

INTRODUCTION TO FORENSIC AND CRIMINAL PSYCHOLOGY

SIXTH EDITION



 Pearson

DENNIS HOWITT

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Now test your understanding of what you have just read by attempting the questions below.

Test Your Understanding

1.1 What is meant by the nature versus nurture question?

- This is the question of whether children's nature will develop without help from others, or whether children need nurturing to bring out their true potential.
- This is the debate about whether genetics plays any part in the development of children's behaviour, personality and so on.
- This is the debate around whether the child is born with the capacities and abilities that develop naturally over time, or whether the child needs social interaction to shape these capacities and abilities.
- This is the question of whether social factors such as family, education, society and so on play a role in shaping our behaviour.

This is incorrect.
There is some truth in this answer, but the term 'nature' here refers more to what children are born with in terms of their biological, genetic, inheritance.

Interestingly, in 2006 BBC Radio 4 broadcast a series of programmes called *The Memory Experiment*, which invited listeners' memory. The information has been collected and analysed in conjunction with Martin Conway, a cognitive psychologist. He re March 2007, and this has therefore become the biggest collection of memories anywhere (Conway, 2007). Analysis of the when we attempt to recall things from the early part of our lives, the average age of people's earliest memories is 3½ years. S store information for longer and longer periods of time during infancy, there is very little in the way of any long-term retention information is encoded during infancy makes it inaccessible in adulthood and therefore not retrievable.

Explore

This link highlights some of the well-known theories behind infantile (or childhood) amnesia, the inability to remember events from early childhood. Read through the comments, and think about the earliest memory you can recall. How detailed is it? Are all aspects of the memory the same? Can you remember specific people? Rooms? Pets?

Developments in Retrieval

In this section, we explore the age-related improvements in retrieval which may assist with memory development in childhood. research in general supports this. Tulving's (1983) encoding specificity principle states that retrieval will be better in the Cues ID may be any other stimuli which were present at the time of encoding, from the particular colour or precise shape of occurred – like the room in which it took place or the music which was playing at the time. This has been found to be particular cues at the time of retrieval are practically identical to those which were present at encoding. Slight variations in the cues wh One study found that just changing the appearance of an infant's playpen from a striped pattern to a squares pattern can affe might this mean for infants who move house? What advice would you give a parent considering repainting their child's nurse flexible and they can recall information despite variations in the retrieval context and even despite variations in the stimuli pr

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Introduction to Forensic and Criminal Psychology

6th Edition

Dennis Howitt Loughborough University



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Tokyo • Seoul • Taipei • New Delhi • Cape Town • São Paulo • Mexico City • Madrid • Amsterdam • Munich • Paris • Milan

Pearson Education Limited

KAO Two
KAO Park
Harlow CM17 9NA
United Kingdom
Tel: +44 (0)1279 623623
Web: www.pearson.com/uk

First published 2002 (print)
Second edition published 2006 (print)
Third edition published 2009 (print)
Fourth edition published 2011 (print)
Fifth edition published 2015 (print and electronic)
Sixth edition published 2018 (print and electronic)

© Pearson Education Limited 2002, 2006, 2009, 2011 (print)
© Pearson Education Limited 2015, 2018 (print and electronic)

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ISBN: 978-1-292-18716-7 (print)
978-1-292-18719-8 (PDF)
978-1-292-18720-4 (ePub)

British Library Cataloguing-in-Publication Data

A catalogue record for the print edition is available from the British Library

Library of Congress Cataloguing-in-Publication Data

Names: Howitt, Dennis, author.

Title: Introduction to forensic and criminal psychology / Dennis Howitt,
Loughborough University.

Description: 6th Edition. | New York : Pearson, [2018] | Revised edition of
the author's Introduction to forensic and criminal psychology, 2015.

Identifiers: LCCN 2017047126 | ISBN 9781292187167 (print) | ISBN 9781292187198
(PDF) | ISBN 9781292187204 (epub)

Subjects: LCSH: Criminal psychology. | Forensic psychology.

Classification: LCC HV6080 .H69 2018 | DDC 364.3--dc23

LC record available at <https://lccn.loc.gov/2017047126>

10 9 8 7 6 5 4 3 2 1
22 21 20 19 18

Image on cover and chapter titles © DigitalVision Vectors/korhankaracan/Getty Images
Print edition typeset in 9.5/12 pt Times LT Pro by iEnergizer Aptara®, Ltd.
Printed in Slovakia by Neografia

NOTE THAT ANY PAGE CROSS REFERENCES REFER TO THE PRINT EDITION

To the continued memory of Professor Marie Jahoda who died in 2001. I have a big personal debt. Not only did she let me study on the psychology degree course she had set up at Brunel University, but also she showed me that some things in life are worth getting angry about.

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Preface

The sixth edition of *Introduction to Forensic and Criminal Psychology* caused me to revise a lot of the material which had built up through previous editions. The main reason is that forensic and criminal psychology as an area of research is now substantial and well-established. Just what underlies my thinking when preparing a new edition? Most important is my intention to present forensic and criminal psychology as a vigorous, developing discipline. Forensic and criminal psychology is not simply a compendium of settled facts. Despite its still relatively short history, like other disciplines, it gradually develops, building on earlier achievements. It is important to capture this so that the reader can sense this progression. This is not entirely an orderly, even and predictable process. Ideas in some fields of research have changed markedly – even reversing – since the early editions of this book. These developments exemplify not a series of errors but the way in which disciplines advance. We can see this both in the short term and the long term. It should also be possible to spot the unevenness of this progress. In its simplest form, over the various editions once-hot topics have gradually received less attention and Cinderella topics have blossomed markedly. At its most mundane, this means that some chapters have been updated with lots of new material, while a very few have changed little. No doubt there will be a reversal of the fortunes of some of these in future years. Nevertheless, some traditional topics have been retained simply because they were important in the early days of the discipline. This is particularly the case with FBI-style offender profiling.

