

THERAPEUTIC JURISPRUDENCE AND RESPONSIVITY: FINDING THE WILL AND THE WAY IN OFFENDER REHABILITATION

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Correctional systems worldwide are currently undergoing a shift towards rehabilitation. Underpinning rehabilitation are the principles of risk, need, and responsivity. Responsivity includes internal responsivity (offender characteristics) and external responsivity (staff and setting characteristics). The responsivity principle has been neglected in the literature. While contemporary psychological theories of offender rehabilitation address internal responsivity, they do not address external responsivity, particularly in relation to the impact of the law. Therapeutic jurisprudence as a legal theory provides the opportunity to complement psychological theory and to address responsivity in offender rehabilitation. Therapeutic jurisprudence utilizes psychological knowledge to determine ways in which the law can enhance individual well-being. The purpose of this article is to demonstrate a psycholegal approach to offender rehabilitation. Psychological approaches can be applied to motivate offenders and provide them with the opportunity to make informed decisions about participation in rehabilitation programmes. However, this approach will not succeed without harnessing correctional staff as legal actors and potential therapeutic agents. A cognitive-behavioural model of an organizational culture change towards rehabilitation is proposed. In this endeavour “the will and the way” in both offenders and staff can be harnessed to maximize the therapeutic effects of the law.

Keywords: Offender Rehabilitation; Organizational Change; Therapeutic Jurisprudence; Good Lives Model; Motivational Interviewing

INTRODUCTION

The recent return from a punishment to a rehabilitation approach for offenders is one of the most significant events in modern correctional policy (Gendreau, 1996). Within this context it is important to note that the rehabilitation of offenders is essentially coerced. In terms of deprivation of liberty, Slobogin and Fondacaro (2000) have detailed three justifactory models. *Punishment* sanctions blameworthy behaviour or delivers exact retribution. *Prevention* prevents harm to self or others through deterrence, incapacitation, and rehabilitation. *Protection* ensures that autonomous decision-making of the individual is exercised. Although Slobogin and Fondacaro describe the prevention and protection models in terms of involuntary commitment within the mental health system, the authors argue that the criminal justice system also incorporates these elements. The distinction between punishment, prevention, and protection is useful to determine how rehabilitation may best occur within correctional services.

Influencing current models of rehabilitation is the work of correctional researchers regarding “what works” (e.g. Gendreau, 1996; Andrews and Bonta, 1998; McGuire, 2002).

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The authors state that risk, need, and responsivity principles need to be considered in offender rehabilitation. The *risk principle* indicates that more intensive services should be applied to higher risk offenders (i.e. who should receive services). The *need principle* indicates that criminogenic needs or dynamic risk factors directly related to offending should be targeted (i.e. what should be treated). The *responsivity principle* indicates that treatment approaches should use structured cognitive-behavioural interventions and match the individual learning styles of offenders (i.e. how treatment should be delivered).

In comparison to the risk and need principle, the responsivity principle has been sorely neglected in the international literature. Responsivity is overlooked in terms of appropriate staff-offender relationships and motivation of offenders, even though it is critical to success in rehabilitation (Kennedy, 2001; Gornik, 2002). Responsivity can be divided into internal responsivity and external responsivity (Gendreau and Andrews, 1990; Andrews, 2001). Internal responsivity considers treatment motivation, age, learning style, culture, and various barriers to participation. External responsivity considers an active, engaging, and participatory style of service delivery. Furthermore, external responsivity can be divided into setting characteristics and staff characteristics (Serin and Kennedy, 1997; Kennedy, 2001). In terms of setting characteristics, delivery of programmes in the community or prison setting have different outcomes. In terms of staff characteristics, correctional staff need to demonstrate appropriate role modelling and a therapeutic alliance. The staff and the setting are crucial in providing an environment conducive to rehabilitation. In essence, while external factors alone may not impact on responsivity, staff and setting characteristics will interact to have a positive or negative effect on offenders.

