

# **HPS206 Examination Prep for Introduction to Forensic Psychology**

## **Week one – overview of the justice system and the associated services**

### **What is Forensic Psychology?**

1. There is no universal definition for forensic psychology
2. It involves the interaction of psychology with legal processes
3. The application of psychological research/ theory/ practice to the understanding and functioning of the legal system
4. Forensic Psychologists act as
  - a) Consultants
  - b) Experts for Psychological Evidence
  - c) Researchers

### **Important Milestones**

1. 1843: Daniel McNaughten was found NOT GUILTY by reason of insanity for the first time
2. 1906: Sigmund Freud does a speech on psychologys importance
3. 1908: Muller v Oregon. Hugo Munsterberg wrote 'on the witness stand' which researched eye witness accounts. He staged false crimes in his lectures and got witnesses to report back. He found that eyewitness reports were not always reliable
4. 1954: Brown v Board of Education. The social science brief behind segregation of black and white children found negative impacts that this had. It was the first tme psychology influenced the legal system
5. 1968: Amrican Psychology Law program is established
6. Why was the legal system resistant to psychology?
  - Because there are many differences between the legal system and psychology
  - They require two different standards of truth a) for psych truth lies within the 95 percent confidence interval and b) the justice system matters need to be proven beyond reasonable doubt
  - The legal system speaks at an individual level

- Psychology speaks about populations and can not always offer the courts the information that they seek.

### What do Forensic Psychologists do?

1. Consultations
  - to police in relation to recruitment of personell for police, bomb squad
  - advice at trial processs and prep of witnesses/jury selection
  - correctional services
  - workplace safety
  - child protection
2. Call to offer expert psych evidence to courts etc
  - insanity defense
  - confidence to stand trial
  - advice about sentencing and parole
  - psych damages
  - trademark litigation
  - child custody issues
3. Clinical services within populations
  - assessment and treatment with offender populations (sex offenders, victims of crime, substance misuse, parents, serparation and divorce, family reunification)
4. Research
  - Psychology uses the scientific method and theory to find out what works and what doesn't in relation to the legal system

### The Australian Legal System

1. Psychology has played a large role in the legal system every sinse Munsterbergs eyewitness findings.
2. The Sources of Law
  - 8 Jurisdictions + Federal system
  - State laws including criminal laws
  - Commonwealth: covers taxation, postal, telegraphic, telephonicm currency, coinage, bankruptcy, copyrights, marriage, divorce, invalid and old age pensions
  - Statutory law: enacted by legislature

- Common Law: Precedent cases
- Criminal Codes: QLD, WA, TAS, NT and the remaining states are common law

### 3. Adversarial vs Inquisitorial

- Adversarial:
  - a) Follows due process so that everyone receives a fair trial
  - b) Presumes sanity and innocence
  - c) Both parties have the responsibility to collect and present evidence
  - d) Responsibility lies with the prosecution to prove guilt
  - e) Court is obliged to act upon evidence
  - d) Jury represents the community and fairness
  - g) Wrongs are dealt with on appeal
  - h) Central principles of whether behaviour should be regarded as a crime include (equity, uniformity, certainty) and (Individual autonomy and community welfare)
  - l) Coronial enquiries are the exception, they are inquisitorial
- Inquisitorial System
  - a) Removes suspects who are not likely to be found guilty from the system to a pre trial phase
- Two parties seeking truth
- Judge has more power and does most of the questioning

### 4. Where did this system come from?

- Westminster System or Separation of powers
  - a) Judiciary : judging or adjudicating on the law
  - b) Legislature: Responsible for lawmaking
  - c) Executive: carrying out and executing the law
- This creates checks and balances on the use of power
- Ensures balance of power between the three arms
- Checks and balance ensure each arm only uses powers according to the Australian Constitution

### 5. Tribunals

- Responsible for administrative decisions
- Don't Exercise judicial power

### 6. Magistrates Court

- Summary Offences
- Heard by magistrates court alone
- Traffic Offences and minor assault
- Most trials take place here (90%)
- Specialist court: (Indigenous – koori, nunga, murri) (Drug Court – divert users from incarceration) ( youth courts)

7. District court
  - Appeal magistrates court
  - Minor Indictable Offences (Longer max sentences)
  - Right to be heard by judge and jury
  - Civil Court
8. Supreme Court
  - Major Indictable offences
  - Murder etc
  - Smaller amount of cases heard
9. Federal Court
  - Matters arise in federal law
  - Relate to the constitution
  - eg. Drug Importation
10. Family Court
  - Federal Court
  - Divorce, Parenting cases
  - Child abductions