One big change is that many of the pioneers of the revival of forensic and criminal psychology in the 1970s and 1980s are retiring to be replaced by second- and third-generation researchers. I have tried to anticipate change as far as is possible – the new directions in which research is going. Just what is likely to be of future significance? I have lost count of the number of times that I have been

struck by the newness of the ideas of young researchers coming into the field. It is only right that the text highlights as many of these as possible.

I am pernickety about contextualising research. Because legal and criminal justice systems are not the same in different parts of the world, we should acknowledge this fact. It is important to understand just what this variation is. This cannot be done by simply ignoring context – as has so frequently been done in the parent discipline, psychology. On the contrary, I would argue that the context of the research is integral to a full appreciation of the research. So throughout the book it should generally be clear just where in the world the research was carried out. This should be informative but is never an excuse for neglecting the research. That the research was done, say, in Poland or Australia does not mean that it has no relevance to the United Kingdom. But its relevance will always need to be considered. Forensic and criminal psychology is international in its nature and textbooks ought to reflect this.

The question of the amount of detail to include is a complex matter. I firmly believe that sufficient detail should be provided to enable the reader to do something with the material apart from merely citing it. The stimulus to thought lies in the detail provided. There are many textbooks which are structured around a commentary or linking text bolstered by numerous citations of the literature, with no clear relationship between the two. Some academic writing, if not a great deal, is like that. This imposes severe limits on what the student can learn and also constrains the critical thinking which academics cherish. It is impossible to form an opinion on something one has only read a sentence about. My preference is to give the reader something to think about and possibly question. Just how does a particular research study lead to a particular conclusion and is this the only possible conclusion? How did this research develop from previous research? How does this

research lead to future research? The questions which the reader should be asking are much more obvious when a text provides material to get one's teeth into. Of course, the text asks critical questions where these need to be addressed – especially because they are part of a debate among professionals in the field. When deciding whether to include a new piece of research, the fundamental criterion is whether it introduces a significant new idea or question. In what way does the research change the way that we look at things? In what way does the new work place established wisdom on the back foot? That I rely heavily on the judgement of others when making my decisions is not only self-evident but also unavoidable. What the social network of forensic and criminal psychologists collectively judge to be important is one way of defining what the discipline is, after all. I also consciously prioritise theory in the text for much the same reason. Theory which synthesises what has gone before helps the text tell a coherent story. Often the theories, in themselves, are not fully testable in the empiricist tradition, but they do have something to say and they have to say it about a substantial chunk of research. Similarly, modern ways of synthesising research findings such as the systematic review and meta-analysis are integral to the presentation of research findings in the text. One reason is the impossibility of incorporating the vast number of research studies into the text without the compact summaries which meta-analysis, for example, provides. Of course, there are problems with systematic reviews and meta-analyses but they point in directions which might otherwise have been obscured by the sheer amount of the evidence. Anyway, they are part

and parcel of modern research and need to be included if only for that reason alone. Researchers refer to them and use them a lot. Better get used to them.

All of this is very different from the situation when I was a student. My first real contact with the criminal justice system was the six months I spent at Wakefield Prison, in Yorkshire. My strongest recollection of this period was the emerging realisation that, for the most part, the men there seemed like ordinary men despite the fact that they were incestuous fathers or killers or had committed some other unfathomable crime. Nobody at university, staff or student, shared my interest in the field of crime and I had no idea of how my fumbling research interest could be turned into good psychology. Sex offenders fascinated me and I tried to research incestuous fathers but this was not a serious topic for research in the prevailing ethos of those days. A few years on and the sexual abuse of children became a massive area for research in several disciplines. Perhaps I could have been responsible for that, but I was not. The boat was missed. Others, a little later, had much better ideas of what were the important things to think about, research and practise. But the field of forensic and criminal psychology has, nevertheless, been a stimulus to my own work and its massive development over the years a delight to watch. Psychology students today who study forensic and criminal psychology are exposed to the power of research and theory in creating understanding of one of the fundamental institutions of the state – the criminal justice system.

Dennis Howitt

Author's acknowledgements

A great deal happens before a manuscript is started and after it is finished to turn the typescript into a book. This involves the expertise and effort of a number of people who I would like to express my appreciation to. Not everyone can be named but the following are of particular importance. First of all, Janey Webb as Portfolio Manager was responsible for commissioning this new edition and seeking knowledgeable opinion about its content. It is always stimulating to work with Janey. The production side of the process was the seemingly seamless work of Melanie Carter (Content Producer), Jennifer Sargunar (Managing Content Producer) and for Aptara, Vinay Agnihotri (Project Manager). Not only do they do their work brilliantly but they made life much easier for me.

There are two others to mention. Kelly Miller was responsible for both the cover and the text design. Her work makes the book the attractive thing in your hands but, more importantly, adds greatly to its readability. Finally, Antonia Maxwell was responsible for turning my manuscript into Kelly's text design. But she did far more than that and did me the great service of proof reading the material at the same time. It is difficult to say in words just how reassuring a good copy editor and proof reader are to an author. Antonia more than fulfilled all of my hopes in that regard.

So thank you to all of these and the many unnamed others.

Dennis Howitt

Publisher's acknowledgements

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What is forensic and criminal psychology?