This article will focus specifically on the responsivity principle in terms of the interaction between staff and offender characteristics. However, the analysis will extend beyond traditional concern for *treatment* responsivity (i.e. clinician-offender interaction). The proposed approach will focus on the role of correctional staff in everyday interactions and how such staff can harness the law to engage offenders in rehabilitation.

Offender Rehabilitation Models

Another “what works” principle is that interventions should be theory based. The risk-need approach is based on a psychological theory of offender anti-social behaviour with a focus on general personality and social psychology (Andrews, 2001). Prevention identifies risk factors, focuses on those risk factors that are changeable, targets higher risk offenders, and reduces adverse outcomes (Douglas and Kropp, 2002). Relapse prevention is an example of the risk-needs approach. Ward and Hudson (1996) have criticized relapse prevention as a risk management tool because it does not explain why some offenders desist from reoffending, assumes that offenders are highly motivated to change behaviour, and is applicable to impulse control problem behaviours only. The risk-need approach reflects the prevention model in its concern to minimize future harm.

An alternative psychological theory of offender enhancement has recently been proposed. Rather than focus on risk reduction, effective rehabilitation “. . . requires articulating a view of human well-being, albeit in a naturalistic and humanistic manner” (Ward and Stewart, 2003, p. 126). The good lives model (GLM) is based on an improved quality of life to reduce reoffending. The necessary conditions (e.g. skills, values, opportunities, and social context) are provided to offenders to meet their needs in more adaptive ways. A primary goal is not to reduce offending, although it is expected that reduced offending will result if a socially

acceptable life or a “good life plan” is created. A primary goal is to motivate offenders to ask “How can I live my life differently?” (Ward and Stewart, 2003, p. 143). As a result, autonomy is supported to plan, make decisions, and implement plans (Ward, 2002). The GLM reflects the protection model in its concern to enhance autonomous decision-making.

Importantly, both the risk–need approach and the GLM focus on internal responsivity in terms of motivation and rely on the role of clinicians in rehabilitation. The risk–need approach considers that lack of motivation may be a criminogenic need and suggests that treatment style should be matched to the level of motivation for change (Andrews, 2001). The GLM determines that obstacles to enhanced well-being may need to be overcome before offending behaviour can be addressed (Ward, 2002; Ward and Stewart, 2003). Day and Howells (2002) warn that motivational approaches ordinarily applied in correctional services do not take into consideration secondary gains such as the degree of coercion, possibility of earlier parole, and offender confidence in the efficacy of rehabilitation.

Even though rehabilitation occurs in the context of correctional services, neither the risk–need approach nor the GLM consider the impact of the law. For instance, Andrews (2001) states that rehabilitation efforts should not be based on judicial or legal perspectives (although he does note that professionalism, ethics, legality, decency, and efficiency in staff should be seriously considered). The shift towards rehabilitation has failed to articulate the role of the broader criminal justice system and so a focus on external responsivity is clearly lacking. Again, external responsivity is concerned with how staff and setting characteristics impact upon offender responsivity. What is required is a legal theory to complement psychological theories of offender rehabilitation. Therapeutic jurisprudence provides such theory.

