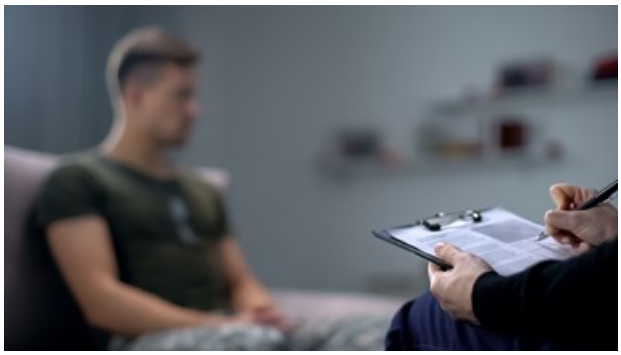


Your mental health during criminal law proceedings

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Date: Monday March 9, 2020

There is a common misconception that only individuals who suffer mental health conditions engage with psychologists or psychiatrists. However, people charged with criminal offences often seek the assistance of a psychologist (or in some serious cases, a psychiatrist) to help them through their criminal law matter, whether they suffer from a diagnosed mental health condition or not.

If you are charged criminally, engaging with mental health professionals can have more benefits than you might think.

Stressful court proceedings

Court proceedings, no matter how serious your charge, can be very stressful. Even being charged in the first place is a stressful experience for most. There is often a lot of unknowns about the process, the potential outcome, how long things will go on for and more often than not, the cost of a criminal law matter.

Some people may assume that discussions they have with their lawyer, and reassurances their lawyer may provide them with, as having some therapeutic benefit. While this may be the case, and empathy is an important characteristic of any good criminal lawyer, it is important not to think of your lawyer as your counsellor or therapist.

By engaging with a psychologist or other mental health specialist, you have a safe and confidential space to appropriately ventilate your concerns and fears. To help you cope with the feelings and stresses associated with your court matter, a psychologist may also arm you with different coping mechanisms and techniques.

Further, making sure you are looking after your mental health and stress will no doubt help you to be in the best position possible to provide your lawyer with calm and considered instructions.

Identifying underlying causes of offending behaviour

Sometimes lawyers ask clients to engage with a psychologist or psychiatrist in order to identify underlying, and sometimes long-standing, issues which may have caused, or contributed to their offending.

Some people have trauma associated with their childhood or upbringing. For example, studies have shown domestic violence is cyclical. If an individual has been exposed to domestic violence as a child, they are more likely to normalise violent behaviour and either become a victim or a perpetrator of domestic violence later in their life.

Alcohol and drug abuse are also common features in criminal law matters. It is important that, in the first instance, if you do suffer from substance abuse issues, you seek professional medical and related assistance.

Secondly, if there is a valid connection or link between substance abuse and the relevant offending behaviour, that this connection is identified. This way the individual can address it at a personal level and the court can be made aware of it where necessary (e.g. for the purposes of mitigation).

Psychologists have the tools and training necessary to explore and establish the underlying causes of offending behaviour. They can then help an individual by putting in place a program or plan to work on underlying causes to prevent similar behaviour from occurring in future.

Psychological reports for use in criminal law matters

In the right circumstances, your lawyer may discuss obtaining a psychological report with you to use in your matter. Just as psychologists are trained to listen to you, identify issues and put in place programs to assist you moving forward; they are also well placed to write a report for court proceedings.

Reports from psychologists are specifically addressed to the court and can be lengthy. They often include matters such as:

- a person's background;
- some of the things discussed in the psychologist's sessions with the person, relevant to their offending behaviour;
- how often the psychologist has seen the person;
- how they became engaged with the person;
- information relevant to the person's offending and the risk of that person reoffending,
- if going to jail would be more difficult for that person as opposed to a regular member of society (and why); and
- treatment programs they are participating in or will participate in.

These reports are usually provided to courts at a sentencing hearing. They can be an invaluable tool as Magistrates and Judges consider them when deciding what penalty should be imposed on a person.

For example, if a psychologist says a person is successfully and proactively engaged in a treatment program and has already demonstrated positive signs of rehabilitation, a court may prefer to impose a non-custodial sentence to allow that treatment to continue and ameliorate the penalty otherwise imposed.

How do I seek treatment and what will it cost me?

The best place to start is to speak with your General Practitioner. They may place you on a Mental Health Plan and refer you to a psychologist. As part of a Mental Health Plan, you may be eligible for a number of free sessions with a psychologist. How many sessions you require will be particular to your circumstances and what will be of most benefit to you, individually.

Depending on what is required, by both you and your lawyer (for maximum benefit to your health and your case), there may be a cost to you for additional sessions beyond what is free and if a psychological report is required.

It is also important that you feel comfortable with your psychologist. Sometimes, it can take a little bit of time (over a number of sessions) for this to happen, or you may need to see a number of different psychologists until you find the right one.

We encourage you to speak with your lawyer about these matters. Ultimately, there is little to be lost and a lot to gain by you seeing a psychologist if you are involved in criminal law proceedings.

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This blog is of a general nature and should not be relied upon as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.