

# FORENSIC PSYCHOLOGY AND PUNISHMENT

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June 2021

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# Views of psychology / psychologists

They may *isolate* difficulties that you're having, but they don't *help* you with them. They will observe how you handle those difficulties, how you come to terms with them. You are given the opportunity to speak to a counsellor or somebody if you feel you're having problems, but it will all end up in a report. (George)

When I first came away, the psychologist was there if you'd got problems, to talk to. She wasn't there to write reports, she wasn't there to judge you, she wasn't there to write reports and manipulate you, she was there to help you if you needed help. Now that attitude's not there. They are there to write reports on you, they are there to judge you, they are there to fucking try and manipulate you. Your interests, your needs are pretty much last on the list. That's the perception of it. This is why a lot of psychologists are held in nothing other than suspicion. (Nathan)

# Views of psychology / psychologists

‘[In terms of] The day-to-day concerns, most prisoners know what to expect, they know the rules that they’re living within, so they accept that. They accept the day-to-day authority that they’re under. When it comes to probation and psychology, because it’s not to do with the day-to-day things, it’s to do with the effects on your *life*, the effects of you getting out, it’s a deeper type of power: I think it’s felt more profoundly.’ (Nathan)

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# Psychological discourse as opaque, confusing or subjective

'I've done everything I need to do for my sentence. Now I'm being asked to do more' (Rufus)

'You're knocked back for reasons you don't understand' (Stefan)

'I went for the R and R course and they asked me all these questions and they said, 'well, you haven't got enough defects to do the course, we don't feel that you'll benefit from it'. They said to me, 'that's as good as a pass'. [But] my parole papers come back and it says 'you haven't done enough courses'. (Carter)

'A lot of [my reports/assessments] have been very contradictory: what was a problem in one prison isn't a problem in another prison. I'm not very communicative with staff here, really, but much the same as in prison X. But whereas down there it was seen as a major problem [and an] anti- authoritarian attitude, here it's seen very positively: I don't make unreasonable demands on the time of staff; 'very polite, gets on with his work, presents no control problems'. It's the same situation, just totally different interpretations'. (George)

# Psychological discourse as petty or unforgiving

‘You have one minor incident and they’ll go write it in the file. That’s gonna catch up with you in two or three years time: a silly little incident, every few months, a minor indiscretion. [...] You’re in prison! You’ve just got the hump, or you’ve slept badly. But you add em all together and they show a pattern of something that’s not really there’ (Alexis)

‘They twist everything, they ignore the constructive stuff you do. I made a joke about sedating my girlfriend to take her on holiday [as part of a course scenario] – in the report they gave no context, said that my idea of getting someone on a plane was sedating them! I got knocked back based on the psychologist’s report’ (Prisoner quoted in fieldwork notes)

# Psychological discourse as de-contextualised

‘I should be judged ‘am I a threat to society?’ I’m only a threat to the prison system. I realise that I’ve done wrong and should be in prison. If I spend the rest of my life in prison because of the murder I’ve committed, then that’s fair enough by me. But I shouldn’t be kept in because somebody doesn’t like my attitude. What I am inside and outside are two different people. How I conduct myself in here, I have to conduct myself like this to survive’. (Pete)

‘They know nothing about drugs, or the reasons for taking drugs. They’re trying to teach you something that you know back to front and they know nothing about’ (Callum).

# Psychological discourse as de-contextualised

They're trying to get you to act in a way that you would never act, that no human being would ever do. If you're put in a confrontational situation you ain't going to ask a man to stop because you don't want to fight him—he is trying to hit you! If you're backed in a corner you're going to have to fight your way out. They're trying to say 'no, you don't do things like that, you have to talk to this person'. And they can't get into their heads that you *can't do it*. It's not real. And they'll sit and argue with you. And they've got to be right, you can't be seen as being given your own view, you have to [take] *their* view. And I can't comply like that. There's too many ifs, whats, and buts to everything. There's too many questions for me to sit back and just accept that one person's opinion. If we lived like that, we'd be machines. (Den)



# ‘Epistemic injustice’ (or ‘disadvantage’)

- ‘Epistemic injustice is the idea that we can be unfairly discriminated against in our capacity as a knower based on prejudices about the speaker’ (Byskov 2021: 116)
- i.e. being wronged or untrusted or not granted credibility as a ‘knower’
- ‘To be wronged in one’s capacity as a knower is to be wronged in a capacity essential to human value’ (Fricker 2007: 43)