THERAPEUTIC JURISPRUDENCE

Therapeutic jurisprudence (TJ) is a legal theory that can usefully address the responsivity principle in offender rehabilitation. TJ is a framework for the study of the role of the law devised by David Wexler and Bruce Winick more than a decade ago. It is an interdisciplinary enterprise between law, psychology, psychiatry, criminology, criminal justice, public health, and philosophy. TJ can utilize psychological knowledge to determine ways in which existing laws and law reform can enhance well-being (Wexler, 1996). TJ assumptions related to the court system can be briefly summarized as follows (Birgden, 2002b). First, the way the law is implemented can either increase, decrease, or have a neutral effect on offender well-being. Second, the law should capitalize on the moment that offenders are brought before it to trigger a pro-social lifestyle. Third, the law should be a multidisciplinary endeavour with social science knowledge determining ways in which to enhance offender well-being. Fourth, legal considerations such as individual autonomy and community protection should not be trumped by therapeutic considerations. Last, TJ is a normative theory which recognizes implicit value judgements and maximizes the overarching aims of the law. When values conflict, TJ does not purport to determine what should be done, but rather, “. . .sets the stage for their sharp articulation” (Wexler and Winick, 1996, p. xvii). In summary, TJ views the law itself – legal rules, legal procedures, and the roles of legal actors – as potential therapeutic agents. The practical application of therapeutic principles by defence lawyers and other legal actors within the criminal justice system has previously been proposed (Birgden and Vincent, 2000, Birgden, 2002a). The focus in this article will be on the role of correctional staff as legal actors and as potential therapeutic agents.

TJ literature in criminal law tends to focus on the judicial system in general and the role of lawyers and judges in particular. In considering the application of TJ principles to correctional services, Birgden (2002b) has previously combined TJ with the GLM.¹ Both theories are based on humanistic concerns and aim to maximize well-being. The result is a framework for the rehabilitation of offenders in the correctional system. Briefly, seven principles apply: (1) the law has an impact on rehabilitation, (2) rehabilitation should enhance well-being, (3) autonomous decision-making is necessary in rehabilitation, (4) rehabilitation is a multi-disciplinary and multi-agency endeavour, (5) rehabilitation needs to be individualized, (6) rehabilitation is normative or value-laden, and (7) rehabilitation requires an individual–community balance. These rehabilitation principles will be considered in terms of the responsivity principle.

Transtheoretical Stages of Change

In relation to TJ and its concern with the impact of the law, some psychological theories are useful to consider changes in offending behaviour (Birgden, 2002a). *Cognitive dissonance* arises when contradictory behaviour and attitudes create an unpleasant state and so the individual changes attitude, removes and replaces the attitude, or trivializes the dissonant element (Draycott and Dabbs, 1998). *Self-efficacy* influences emotions, cognitions, and behaviour and improves as individuals gain new skills to manage threatening situations (Bandura, 1997). *Decisional balance* occurs when individuals weigh the gains and losses associated with a particular course of action in making decisions (Janis and Mann, 1985). As will be seen, these theories are applicable to both offender and staff characteristics in terms of behaviour change.

A particular psychological approach relevant to the responsivity principle is the transtheoretical model of change. Prochaska and others have developed a general explanatory model of how individuals change health-related behaviour, including addictions (e.g. Prochaska and DiClemente, 1982). The model incorporates cognitive dissonance, self-efficacy, and decisional balance. Individuals are assisted to change with a goodness of fit between the right thing (process) at the right time (stage). In essence, the model can be described as a cognitive–behavioural approach commencing with verbal processes followed by environmental or behavioural management processes. Processes of change underpin progress through the stages of change and can be applied to offenders (Prochaska and Levesque, 2002). The following processes are verbal. *Consciousness raising* serves to increase awareness about causes, consequences, and strategies for offending behaviour (e.g. mild confrontation). *Dramatic relief* involves emotional arousal about current behaviour and change (e.g. psychodrama techniques). *Environmental reevaluation* combines affective and cognitive assessments of the impact of behaviour (e.g. empathy training). *Self-reevaluation* combines cognitive and affective assessment of long-standing lifestyle (e.g. self-narrative to provide a self-image of a future pro-social lifestyle). *Self-liberation* is the belief that change can occur and the commitment to act on that belief (e.g. drug treatment court as a public commitment to change). The following processes are behavioural. *Helping relationships* combine care, openness, trust, acceptance, and support for change (e.g. a therapeutic alliance). *Contingency management* is the systematic use of rewards and sanctions with an emphasis on reinforcement (e.g. behavioural contracts). *Counter-conditioning* replaces anti-social behaviours with pro-social behaviours (e.g. counters to irrational self-statements). *Stimulus control* increases cues to prompt pro-social behaviours and decrease cues that tempt

anti-social behaviour (e.g. remove addictive substances and implements from the environment). Rather than any one underlying process, Prochaska and Levesque conclude that the therapeutic relationship is the "...common healer across all therapeutic modalities" (p. 69).