Overview

- Strictly speaking, forensic psychology is psychology applied to the work of courts of law. However, nowadays the term is used rather more generally to include all aspects of the criminal justice system.
- The term 'forensic and criminal psychology' is used in this book to encompass the very wide field of psychology applied to the law, legal system, victims and law breakers.
- Although both involve the understanding of human nature, the disciplines of psychology and the law can be incompatible. Even when lawyers and psychologists use identical words, they may intend very different meanings.
- Many practitioner-researchers work in the field of forensic and criminal psychology, and the twin skills of 'practitioner' and 'researcher' contribute substantially to progress in the field.
- Historical interpretations of forensic and criminal psychology depend much more on the finishing point than the starting point. Clinically based practitioners, for example, may see the history more in terms of how concepts of mental illness and other vulnerabilities have developed within the legal system and the need for experts in these fields to advise the court. On the other hand, academic psychologists may see the history as lying in the work of European and US academics around the start of the twentieth century.
- Interest in forensic and criminal psychology was at best spasmodic and minimal until the late twentieth century when growth became rapid. Its history can be traced back several centuries to when crucial legal changes occurred which demanded psychological expertise.
- Forensic and criminal psychology now constitutes an important branch of modern psychology and benefits greatly from developments across the whole world. It unites psychologists from a variety of fields of psychology, though it can now be regarded as a specialism in its own right.

Introduction

As with many aspects of psychology, providing a concise definition of *forensic and criminal psychology* can be problematic. Forensic psychology literally is psychology to do with courts of law. The words 'forensic' and 'forum' have the same Latin origins. A 'forum' is merely a room for public debate, such as a court of law, hence the word 'forensic'. Criminal psychology is easier to define since it is mainly to do with psychological aspects of criminal behaviour, such as the origins and development of criminality. Defining forensic psychology is problematic since it is applied far more widely than courts of law and includes all aspects of the criminal justice system, including prisons and policing. The law deals with virtually every aspect of life and forensic and criminal psychology reflects this diversity. In court it is likely that psychologists, no matter what their specialism, will be asked to provide expert psychological evidence on all sorts of matters. Which begs the question of when is and when is not a psychologist a forensic and criminal psychologist? Currently, many psychologists work primarily in the criminal justice system (i.e. police, criminal courts and prisons). Should they all be classified as forensic psychologists?

Definitions of terms like 'forensic psychology' have changed somewhat over the years. For example, in the 1980s and 1990s when the field was beginning its rapid expansion, some influential psychologists defined forensic psychology in terms of the professional activities of practitioners working primarily or almost exclusively in law courts. Gudjonsson and Haward (1998) were proponents of such a viewpoint when they defined 'forensic psychology' as:

... that branch of applied psychology which is concerned with the collection, examination and presentation of evidence for judicial purposes. (p. 1)

Crucial to this definition is the use of the terms 'evidence' and 'judicial'. Whether or not they intended this, Gudjonsson and Haward appear to limit forensic psychology to legal evidence for the use of lawyers and judges. Moreover, the phrase 'judicial purposes' seems to be conceived no more widely than the purposes of courts of law. Others at the same time also defined forensic psychology as referring to the work of psychologists working in close collaboration with officials of the court:

[forensic psychology is] the provision of psychological information for the purpose of facilitating a legal decision.

(Blackburn, 1996: 7)

These are narrow and specific definitions – nowadays a broader approach is taken. Such narrow definitions exclude much of the criminal justice system of which the courts are just part – and make no reference to other settings such

as prisons and the police service. The work of psychologists in such settings is clearly relevant to courts of law, though they may only rarely, if ever, work directly in courts. Currently, forensic psychology is defined in terms of activities beyond courts of law. For example, the British Psychological Society extends the definition to include much of the criminal justice system beyond courts of law. Indeed, the British Psychological Society does not mention courts of law currently:

Forensic psychology deals with the psychological aspects of legal processes, including applying theory to criminal investigations, understanding psychological problems associated with criminal behaviour, and the treatment of criminals.

British Psychological Society (2017)

In much the same way, the Australian Psychological Society defines forensic psychology such that the focus is not primarily on courts of law but much wider – for example the areas of prison and other forms of correction, the police, and so forth:

Forensic psychologists are scientist-practitioners. They apply psychological knowledge, theory and skills to the understanding and functioning of legal and criminal justice systems, and to conducting research in relevant areas. They often work in criminal, civil and family legal contexts and provide services for litigants, perpetrators, victims, and personnel of government and community organisations.

Australian Psychological Society (2017)

Although its language is not quite so direct, the American Psychological Association takes a fairly similar stance:

... forensic psychology refers to professional practice by any psychologist working within any sub-discipline of psychology (e.g., clinical, developmental, social, cognitive) when applying the scientific, technical, or specialized knowledge of psychology to the law to assist in addressing legal, contractual, and administrative matters.

American Psychological Association (2017)

The value of these wider definitions of forensic psychology is obvious when one considers the sorts of work that psychologists do. Wrightsman (2001) mentions the following as some of the things done by psychologists in the context of the law:

- A mediator psychologist employed by a law firm to mediate between parties in an attempt to resolve legal disputes.
- A social psychologist dealing with civil cases such as commercial litigation. The psychologist conducts surveys of roleplaying 'jurors' in order to assess what might work in a real trial.

- A counselling psychologist who works on the assessment of potentially violent behaviours for the US secret service. For example, threats of violence are often made to the national leaders – which ones are to be taken seriously?
- A correctional psychologist who assesses the competence of prisoners to stand trial and makes suggestions about possible treatments for particular offenders.
- A clinical psychologist in private practice. This psychologist works as a consultant to police departments.
- A sufficiently detailed understanding of the psychology relevant to the following individuals, including adults and children where appropriate:
 - offenders (whether or not mentally disordered);
 - victims;
 - witnesses;
 - investigators.
- An understanding of the practical aspects of forensic psychology in terms of the following:
 - different demands for assessment;
 - processes of investigation, prosecution and defence;
 - decision making in respect of innocence, guilt, sentencing, custody, treatment and rehabilitation;
 - approaches to assessment;
 - professional criteria for report production and giving of testimony.