# ‘Misrecognition’

‘My life doesn’t go parallel with theirs. The system has forced me to draw to their level, how *they* see things and deal with things, rather than helping me deal with things in my own way, in my own personality, in my own mistakes, weaknesses, difficulties. They’ve forced their opinion, their understanding onto me.... They’re only interested in their own decision-making. You go through [your] sentence, and everybody’s telling you to be open and honest, and when you do, they don’t believe you. *Their* truth they can handle. Not the prisoner’s truth’. (Gerry)

You’re not listed as a person, you’re not listed as a personality, you’re not listed as likes and dislikes ... they’re attuned to write negatively about you because they are writing about risk, so all they highlight is risk’ (Imran)

# Psychology and punishment

‘They don’t use the stick no more but they use the pen, you get me? [...] Once the pen has written down something that can be there for life’. (Curtis)

‘The power of the pen rules. It rules the prison. They stab you in the back, with a keyboard’ (Taylor)

# Some implications

- Power disparities
  - A threat to the psychological endeavour?
  - Produce feelings of deep resentment
- Issues regarding 'voice'
  - Contested or compromised epistemic credibility
- Limits to neutrality, trust and respectful treatment?
  - Difficulties of explanation e.g. actuarial risk assessment
  - Unequal status of knowledge claims
  - Public protection and (un)trustworthy motives

# 'Tightness'

- Impact on prisoners of incentives schemes, behavioural monitoring ('walking on eggshells'), risk assessments & reports ('the power of the pen')
- Power: soft yet firm; working closely but anonymously; adhesive and long-lasting: an 'invisible harness on the self' (Crewe 2011) - *grip*
- Shift from obedience to 'engagement':
  - self-regulation of all aspects of conduct
  - active engagement with the regime/ sentence requirements
  - insistence on change in cognition, selfhood, etc

(see also e.g. Lacombe 2008; Haney 2010, Waldram 2012; Shammass 2014; Werth 2016)

“The smallest thing could give you away. A nervous tic, an unconscious look, a habit of muttering to yourself – anything that carried with it the suggestion of abnormality, of having something to hide” (Orwell 1949, ch5)

“Perhaps not being watched is even worse than being watched, so terrible that the insult of perpetual surveillance is itself a fictional defence against something worse, invisibility before god and man” (Alford 2000: 132-3)

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# 'Looseness' – inconsistency, inefficiency, inadequacy

e.g.

- poor quality paperwork
- delays to parole hearings
- inaccessible specialist staff
- lack of access to courses

Keeping me in for these last two and a half years has served no one any good whatsoever. [But] someone decided that they wanted me to do a course [which] two [other] facilitators said I wasn't suitable for. [That's] the only reason I didn't get D Cat [i.e. open prison].

*And then have you ever done [the course]?*

No.

*Why not?*

Because they never offered it to me. (Russell)



## 'Looseness' - deficiency

- Monitoring and assessment deficient rather than excessive
- Staff indifference, especially in relation to offending behaviour or personal issues:

*Do [officers] ever talk to you about your parole or your offence or anything like that?*

No, they won't talk to you about it, they're not interested, they don't care. [...] All the staff are here to do is unlock you and lock you, feed you when you're supposed to get fed, they're not there to really sit down and listen to your life's deepest darkest ... they don't care. (Robert)

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*How does the prison try to shape who you are as a person?*

They don't because they don't have anything to do with me. I'm left in my cell to rot basically. [...] There's no interaction for me with the staff; I wish I could say otherwise. (Kenny)

## 'Looseness' - deficiency

- Lack of access to key decision-makers:

At the moment I have a probation manager that I have never met, seen, spoken to or even introduced herself to me currently.

*Not even over the phone?*

No.