THERAPEUTIC JURISPRUDENCE AND RESPONSIVITY

In TJ terms, a therapeutic alliance can be described as an "ethic of care". An ethic of care considers the behaviour of legal actors and suggests that they should act with care, trust, and sensitivity (Brookbanks, 2001). TJ states that therapeutic effects of the law should be maximized and anti-therapeutic effects minimized. In the correctional context, "imagine the therapeutic atmosphere likely to be gained. Imagine the cumulative effect of (offenders) being surrounded by firm, fair, respectful empathic staff who are modeling pro-social behaviors every minute of their working day" (Farrall, 2001, p. 9). A correctional setting conducive to rehabilitation is required to maximize the therapeutic effects of the law.

It is expected that a majority of offenders (even repeat offenders) will experience psychological distress or discomfort upon the commencement of a sentence, particularly a prison term. With psychological distress comes contemplation of change (Draycott and Dabbs, 1998). While some individuals respond to environmental pressure to change, others will become defensive (Prochaska and DiClemente, 1982; Miller, 1985). In relation to TJ in the courts, Rottman and Casey (1998) have described the "teachable moment" as the opportunity to promote a more therapeutic outcome. Correctional services should harness the teachable moment when a distressed offender asks "How can I live my life differently?". Correctional services should respond to psychological distress to assist the offender to deal with the unpleasant state, make free choices, and make informed decisions. Such an approach supports the protection model to ensure that autonomous decision-making of the offender is exercised. The type and timing of rehabilitation programmes offered will assist this. For example, while a higher risk offender preparing for release from prison should address offending behaviour, a long term offender requires assistance to adapt to the prison environment upon commencement of sentence. Correctional staff can maximize the therapeutic effects of the law to ensure that offenders move towards change rather than resist change.

Finding "the Will and the Way" in Offenders

The risk and need principles determine that higher risk offenders require more intensive interventions. Therefore, higher risk offenders will be expected to make informed choices about whether to engage in rehabilitation programmes that target offending behaviour. But within the correctional context, offenders lack motivation and/or problem-solving skills. Using the transtheoretical model as a basis, these criminogenic needs can be addressed by correctional staff in the application of motivational interviewing techniques and assistance in autonomous decision-making. From a TJ perspective, legal actors can be harnessed to increase the therapeutic effects of the law.

Motivation to Change (the Will)

Motivational interviewing techniques have been devised by Miller and others to increase the likelihood that individuals will enter, continue, and comply with active change strategies (see

Miller and Rollnick, 2002). As with the transtheoretical model, the techniques are based on health-related behaviour change. In motivational interviewing the clinician expresses empathy, encourages reasons for change, avoids arguments, rolls with resistance, and supports self-efficacy (i.e. displays an ethic of care). Motivational interviewing techniques can be applied at different stages of the change readiness model (Prochaska and Norcross, 1994). At the *precontemplation stage*, questioning can raise awareness of a problem and create dissonance. At the *contemplation stage*, questioning can evoke reasons to change and strengthen confidence in change. At the *preparation stage*, questioning can elicit intention to change in terms of the next course of action and any barriers to success. At the *action stage*, questioning can elicit optimism about change, assist to take achievable steps toward change, and create external monitors of activity. At the *maintenance stage*, questioning can maintain optimism about change. More recently, motivational interviewing has been applied to offenders (see McMurrin, 2002) and discussed in the context of TJ (McGuire, 2003).