The list deals solely with practitioners and does not mention researchers in the field of forensic psychology. In addition, it should be stressed that these examples are not very representative of the work of the majority of psychologists who claim the title.

Once one could find suggestions that the definition of forensic psychology lacked consensus (e.g. McGuire, 1997) or that the use of the term ‘forensic’ was disorderly and chaotic (Stanik, 1992). Currently, as we have seen, there seems to be much more consensus. Along with this, the organisational infrastructure of forensic psychology has become much more developed. It is important to differentiate between the *field of forensic psychology* and identifying *who should be entitled to call themselves forensic psychologists*. The first (establishing what forensic is) is essentially addressed by all of the definitions discussed so far. The question of who is qualified to call themselves a forensic psychologist needs to be approached in a different way. This involves identifying the nature of the skills and knowledge required by anyone working in the field, apart from a basic training in psychology itself. In the United Kingdom, it has been suggested that forensic psychologists (i.e. all chartered forensic psychologists) should possess the following knowledge and skills (DCLP Training Committee, 1994). The list would probably be much the same elsewhere in the world, though the precise mix of skills would vary according to the area of practice within the field of forensic psychology:

- An understanding of the conceptual basis of their work context in terms of:
 - the psychology relevant to the study of criminal behaviour;
 - the legal framework including the law and structure of the criminal justice system, for example, of the country in which they practise.
- An understanding of the achievements and potential achievements of the application of psychology to:
 - criminal investigation processes;
 - legal processes;
 - custodial processes;
 - treatment processes (for both offenders and victims).

- This is combined with an additional requirement of having had extensive practical experience in at least one area of forensic psychology (pp. 7–8).

Underlying this list one perhaps can discern the view that the education and training of all psychologists working in the forensic field needs to be broad, encompassing a wide range of knowledge, skills and abilities. The range and depth of the training of a forensic psychologist needs to be comprehensive – it is not enough to know the minimum to function on a day-to-day basis.

Defining *criminal psychology* in contrast is not so problematic. This is partly because it is not a title that is claimed by any significantly large or influential group of psychologists. Nevertheless, like forensic psychology, criminal psychology may be defined relatively narrowly or somewhat broadly. The narrow definition would merely suggest that it concerns all aspects of the psychology of the criminal. A difficulty with this is that it seems to concentrate solely on the offender. Does it or should it also include psychological aspects of the wider experience of the criminal, for example, in courts of law or prison? Criminality, as we shall see, is not a characteristic of individuals that can be separated meaningfully from the social context of crime and the criminal justice system. Thus the field of criminal psychology must be defined in terms of knowledge and skills which substantially overlap those of the forensic psychologist described above. Indeed, one might suggest that the main difference between the two is that forensic psychology may involve the civil law as well as the criminal law. The use of the phrase ‘forensic and criminal psychology’ in this book tacitly acknowledges problems in the definition of both ‘forensic’ and ‘criminal psychology’. There is no rigid distinction between the two. Forensic psychology and criminal psychology are to be regarded as inseparable rather than a marriage of two distinct aspects of psychology.

Other terms sometimes used for this field of psychology include ‘psychology and the law’ and ‘legal psychology’. These more clearly hint at an interface between the two disciplines and practices – psychology and the law. Again, there is some merit in a designation of this sort. In particular, it stresses the two disciplines in combination. The implication is that both lawyers and psychologists may be interested in similar issues but from their differing perspectives. While the terms suggest that researchers/practitioners should be knowledgeable about both psychology and the law, this is also a weakness. Very few researchers/practitioners are trained in both disciplines in depth. In recent years there has been a movement to define a field known as investigative psychology, which seems to embrace quite a substantial chunk of what forensic psychology covers. So topics such as eyewitness testimony and deception detection are included alongside the more statistical forms of profiling (Granhag and Vrij, 2010). Whether or not this term gains wider acceptance only time will decide.

Terms like ‘psychology and the law’ imply a comfortable relationship between the two. However, attempts at a marriage between psychology and the law have not been without their difficulties. Both psychologists and lawyers may have problems when engaging with each other’s discipline. Psychology is not a compact discipline united by a single theory or approach – it is a broad church which psychologists themselves often find lacking in coherence. Clifford (1995) suggested that lawyers should be excused for regarding psychology as a ‘bewildering confederacy’ (p. 26). Eastman (2000) wrote of the two disciplines as if they were different countries – Legaland and Mentaland. These differ, as countries do, in terms of their culture, language, history and terrain. When the inhabitants of these two lands mix, things are difficult because they have

big differences of purpose. Nevertheless, there are times when the people of Legaland need the help of people from Mentaland but Legaland language is confusing to the people of Mentaland – and vice versa. Legaland people are often more powerful and make it extremely obvious that, in their view, the ideas of Mentaland are secondary to those of Legaland. So, according to them, it is the people of Mentaland who need to make it abundantly clear that Mentaland ideas are sub-servient to those of Legaland and that Mentaland people will have to adjust their language. Mentaland people also sometimes need the people of Legaland to give them the authority for things they do. For example, social and public policy legislation may need to be tested by Legaland, then interpreted for the people of Mentaland. In this way, the people of Mentaland obtain extra tools to get on with their job.

For others, such as Carson (2011), ideas of the incompatibility of psychological thinking and legal thinking can be overstated. Although the two can differ to some extent in how they value different sorts of knowledge and argument, probably these differences are less than the general view of psychologists and lawyers might suggest. Too much emphasis is placed in forensic psychology, the argument goes, on the narrow focus of what happens in courts of law. This is to neglect the wider range of settings in which psychologists may have a lot to offer in collaborations with lawyers. For example, there might be a great deal to gain when psychologists and lawyers work together and promote legal reforms, both in terms of the contents of the law and the legal procedures through which the law is administered. In addition, civil and criminal cases both involve investigations and psychologists may have a lot to offer in terms of improving such investigations. That is, psychology and the law might make better bedfellows away from legal decision making in court.