*A letter?*

No. Not even 'hi'. [...] The only reason I know her name is because I wrote to my probation officer five times at the beginning of the year. I got no reply. I sent my mum and dad to the probation office. [...] I then wrote to [her]. I never got a reply. [...] I'm anxious and I'm stressed because I am going to be controlled by somebody that I have never spoke to, seen or had any interactions with. I just exist to them as a report on a table somewhere. They don't know who I am as an individual, and that worries me greatly. But on the other side of that, I completely respect probation because they have a huge job to do. (Joel)

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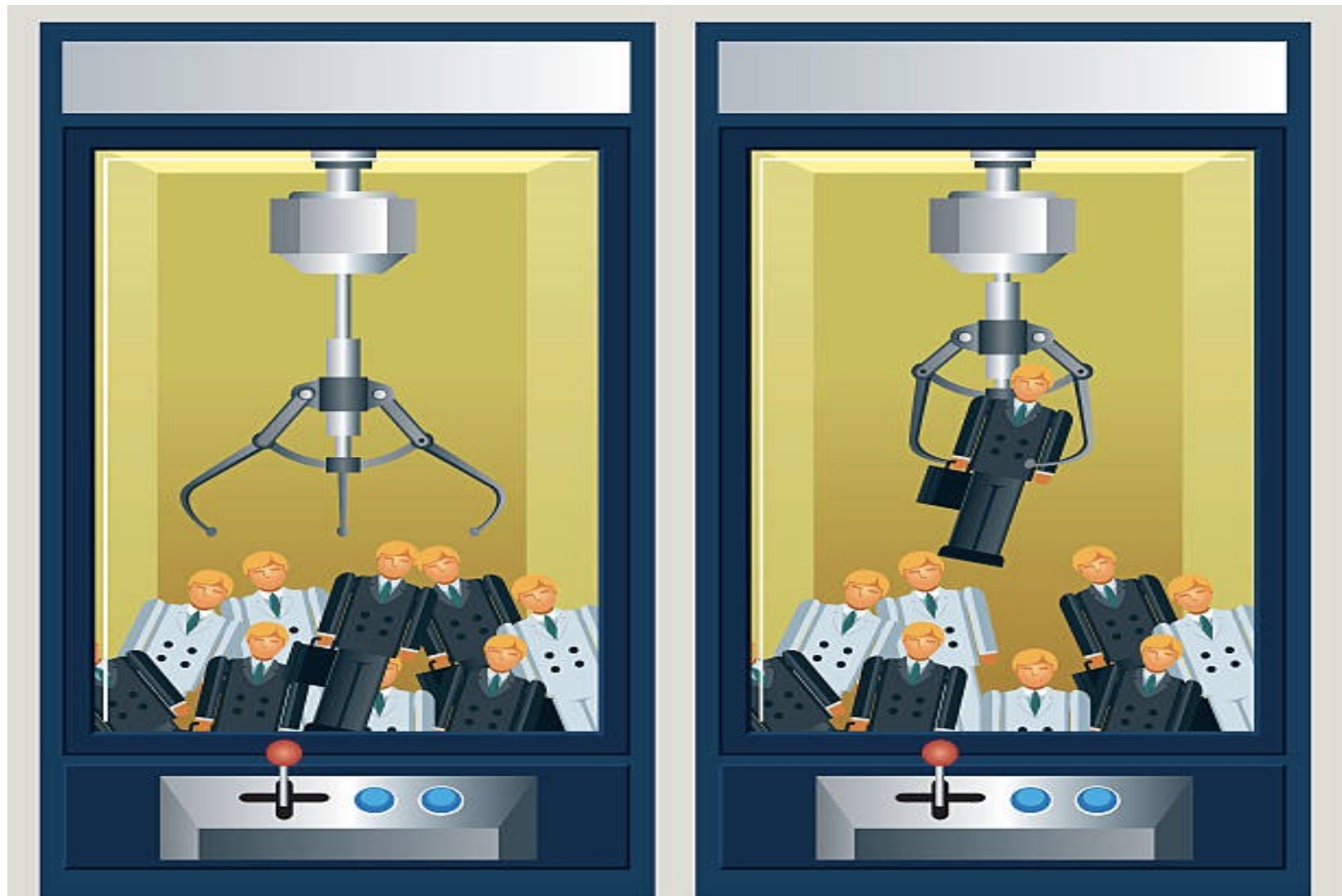
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## ‘Looseness’ - being ‘un-grippable’

- e.g. having irresolvable problems; being ineligible for courses:

I can't progress to an [open prison] because I haven't done programmes. But I can't do programmes because I'm not the correct risk, or a low risk. [...] It is not that I haven't done any work [on my risk]; it's that the system has nothing to help me with. [Pause] So it is quite depressing. I want to progress; I would love to do [courses], to make sure that I understand all of my triggers and all of my risks and that I have the correct tools to go forward with. (Ricky)

# The 'fairground claw' (or 'claw crane')



# 'Looseness'

- Not *oppositional* to courses, working on offence-related behaviour, or personal change. Criticisms are instead *ensorious*.