However, application of motivational interviewing techniques to offenders has traditionally focused on clinicians and the therapeutic alliance. Motivational Interviewing Non-specialist Intervention (Rollnick and Bell, 1991) and a brief non-clinical version of one or two sessions between 5 and 15 minutes' duration (Lawendowski, 1998) have been suggested. Birgden (2002b) has extended this approach to an application of brief motivational interventions by correctional staff to offenders to assist movement from the precontemplation to the preparation stage of change. Table 1 indicates the interaction between stages of change and underlying processes, and the integrated approach between correctional officers and clinicians.

Prison officers and community corrections officers as case managers can play a role using brief motivational interviewing techniques. Initial assessment of the stage of change readiness can be an integral part of the sentence plan². Decisional balance can be used to provide consciousness-raising and feedback. An assessment of core values can trigger self-reevaluation. Active participation in developing and enacting a sentence plan can harness offender belief and commitment that change can occur. This is particularly relevant at teachable moments such as the commencement of a sentence and preparation for parole board hearings or pre-release. If case managers have difficulty in moving the resistant offender towards change, clinicians can provide further dramatic relief to arouse emotions about current offending behaviour and environmental reevaluation around values. Once the offender engages in rehabilitation programmes, helping relationships are required to maintain him or her in rehabilitation programmes. Contingency management through rewards and sanctions emphasizes staff reinforcement and modelling of pro-social behaviours. While clinicians manage the environment and replace anti-social behaviours in rehabilitation programmes, case managers can maintain optimism about change. "Motivational microbursts" (Farrall, 2003) in everyday staff interactions with offenders should occur whenever a teachable moment arises.

Autonomous Decision-making (the Way)

The goal of the protection model is to promote autonomous decision-making where it is assumed that "...competent adults know their own abilities and preferences better than any one else ... and are thus better able to direct their own affairs" (Slobogin and Fondacaro, 2000, p. 506). Winick and Wexler (2002) suggest, in the court context, that if a defendant experiences voluntary and non-coerced choice, then attitude, motivation, and chance of success in rehabilitation is maximized. Thus, lack of informed decision making is a threat to

TABLE 1 Stages of change by processes of change and corrections staff roles.

<i>Stage of change readiness</i>	<i>Underlying processes</i>	<i>Correctional officers as case managers</i>	<i>Clinicians as therapists</i>
<i>Precontemplation</i> Do not intend to take action in the foreseeable future (next 6 months)	Consciousness raising Dramatic relief Environmental reevaluation	Motivational interviewing to elicit problem recognition	Motivational interviewing to elicit problem recognition
<i>Contemplation</i> Intend to take action in the future (next 6 months)	Self-reevaluation Dramatic relief Environmental reevaluation Self-reevaluation	Motivational interviewing to elicit expression of concern	Motivational interviewing to elicit expression of concern
<i>Preparation</i> Intend to take action in the immediate future (next 1 month)	Self-liberation	Motivational interviewing to elicit intention to change	Motivational interviewing to elicit intention to change
<i>Action</i> Have made specific changes to behaviour (past 6 months)	Helping relationships Contingency management Counter-conditioning Stimulus control	Motivational interviewing to elicit optimism about change	Apply cognitive-behavioural intervention and develop a good life plan
<i>Maintenance</i> Work to maintain change or prevent relapse for the future (next 6 months to 5 years)	Helping relationships Contingency management Counter-conditioning Stimulus control	Motivational interviewing to maintain optimism about change Monitor good life plan	Motivational interviewing to maintain optimism about change (if required)

autonomy and rehabilitation will be more effective if offenders can make informed decisions. Informed decisions require the capacity to consent, make a decision-based on a cost–benefit analysis, and make a voluntary decision through the exercise of free will without coercion or constraint (Birgden and Vincent, 2000). Voluntariness is not easily met in correctional services and this issue needs to be acknowledged. There is also therapeutic value in choice. Miller (1985) states that individuals are more likely to be motivated if they can choose from alternatives. The right to refuse programmes may therefore be therapeutic in that the decision is voluntary rather than coerced, or it may indicate a criminogenic need that requires respectful intervention by correctional staff.