BOX 1.1 Forensic psychology in action

The expert witness

Given that psychologists are experts in many different aspects of human nature and behaviour, it is not surprising that their knowledge is frequently applicable in court. The extent of their involvement is dependent on a number of factors. According to Groscup *et al.* (2002), a quarter of expert witnesses in American criminal appeal hearings were from the social and behavioural sciences. Different legal jurisdictions have different requirements of expert witnesses and certain expert evidence may not be admissible in all legal systems. An expert witness differs from any other witness in court since they are allowed to express

opinions rather than simply report facts. The opinions of forensic and criminal psychologists will normally be supported by scientific evidence and they will be required to establish their scientific credentials. The expert witness should not offer evidence outside the range of their expertise. These matters are normally determined at the stage of the *voir dire* (usually described as a trial within a trial but essentially a preliminary review of matters related to the trial, such as jurors and evidence, before the trial proper begins) in the Anglo-American system. Different legal jurisdictions vary in terms of how the expert witness is employed. In

the Anglo-American system, the adversarial system, this is normally the decision of the prosecution or the defence. Inquisitorial legal systems such as those common in Continental Europe (Stephenson, 1992) are likely to use experts employed by the court itself (Nijboer, 1995) and, furthermore, they will be regarded much as any other witness. Guidelines for expert witnesses are available (e.g. British Psychological Society, 2015).

The *Daubert* decision currently influences which ‘experts’ may be allowed to give evidence in American courts. The *Daubert* case was about a child, Jason Daubert, who was born with missing fingers and bones. His mother had taken an anti-morning-sickness drug and sued the manufacturers. ‘Rules’ designed to exclude ‘junk’ science were formulated. What is interesting is that the decision formulated what should be regarded as proper scientific methodology. That is, it should be based on the testing of hypotheses that are refutable. Furthermore, in assessing the admissibility of the expert evidence, attention should be paid to issues such as whether the research had been subject to review by others working in the field (Ainsworth, 1998). Perry (1997) lists *Daubert* criteria as including:

- whether the technique or theory is verifiable;
- whether the technique or theory is generally accepted within the scientific community;
- what the likelihood of error in the research study is.

This obviously causes problems for expertise that is not part of this model of science: for example, therapists giving evidence on the false memory syndrome in which there is a fierce debate between practitioners and academics (see Box 16.1).

In England and Wales, the main guidelines according to Nijboer (1995) are as follows (see also Crown Prosecution Service, 2014):

- Matters that the judge believes are within the capacity of the ordinary person – the juror – in terms of their knowledge and experience are not for comment by the expert witness.
- The expert witness cannot give evidence that ‘usurps’ the role of the judge and jury in connection with the principal issue with which the trial is concerned.
- Expert opinion is confined to matters that are admissible evidence.

A survey of American lawyers (including judges) investigated how mental health experts were selected to give evidence (Mossman and Kapp, 1998). Their academic writings and national reputation were rarely criteria – nor was the fee that they charged. Apart from knowledge in a specific area, the key criteria for selection were their communicative ability and local reputation. There may be reason to be concerned about the value of some expert testimony since there are many examples of what might be described as pseudo-science. Coles and Veiel (2001) took issue with the willingness of psychologist expert witnesses to reduce complex matters to fixed characteristics of the individual. So the idea of fitness to plead is regarded in the thinking of some psychologists as a characteristic of some individuals – that is, it is a characteristic of their personality. But the legal definition of fitness to plead (see Chapter 22) concerns whether an individual has the intellectual resources to contribute effectively to their own defence. Naturally, this means that fitness to plead evaluations need to take into account the complexity of the trial in question. Someone may be perfectly fit to plead where the trial is simple but unfit to plead in a complex trial. Furthermore, they may appear competent in one area but not in another area. An individual may be perfectly capable of communicating with their lawyer but unable to understand the purpose of the trial.

Researcher-practitioners

The concept of the ‘scientist-practitioner’ originated in the late 1940s among clinical psychologists seeking to improve both research and practice. Some argue that the synergy resulting from combining research and practice has not been achieved (Douglas, Cox and Webster, 1999), though this may be disputed on the basis of the extensive research contributed currently by forensic psychology practitioners. Historically and traditionally in psychology, researchers and practitioners were seen as at odds with each other – each side being dismissive of the contribution

of the other. Academics criticised practitioners for their lack of knowledge of the pertinent research; practitioners criticised academics for their ignorance of clinical needs and practices. Such views seem extremely old-fashioned and inaccurate from a modern perspective. More and more, employers of forensic and criminal psychologists require that practitioners should participate fully in a research-led discipline. Practitioners do not just apply psychological knowledge; they are among those who create it. Appropriately for an applied discipline such as forensic and criminal psychology, the usual and preferred term is researcher-practitioner rather than scientist-practitioner.