## instrumental

e.g. 'I *have* to change or do courses in order to progress' (but am not given the opportunities to do so, and am penalised as a result)

## normative

e.g. 'I *want* to do courses and change' / 'I realise there's something wrong with me', etc (but am not given the opportunities/ support, and am left abandoned to my thoughts, problems and unresolved shame)

# Offence-related interventions

- Often, prisoners convicted of serious violent or sexual offences; drug addiction

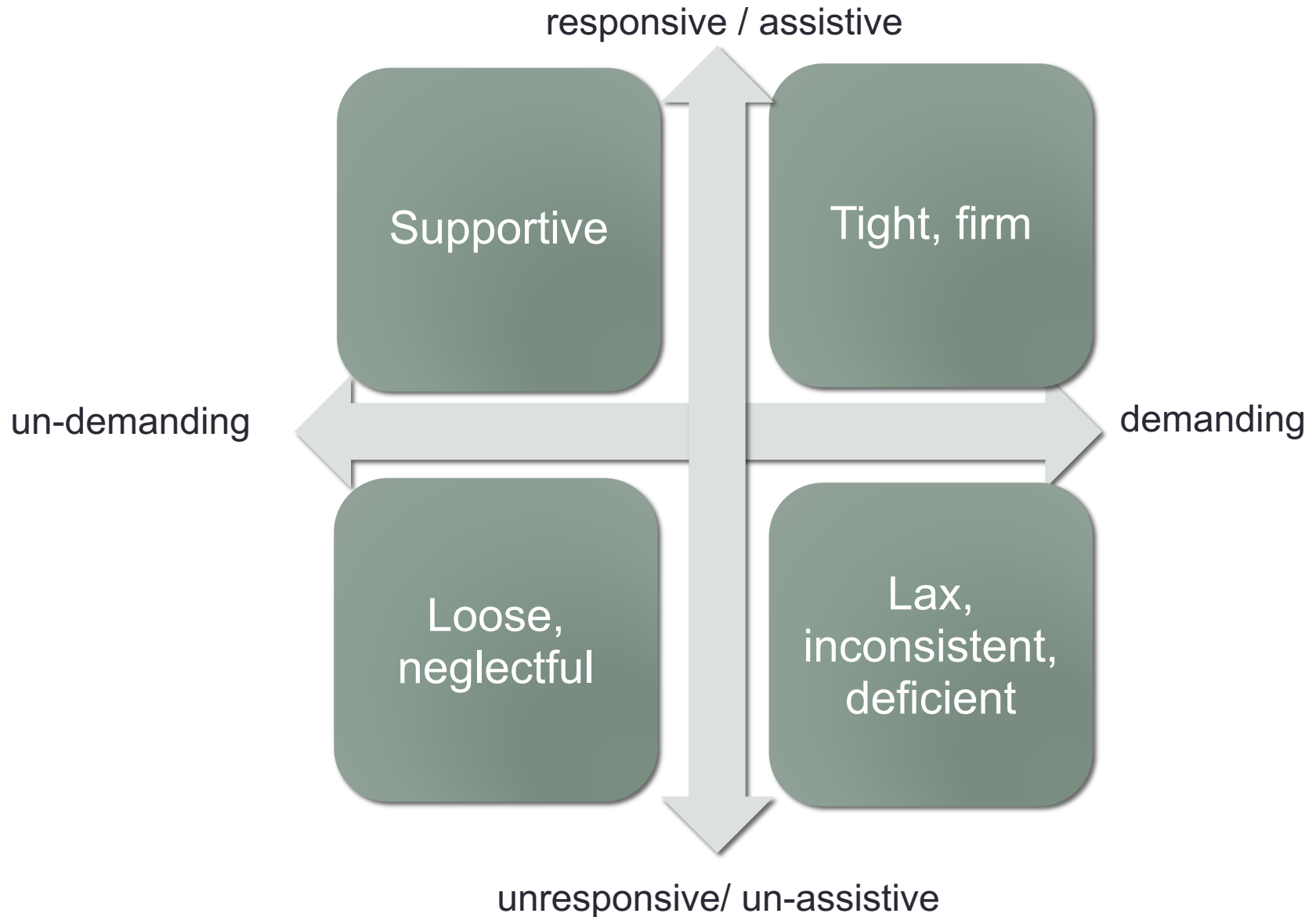
‘I recognised the need to change, because ... even when I was doing the things I was doing, I didn't want to do them; [...] I didn't want to be the person that I was’ (Frank)