While autonomy is required to plan, make decisions and implement plans, offenders lack problem-solving skills which will necessarily impact upon the ability to make informed decisions. Individuals with mental disorder who need to make decisions also experience threats to autonomy. In this context, two tools have been developed to standardize measures of decision-making ability. The MacArthur Competence Assessment Tool- Treatment (MacCAT-T) assesses competency to make treatment decisions (e.g. Grisso *et al.*, 1997) and the MacArthur Competence Assessment Tool-Criminal Adjudication (MacCAT-CA) assesses competency to make legal decisions (e.g. Poythress *et al.*, 2002). Both tools provide a normed and standardized assessment of the ability of individuals to understand, appreciate, reason, and express a choice (according to US legal standards).

A similar approach in correctional services would ensure that threats to autonomy in higher risk offenders are addressed through informed decision-making. A normed and standardized assessment would determine whether the offender: (1) understands – comprehends the assessed level of risk and need, and the likelihood of reoffending in the event of engagement versus non-engagement in programmes; (2) appreciates – acknowledges offending behaviour as a problem and has weighed the consequences of change versus no change; (3) reasons – conducts a risk–benefit analysis of two or three rehabilitation options; and (4) expresses a choice – demonstrates stability of choice whether to engage in a programme. The assessment tool could use a number of vignettes based on broad offence categories to assess the offender’s decision-making ability compared to other offenders. Again, whether informed decisions are made by the offender upon the commencement of a sentence and in application for parole or the development of pre-release plans is important.

In summary, a cognitive–behavioural approach to assist offenders to engage in rehabilitation programmes has been outlined. Based on a concern to meet the internal responsivity principle, the model assumes that offenders require motivational interviewing techniques matched to the appropriate stage of change readiness to create the will, and demonstrate informed decision-making to create the way.

Finding “the Will and the Way” in Staff

In order to successfully engage offenders in rehabilitation programmes, correctional staff themselves need to embrace a culture shift towards rehabilitation. The behaviour of correctional staff is influenced by cognition, social support, behavioural history, and personality (Andrews, 2001). In terms of the external responsivity principle, issues of organizational resistance and lack of staff motivation in correctional services need to be addressed before rehabilitation programmes can be implemented (Day and Howells, 2002). While at least 1000 studies have addressed offender assessment and treatment, only a dozen have addressed successful programme implementation in terms of organizational factors,

programme factors, change agency, and staff activities (Gendreau *et al.*, 2002). Porporino (2001) indicates that most correctional agencies have failed to consider responsivity in organizational change. This is not surprising considering that there is little or no supporting evidence of how organizational change strategies in general should be implemented, and so a trial and error approach is ordinarily used (Prochaska, 2002). However, a commitment by correctional staff to a rehabilitative approach is vital for the success of programme implementation.

Cultural change is effective when staff change their behaviour. Attitude change is considered a precursor of behavioural change. Emerging theory of organizational change argues that cognitive or attitude change is required for cultural change. According to Porporino (2001) the problem with organizational change management has been the focus on behavioural change (how to *do* things differently) as opposed to cognitive change (how to *think* differently about how to do things). Staff constantly examine core beliefs and assumptions to make sense of organizational change and to resolve conflict inherent in accepting change (i.e. cognitive dissonance). This process is described by Porporino as “sensemaking” or an ongoing process of adjustment and receptivity to change which is both emotional and cognitive and so attitudinal. The cognitive schemas about change that staff develop will lead them to either accept or reject change for very personalized reasons (just as offenders do when contemplating change). Taking a skills-based approach assumes that staff are motivated to change. Methods to guide staff behaviour such as developing codes of conduct, displaying pro-social values and behaviours, and establishing “ethics units” can be described as macro interventions that are not responsive to different learning styles and insufficient to ensure lasting change. What is required is complementary deeper interventions targeting private perceptions, attitudes, and feelings (Commerce Clearing House, 1997).