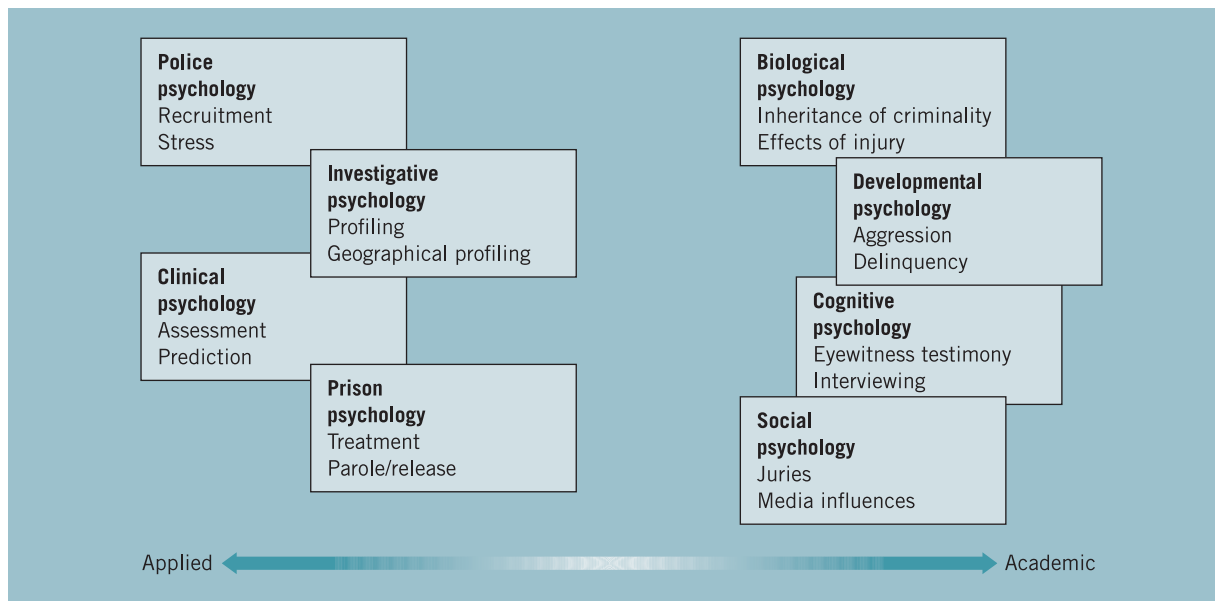


Figure 1.1 Major components of forensic psychology

The latter reflects a view of psychology which many practitioners have difficulty relating to. For some, the purpose of psychology is not to develop scientific laws of human behaviour but to ground the discipline in social reality through the effective use of empirical research. There is another phrase – *evidence-based practice* – which is increasingly used to describe an ideal relationship between practitioners in any discipline and research in that discipline. It means that practice should be based on what research has shown to be effective.

So in forensic and criminal psychology, the division between researcher and practitioner is breached. It is a generally accepted principle that training in both research and practice is crucial to effective practice. Practitioners who understand research methods well are much more likely to be able to incorporate the findings of other researchers into their therapies, assessments and when giving their professional advice to clients and colleagues. Furthermore, practitioners are usually in a good position to know what sorts of research are needed by them compared with academics, whose knowledge of practitioner requirements cannot be so direct. Indeed, academic researchers may have academic and theoretical priorities that are different from those of practitioners. There is nothing wrong with this. Many academic psychologists make important contributions despite lacking the practical experience and training of practitioners.

Figure 1.1 illustrates some of the major components of forensic and criminal psychology. Notice how widely they are drawn from the discipline of psychology. Also note the underlying dimension of applied research/practice as opposed to the academic. The distinction is not rigid but

nevertheless must be considered as an essential component of the structure of the field (e.g. British Psychological Society, 2007/8; 2011).

History of forensic and criminal psychology

Many would argue that history is often self-serving in some way. History is written from the viewpoint of the teller and serves a purpose (Quinsey, 2009). It is almost inevitably partial in both meanings of the term. It is made up of accounts which are written through the lens of the present. American and European academics may give rather different versions of forensic and criminal psychology's history – each offering versions that stress the contribution of their traditions to the discipline. The history as written by a psychiatrist will be different from that of a psychologist, since it may ignore the contribution, for example, of cognitive psychology. And the history written by a lawyer will be different again. The self-serving nature of history cannot be escaped. Although the history of forensic and criminal psychology tends to be brief, the history of certain topics which are now considered aspects of forensic psychology is quite extensive. For example the history of fire-setting/pyromania (Umanath, Sarezky and Finger, 2011) and post-traumatic stress disorder (Miller, 2012) is substantial. However, many of the important contributions are by psychiatrists and medical professionals rather than psychologists. It is probably the case that most – if not all – accounts of the history of

forensic and criminal psychology are more to do with the experimental/laboratory tradition in psychology than anything else. Perhaps this reflects a bias towards the academic rather than practice.

With caveats such as these, it is nevertheless worthwhile to highlight some of the features that a definitive history of forensic and criminal psychology should incorporate. Some important events are to be found in Figure 1.2. Some important events in the background of forensic and criminal psychology occurred long before psychology emerged in broadly its modern form towards the end of the nineteenth century.

Changes in the law

A number of crucial developments in the law that occurred centuries before modern psychology was founded were vital to the development of forensic and criminal psychology. These, in particular, were to do with legal principles concerning the mentally ill and other vulnerable individuals. The earliest recorded legal principle about the mentally ill was that of Marcus Aurelius in AD 179 (Spruit, 1998; Quinsey, 2009) when dealing with a question posed by a Roman governor. Aurelius suggested that the governor should not be concerned about punishing an offender

