been accepted in all jurisdictions in Australia inclusive of the High Court, in addition to the House of Lords in the United Kingdom [1995], the Judgment of Lord Justice Ward referable to the "Children of God" case.

Steven Griffiths

Director, BenchTV - Sydney

Steven graduated from the Queensland University of Technology (QUT) with an LLB. He had previously studied at the University of New South Wales, obtaining a Degree in Sport Science. He was admitted as a solicitor in 2003 to the NSW Supreme Court. He worked as a Government Solicitor from 2004 to 2017 advising senior developmental staff and appearing in a wide variety

of matters in NSW Courts and Tribunals including Supreme and local courts as well as the State Parole Authority and Coroner's Court.

BIBLIOGRAPHY

Cases

R v Verdins (2007) 16 VR 269

R v Ramage [2004] VSC 508

Faheem Khalid Lodhi v Regina [2007] NSWCCA 360

R v Presser [1958] VR 45

Legislation

Migration Act 1958 (Cth)