Fishbein and Ajzen (1975) have determined effective strategies for attitude change: persuasive communication strategies and active participation techniques. Active participation strategies include personal contact and role-playing. In the correctional context, personal contact alone is unlikely to reduce stereotypical attitudes towards offenders. However, role-playing through psychodrama or dramatherapy techniques allows a situation to be viewed from another’s perspective and increase the likelihood that staff will perceive the new information as relevant. Persuasive communication strategies are also designed to provide new information for the person to assimilate. Important characteristics are the source (trustworthy, expert, high status, attractive, and credible), message (two-sided argument, argument presented towards the end of the presentation, “unusualness” in type of communication, and moderate fear arousal), and audience (persuasibility, lower self-esteem, and open-mindedness). Failure to provide a message that is attended to, comprehended, and accepted will inhibit attitude change.

An effective and comprehensive organizational change strategy in correctional services needs to effectively communicate the “what works” agenda. However, there is a difference between training and learning (Commerce Clearing House, 1997). Training is on-the-job and skills-based where the purpose is defined, a competent teacher coaches the staff member, and the focus is on organizational stability rather than change. Learning, on the other hand, is based on a personal desire to acquire knowledge, watch and listen, discuss, challenge, accept, test knowledge, store learning, and seek further learning. Learning can be supported by an experientially-based approach while training can be reinforced by a competency-based approach. Applying the transtheoretical model, it is proposed that change readiness can be usefully applied to correctional services to measure an organizational shift towards

rehabilitation. To date, one study has applied the stages of change model to organizational change in relation to family services agencies changing to time-limited therapy (Prochaska, 2002). The following strategy can be described as a cognitive-behavioural approach to culture change³. Again, from a TJ perspective, legal actors are harnessed to increase the therapeutic effects of the law.

Experientially-based Approach to Learning (the Will)

The precontemplation, contemplation and preparation stages of change readiness require verbal processes of consciousness-raising, dramatic relief, environmental reevaluation, self reevaluation, and self-liberation amongst staff (i.e. to elicit cognitive change). An experiential approach provides a setting conducive to learning (Bergman, 2000). In the correctional context, such an approach utilizes persuasive communication strategies and active participation techniques. Consciousness-raising educates about “what works” and increases the pros of a move towards rehabilitation. Role plays arouse staff emotions and provide alternative viewpoints regarding causes of offending and appropriate management of behaviour. The application of ethical decision-making principles to solve everyday problem situations engages staff in values clarification and assessment of core values. The aim is for self-liberation in the belief that change in the style of offender management can occur and staff are committed to act on that belief. Staff can rehearse strategies to manage bullying and sabotage by colleagues of the rehabilitation agenda. This dramatherapy approach provides new ways of perceiving offenders which then become incorporated into underlying staff belief systems which in turn inform daily practice with offenders (see Birgden *et al.*, 2002 for an example of correctional staff training in the management of sex offenders).

Competency-based Approach to Training (the Way)

The action and maintenance stages of change readiness in the organization require behavioural processes of helping relationships, contingency management, counter-conditioning, and stimulus control amongst staff (i.e. to elicit behavioural change). Competency-based training in motivational interviewing techniques provides staff with the skills to case manage offenders effectively. Helping relationships and peer support networks can be cultivated. Contingency management within current staff performance systems should emphasize reward and reinforcement. Counter-conditioning using an ethic of care should be modelled by senior staff and managers. Stimulus control to modify the environment can promote notions of “healthy” prisons and community correctional services. The culture shift is maintained by ongoing mentoring and coaching by trained supervisors and consultation by clinicians. Figure 1 depicts the model of organizational change. Legal actors such as adult parole board members, who represent the court sentencing process and the interests of the community, can further the link between the law and corrections (see Birgden and Vincent, 2000 for a TJ analysis of sex offender treatment).

In summary, a cognitive-behavioural model of culture change to support the “what works” agenda has been outlined. Based on a concern to meet the external responsibility principle, the model assumes that staff require cognitive change through experiential learning to create the will, and behavioural change through competency-based training to create the way. Correctional staff are then better placed to engage offenders more effectively in rehabilitation programmes.

