

## The Mentally Disordered Inmate and the Law

By Fred Cohen, Esq. Second Edition. Kingston, NJ: Civil Research Institute, 2008. Two volumes. 1,114 pp. \$237.50.

Professor Fred Cohen comes from a law background and is professor emeritus in the Graduate School of Criminal Justice at the State University of New York at Albany. Perhaps more significantly, he has been a federal court monitor for correctional medical and dental care in the Ohio state prison system and has acquired first-hand knowledge of incarcerated individuals and the institutions housing them. From this perspective, his two-volume work explores a wide array of topics affecting the mentally disordered incarcerated population.

Cohen presents court decisions, many in considerable detail, to illustrate the various topical areas. Forensic psychiatrists would be familiar with the cases, as they are many of the landmark cases of forensic psychiatry selected by the American Academy of Psychiatry and the Law (AAPL). They include such familiar litigations as *Youngberg v. Romeo*, *Rouse v. Cameron*, *Wyatt v. Stickney*, *Robinson v. California*, *Powell v. Texas*, *Tarasoff v. Regents of the University of California*, and *Jaffee v. Redmond*, to name a few. These cases readily facilitate the forensic psychiatrist's comprehension of the legal underpinnings of Cohen's work. Nonetheless, correctional mental health litigation has been dominated by whether the threshold of deliberate indifference, as promulgated by *Farmer v. Brennan*, has been breached. Overall, the reader is exposed in considerable detail to the debate and complexities of deliberate indifference and other legal constructs, which would be expected, since this book is intended for an audience knowledgeable in the law.

Beyond the familiar AAPL landmark cases, Cohen explores others such as *Madrid v. Gomez*, which details the situation at the California Department of Corrections facility at Pelican Bay and provides a chilling description of a maximum security facility and its impact on mental health. *Madrid v. Gomez* and other litigations presented capture the plight of the mentally disordered inmate, and the overall tone

of the book indicates that Cohen is writing from an advocacy perspective. He praises highly those psychiatrists and other experts whose work supports his apparent position, while reserving scant praise for representatives of state and institutional interests. For example, in Chapter 21 (section 3[2]), he describes a plaintiff expert in a case as "the country's premier correctional psychiatrist" while describing an expert for the defendant State of Illinois as "the utility infielder in all areas of correctional mental health."

Cohen's work contains 21 chapters and a large Appendix. He offers that a prison or jail administrator need only read the second chapter, which provides an overview of the law and the mentally disordered inmate. The forensic or clinical psychiatrist should read much more than the second chapter, to appreciate the mental health and associated clinical practice topics and concerns in the correctional setting, although many of the chapters would be likely to prove laborious and tedious because of the predominant focus on legal matters. The chapters dealing with clinically relevant topics, such as those covering the treatment relationship (Chapter 9), the effect of isolation on mental disability (Chapter 11), and suicide (Chapter 14), would probably command the greatest interest from the forensic or clinical psychiatrist.

From a lawyer's standpoint in analyzing case law, the decision itself is of the utmost significance, with any subsequent adverse outcomes that befall any of the case's parties being generally ignored. However, if there is a third edition to this work, Cohen might consider revising the chapter on the treatment relationship to mention what transpired subsequent to the case of *In re Kanuri Sugury Qawi*. Qawi's case involved his successful refusal of antipsychotic medication. Upon returning to the community, he continued to forgo needed psychiatric treatment and ended up accused of killing his roommate and being found incompetent to stand trial.<sup>1,2</sup> Also in a third edition, Cohen might discuss *Panetti v. Quarterman* (decided on the day Cohen completed his preface to this edition), as the case regarding competence to be executed. (The current edition discusses *Singleton v. Norris*.)

Although this two-volume work covers a gamut of topics concerning mental health in the correctional world, the overall length of the two books may be excessive for forensic or clinical psychiatrists. The

work contains a relative dearth of pragmatic, clinically relevant material. Some of the length is attributable to the Appendix, which contains excerpts from 10 of the cases explored in the book, a description of the Residential Treatment Unit at the Ohio Department of Rehabilitation and Corrections, and the *Dunn v. Voinovich* consent decree from Ohio. Not only does the material found in the Appendix seem extraneous, it occupies about one-half the space in one of the volumes. Therefore, unless a forensic or clinical psychiatrist has an extreme interest in the tedious legal underpinnings surrounding correctional mental health, this lengthy work, while appearing to be a solid contribution to the legal world, would be best kept on the shelves of libraries and institutions for psychiatrists to consult on an as-needed basis.

### References

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## Detecting Lies and Deceit: Pitfalls and Opportunities

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Everybody lies.—Gregory House, MD

There are three kinds of lies: lies, damned lies, and statistics.—Mark Twain

A fundamental principle in all forensic work is to beware of malingering by the examinee in every forensic examination done for any purpose whatsoever. Because there is always an interest at stake, the need for help that governs traditional clinical work does not usually apply. The present book addresses this core concept from the standpoint of lying and deception and their detection. It is part of the Wiley Series in the Psychology of Crime, Policing and Law.

The author is Professor of Social Psychology at the University of Portsmouth, United Kingdom, and his main area of specialization appears to be nonverbal and verbal cues to deception and lie detection. He is described as an advisor to police on interviewing suspects and as an expert witness who also gives worldwide lectures and workshops on lie detection. He notes that the impetus for this second edition (published relatively soon after the first edition in 2000) derived from the terror attacks and security concerns that have placed a premium on obtaining truthful information.

The book itself is divided into 15 chapters (the first, an introduction) and an epilogue, as well as a preface and reference section. The author notes that this edition attempts to marshal the research data in “a comprehensive review of deception research published to date”; he uses “lying” and “deception” interchangeably. The book is intended to discuss “non-verbal, verbal, and physiological indicators of deceit and the ability to detect lies on the basis of these indicators.” Subsequent chapters are devoted to each of these topics. The text is punctuated with boxed sections that serve as extended but optional footnotes to ideas noted in the surrounding text.

The introduction begins provocatively and amusingly by stating some “facts” about lies and liars and then revealing that these are all myths. This section goes on to debunk claims of accurate lie detection that are not supported by the literature. Indeed, the various chapters continue the practice of challenging widely accepted myths about lying, including views held by professionals whose roles, such as law enforcement, require good lie detection. Some widely used lie detection instruments are similarly challenged. There seems to be no single cue that a person is lying that is comparable to Pinocchio’s growing nose. Subsequent chapters cover topics such as why it is difficult to catch liars and how interviewers can improve their lie detection skills.

Although the book is one of the most densely researched that I have read, the content is leavened by social and even popular digressions, such as why people lie, how lying is part of everyday life, and how lying is a social lubricant. The author himself, realizing the level of detail achieved in this comprehensive work, admits that the book is not meant to be read through but to be dipped into when questions arise about deception. This reviewer concurs with that approach.