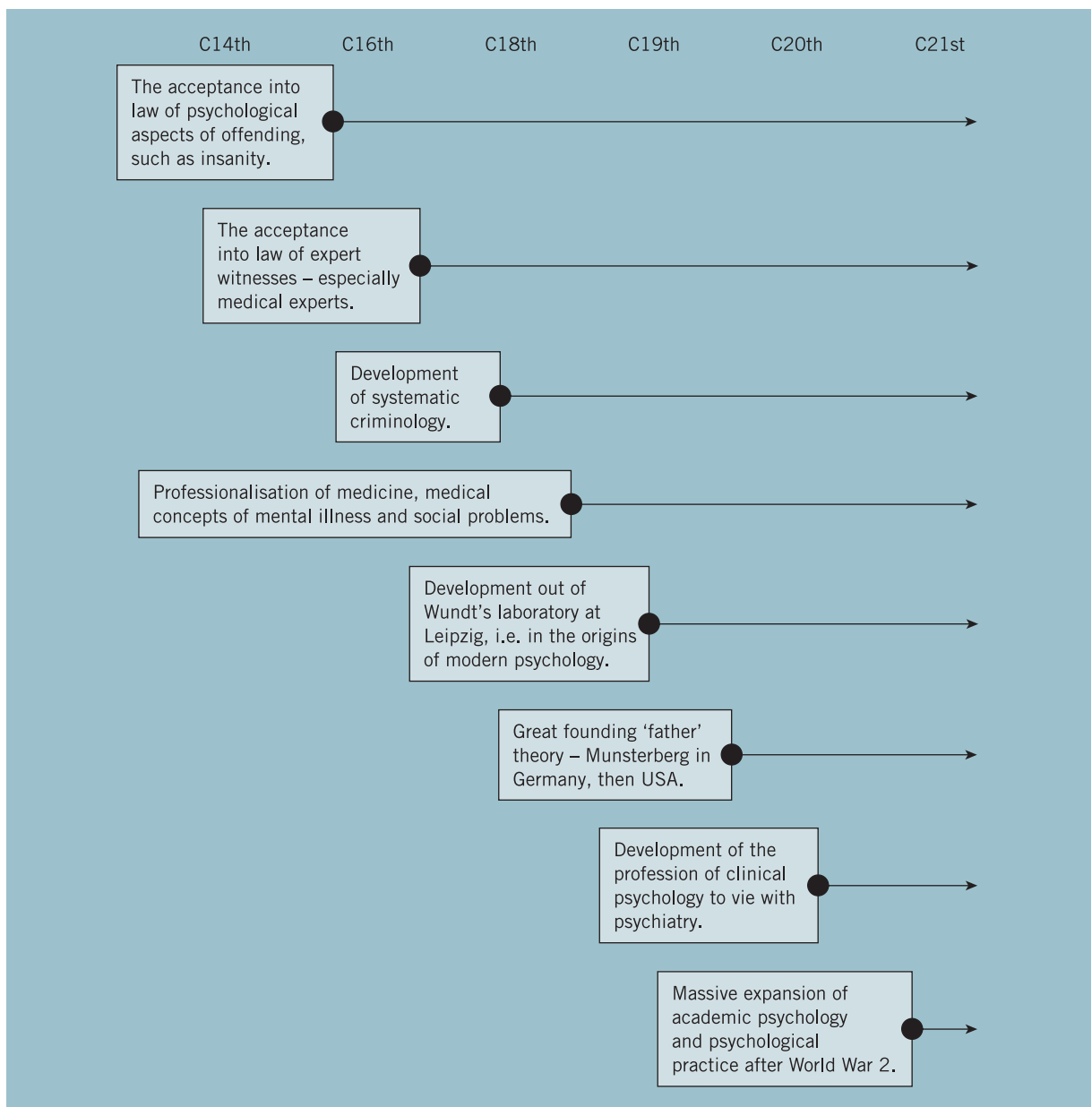


Figure 1.2 Different components in the historical origins of forensic and criminal psychology

who had murdered his own mother. The man was permanently insane and there was no evidence that he was feigning his disturbance. According to Aurelius, insanity itself was sufficient punishment. But there was a need for the man to be kept in custody for his own protection and that of the community. Had the crime occurred during a period of sanity, then the full punishment would have been appropriate.

Madness was not always an issue in law, although it was a consideration as long ago as Roman times, as we have just seen. Before the thirteenth century, in English law, the doing of something evil was sufficient to establish the individual liable for that evil. The offender's mental condition was simply irrelevant to sentencing (Eigen, 2004). In 1230, Bartholomaeus Anglicus, a professor of theology in France, published *De Proprietatibus Rerum*. This contained descriptions of a wide variety of conditions such as *melancholie*. In England and Wales, legal categories classifying the mentally disordered first appeared in the *Statutes at Large* in 1324. These distinguished between lunatics and idiots. In both cases the property belonging to the individual could be transferred to the Crown or some entrusted person. The difference was that the idiot lost his or her property forever but the lunatic might have their property returned when they recovered from their lunacy. Thus the law enshrined the possibility that some mental disorders were temporary or curable. Legal changes allowing the detention of dangerous lunatics emerged at about the middle of the eighteenth century. Such persons could be held in workhouses, prisons or madhouses. By the end of the nineteenth century, legal categories such as idiot, insane, lunatic and person of unsound mind were well entrenched (Forrester, Ozdural, Muthukumaraswamy and Carroll, 2008). Other notable points are:

- The first English trial in which the accused was acquitted on the basis of insanity occurred as early as 1505. However, not until the eighteenth century did courts begin to develop criteria to assess insanity. The criterion developed at this time essentially held that insane persons are equivalent to wild beasts – which, of course, are not capable of committing crime. Such a definition was a difficult one to meet but nevertheless required no degree of psychiatric knowledge to apply – ordinary members of the jury could identify such an extreme case as this. So expert advice from the medical profession, such as it would have been at this time, was not needed. Insanity became an important issue in the nineteenth century when deluded reasoning became part of the legal test of insanity. Such a definition required the advice of experts much more than the wild beast criterion had. In the nineteenth century the *M'Naughten* case (see Chapter 22) and numerous books about the nature of insanity stressed the belief that a person suffering from a disease of the mind and reasoning should

not be held responsible for their crime. Expert witnesses were required with increasing frequency and, as a consequence, lawyers became ever more concerned that evidence of experts might replace the jury in deciding the verdict.