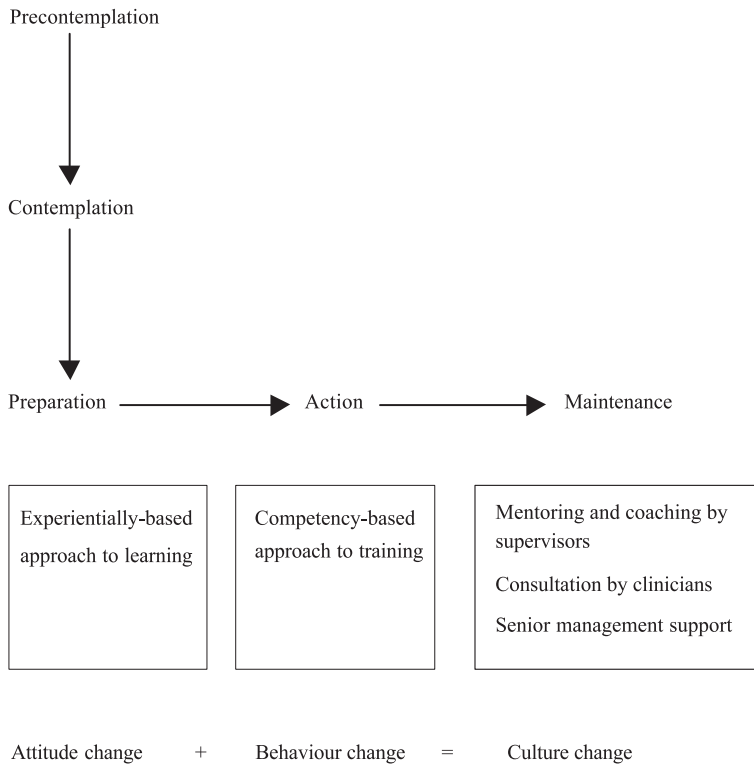


FIGURE 1 A cognitive-behavioural model of organizational change.

CONCLUSION

In the move away from primarily a punishment approach in correctional services, the risk-need approach is concerned with prevention while the GLM is concerned with both prevention and protection. However, both these approaches focus on the internal responsivity principle and assume offender motivation. The transtheoretical model of change matched with motivational interviewing techniques has more recently been applied to offenders by clinicians. But because change in offenders is essentially coerced by the law, application of psychological techniques by clinicians in isolation from the correctional system is unlikely to succeed. Serious consideration of the external responsivity principle in offender rehabilitation is therefore required. TJ provides the necessary focus on the role of correctional staff in appropriately harnessing the law to engage offenders in rehabilitation, particularly upon entry in to and exit from the correctional system. In this way, a psycholegal approach can address both prevention and protection concerns and staff can interact with offenders to provide a positive effect.

A cognitive-behavioural model of change in both offenders and correctional staff has been proposed. Internal responsivity is addressed in terms of offender characteristics with a focus on enhanced offender motivation and informed decision-making. External responsivity is addressed in terms of staff motivation to support the culture shift towards rehabilitation and skills to assist offenders to engage in rehabilitation programmes. This model meets the seven principles previously outlined for the rehabilitation of offenders in the correctional

system. In the promotion of culture change, this psycholegal approach is applicable to other members of the criminal justice system such as police, the judiciary, parole board members, and agencies providing pre- and post-release support to offenders. Through an ethic of care, “the will and the way” to change offender and staff characteristics can be created to maximize the therapeutic effects of the law.

Notes

1. TJ is a Department of Justice policy direction in the state of Victoria, Australia.
2. A screening readiness to change tool for general offenders and a specific readiness to change tool for violent offenders is being developed for the correctional system in the state of Victoria, Australia.
3. The two-stage training strategy as outlined is being delivered and evaluated in the correctional system in the state of Victoria, Australia.

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