‘No one is actually looking at why this has happened again. [...] If this is to be stopped I need support and treatment. [...] If you don't do anything, if you don't fix the problem, it's going to keep getting broken and how do I get out of this cycle?’ (Jesse)

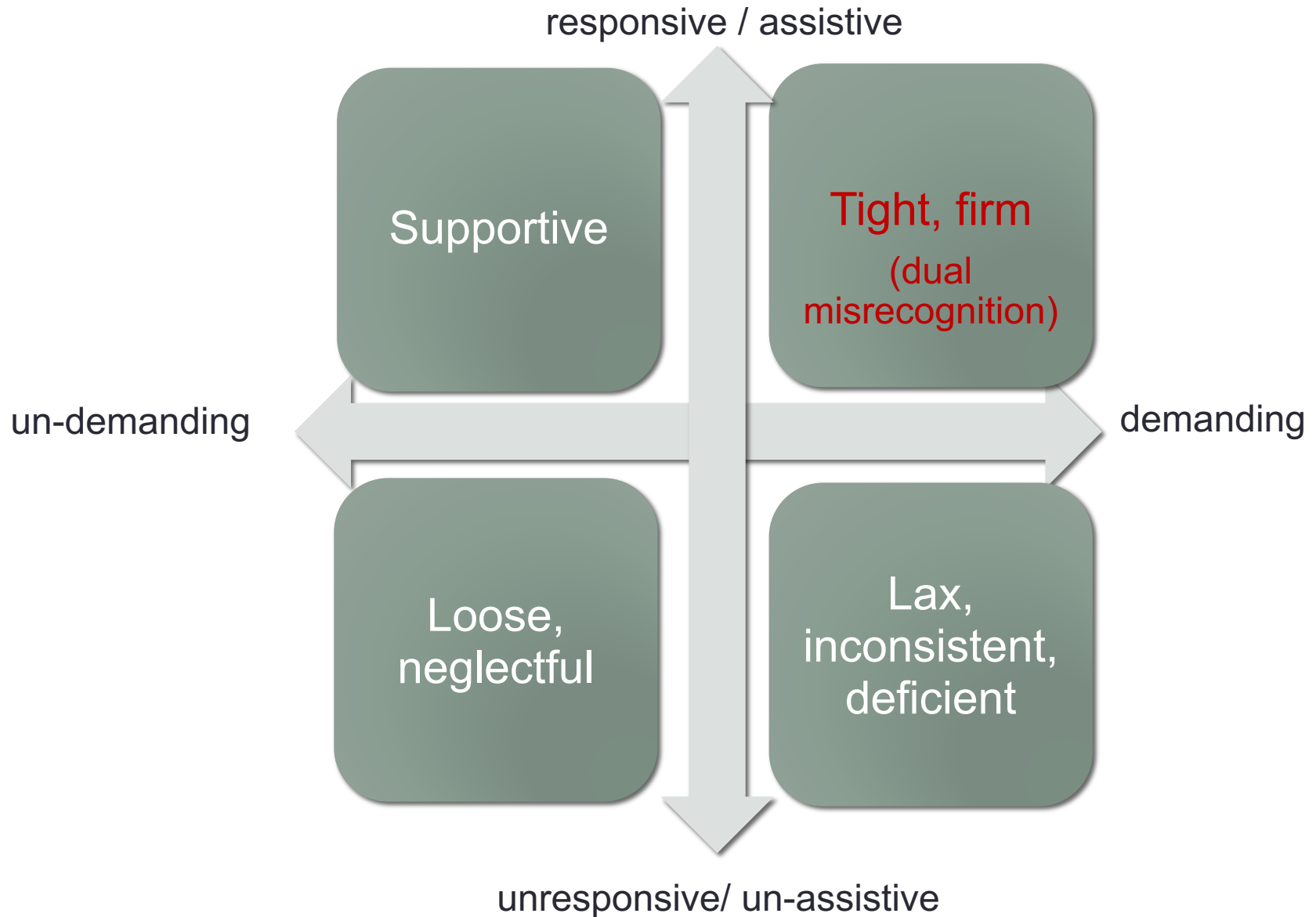
- Need help not just with housing, employment etc, but also offence-related issues (trauma, addiction, impulse control, anger management)
- Welcome an invasive focus on cognition, selfhood & moral conduct