- The notion that some individuals were unfit because of their limited intellectual ability had entered into legal considerations emerged quite early historically during the fourteenth century in England. The issue of competence to stand trial (see Chapter 22) was a development originating in eighteenth-century English common law (i.e. law not laid down by statutes but essentially by tradition). The basic idea was that the defendant must be competent at certain minimal levels in order to have a fair trial (Roesch, Ogloff and Golding, 1993). Although competence is a legal matter and one to be defined by the courts and not psychologists or psychiatrists, the emergence of the expert witness encouraged the eventual use of medical and other practitioners to comment on the mental state of the defendant.

All of this boils down to the question of the extent to which mentally impaired people (and also children) can be held responsible for their criminal acts and punished. Umanath, Sarezky and Finger (2011) review this especially from the viewpoint of somnambulism and crimes committed in such a state of night walking or sleepwalking. Umanath *et al.* see formal law dealing with somnambulism beginning at the latest in 1313. At this time, the Council of Vienne resolved that a sleepwalker, an insane person, or a child ought not to be found guilty of a crime if he or she attacked or murdered someone while in that state. Other examples of such thinking can be found in the declaration of the Spanish canonist Diego de Covarrubias, Bishop of Segovia, who claimed in the sixteenth century that sleepwalkers who killed committed no sin so long as they did not know of the risk that they might kill when they were asleep. Others developed similar principles in the seventeenth century: Sir George Mackenzie, a Scottish legal scholar, compared a sleepwalker to an infant and reserved punishment for sleepwalkers who had previously shown enmity for their victim. Sleepwalkers, somnambulists or nightwalkers, then, were not seen generally as sinning if they killed or injured in their sleep without sign of malice.

The first known trial of a somnambulist killer was that of Colonel Cheyney Culpepper in 1686 at the Old Bailey in London. Fifty witnesses were lined up to testify about the strange deeds that the colonel had previously done in his sleep! Although the jury found him guilty, he was pardoned by the crown almost straight away. The Albert Tirrell case in 1846 was the first successful defence of a sleepwalking killer in the USA. It used what is known as the automatism defence – the idea that the sleepwalker is unaware of what they are doing.

Quinsey (2009) makes the observation that there has been little progress in concepts of how to deal with crimes committed by the mentally ill over the centuries. This could be broadened to make a more general point. Progress in forensic and criminal psychology cannot be described as being equal on all fronts. Some areas of research have progressed enormously and have been studied in depth for many years. Yet there are other topics which have scarcely been contemplated, let alone tackled systematically in any detail. Throughout this book you will find examples of impressive research traditions alongside much briefer discussions of topics which are only just emerging.

Links with the parent discipline

It is not possible to separate developments in forensic and criminal psychology from developments in psychology in general. To fully study the history of forensic and criminal psychology, it is necessary to understand the changes that have occurred in psychology in general as no branch of psychology has been unaffected. The following examples illustrate this:

- The new emphasis in social psychology on group dynamics in the 1960s was associated with a rise in interest in research on the dynamics of decision making in juries.
- Many of the psychological assessment techniques, tests and measurements used especially in the assessment of offenders for forensic purposes have their origins in other fields of psychology. In particular, their availability to forensic and criminal psychologists is contingent on developments in academic, educational and clinical psychology.
- The study of memory has been common in psychology since the pioneering work of Ebbinghaus. Obviously, the psychology of memory is very relevant to eye-witness testimony. Not until the 1960s and later did psychologists properly begin to address the important issue of memory for real events. This set the scene for expansion of research into eyewitness testimony beginning in the 1970s.
- Government policy: the work of forensic and criminal psychologists is materially shaped by government policy on any number of matters. For instance, government policy on the treatment of offenders (say, to increase the numbers going to prison and the length of their sentences) is critical. Similarly, the issue of the provision of psychiatric/psychological care (say, increasing the numbers managed within the community) profoundly changes the nature of the work of practitioners. Furthermore, changes in research priorities may well be contingent on such developments as researchers often tend to look for funding where there is political interest and governments fund research into changes they are planning.

We can now turn from the broad societal and legal framework in which forensic and criminal psychology developed to consider some of the key events in the history of research and theory in forensic and criminal psychology.

Social change

Both the law and psychology are responsive to changes in society in general, as can be seen in the following examples:

- Child sexual abuse: although nowadays concern about child sexual abuse (and rape and domestic violence for that matter) is extensive and ingrained, this has not always been the case. The history of the radical change in the way in which professionals regard child sexual abuse victims makes fascinating reading (e.g. Myers *et al.*, 1999). Dominant themes in early writings on

sexual abuse contrast markedly with modern thinking. For example, a century or so ago, children were regarded as being the instigators of their own victimisation, mothers were held to blame for the fate of their children and sexual abuse was perceived as rare. The massive social impact of feminism during the 1960s and 1970s brought concern about a number of issues. Among them was child sexual abuse, which was found to be more common than had been previously thought. This interest brought to forensic and criminal psychology a need to understand and deal better with matters such as the effects of child sexual abuse, the treatment of abusers and the ability of children to give evidence in court. This does not mean that prosecutions for sexual offences against children were unknown prior to this. In the United States at least, they increased steadily during the twentieth century, although Myers *et al.* describe the rates as modest by modern standards. It is worth noting that countries may experience apparently different patterns. For example, Sjogren (2000) claimed that the rates of child sexual abuse in Sweden were as high in the 1950s and 1960s, before concern about sexual abuse rose due to American influences, as they were in the 1990s.

Early work in the disciplines of criminology, sociology and psychiatry

The intellectual origins of forensic and criminal psychology are to be found in related disciplines, especially criminology, sociology and psychology. Indeed, some of the earliest criminological contributions seem unquestionably