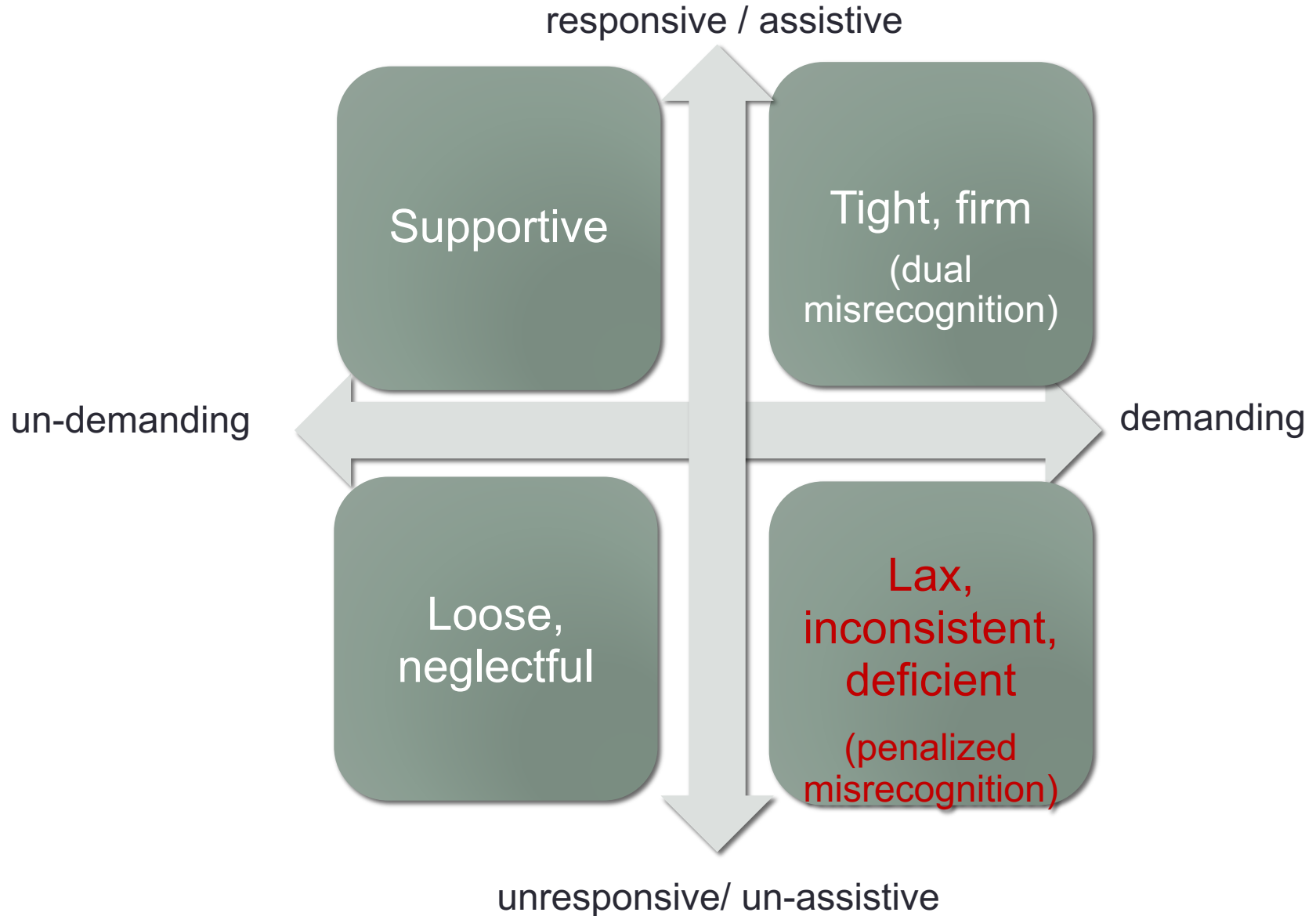
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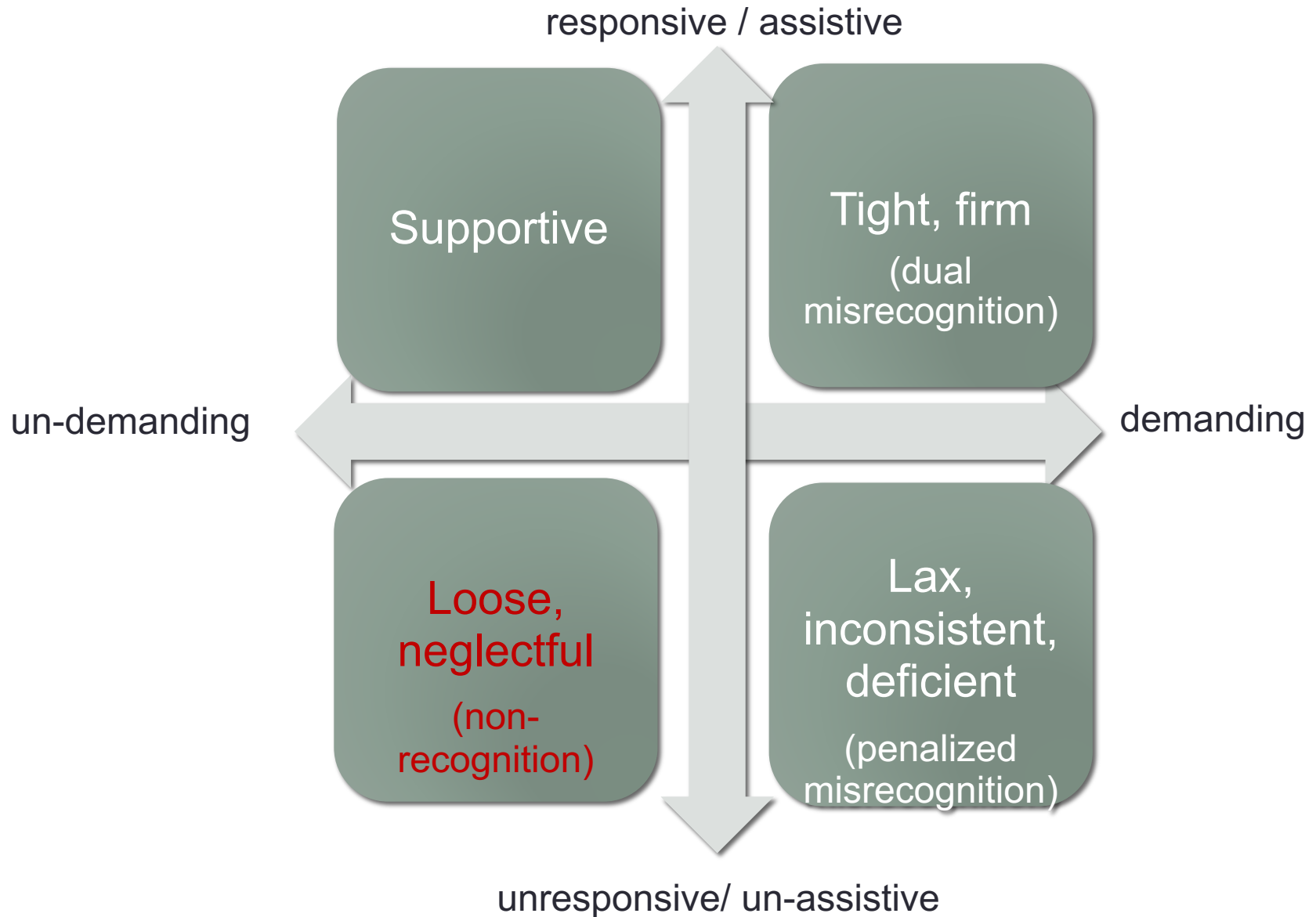
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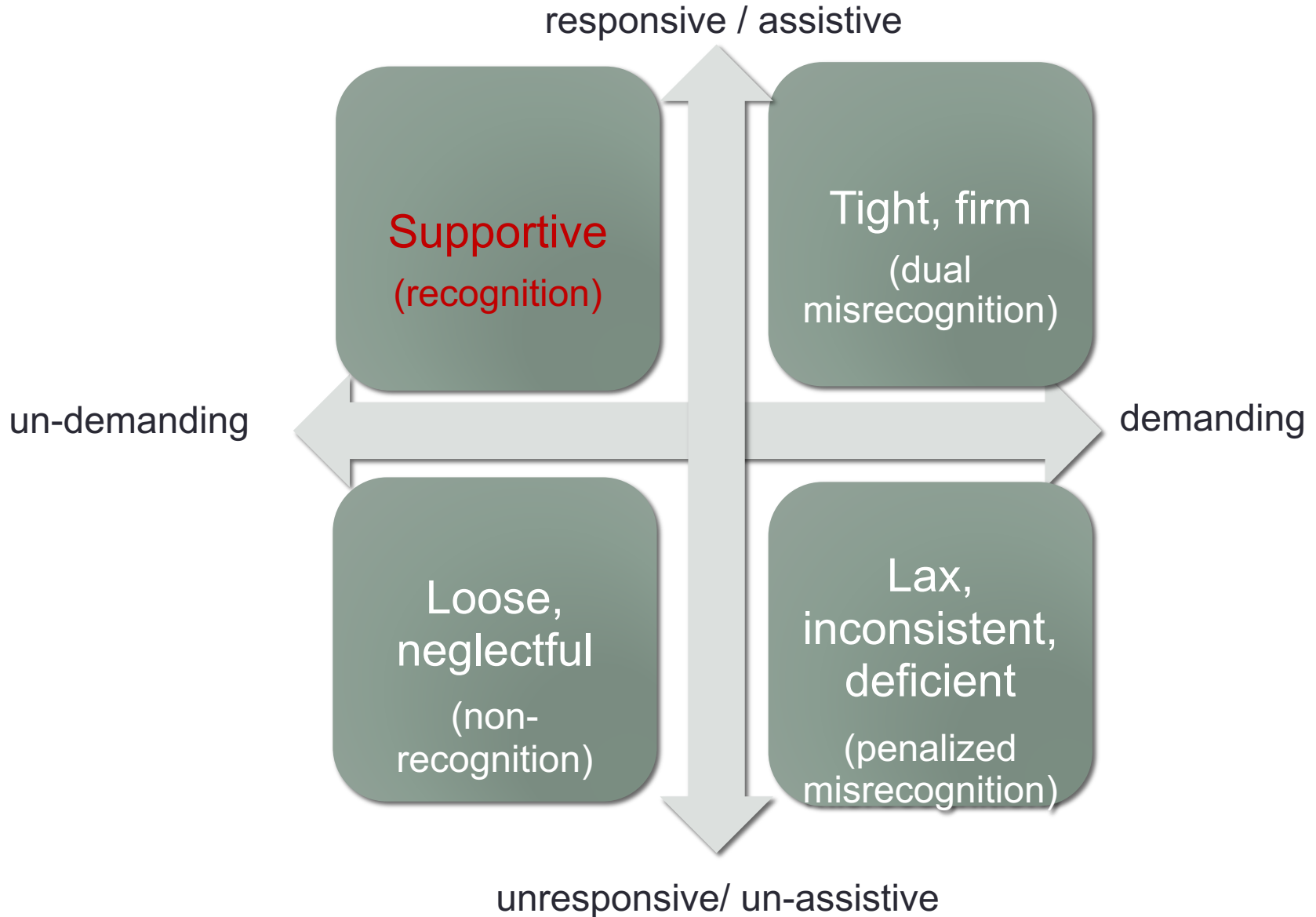
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(Ulrik)

- = ‘sustained professional attention’ (Schinkel 2014: 37); ‘intensive individual input’ (p38)
- Schinkel’s interviewees criticised ‘the tension between the importance of attending courses and the unresponsiveness of these courses to individual timelines and needs’ (p33), and felt that the system was insufficiently responsive to their particular circumstances, engaging with their lives ‘*much too lightly*’ (p39)

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# Concluding comments

- Consistent with recent discussions in penal theory e.g. Bottoms (2019) re 'repentance'
- Between 'carceral, disciplinary' model or invasive intervention and rights-based, 'juridical' model
- Neither assaults nor neglects moral agency
- Limits to the model
- But opportunities for psychologists to engage, especially if based on clinical/welfare as well as risk-based approach