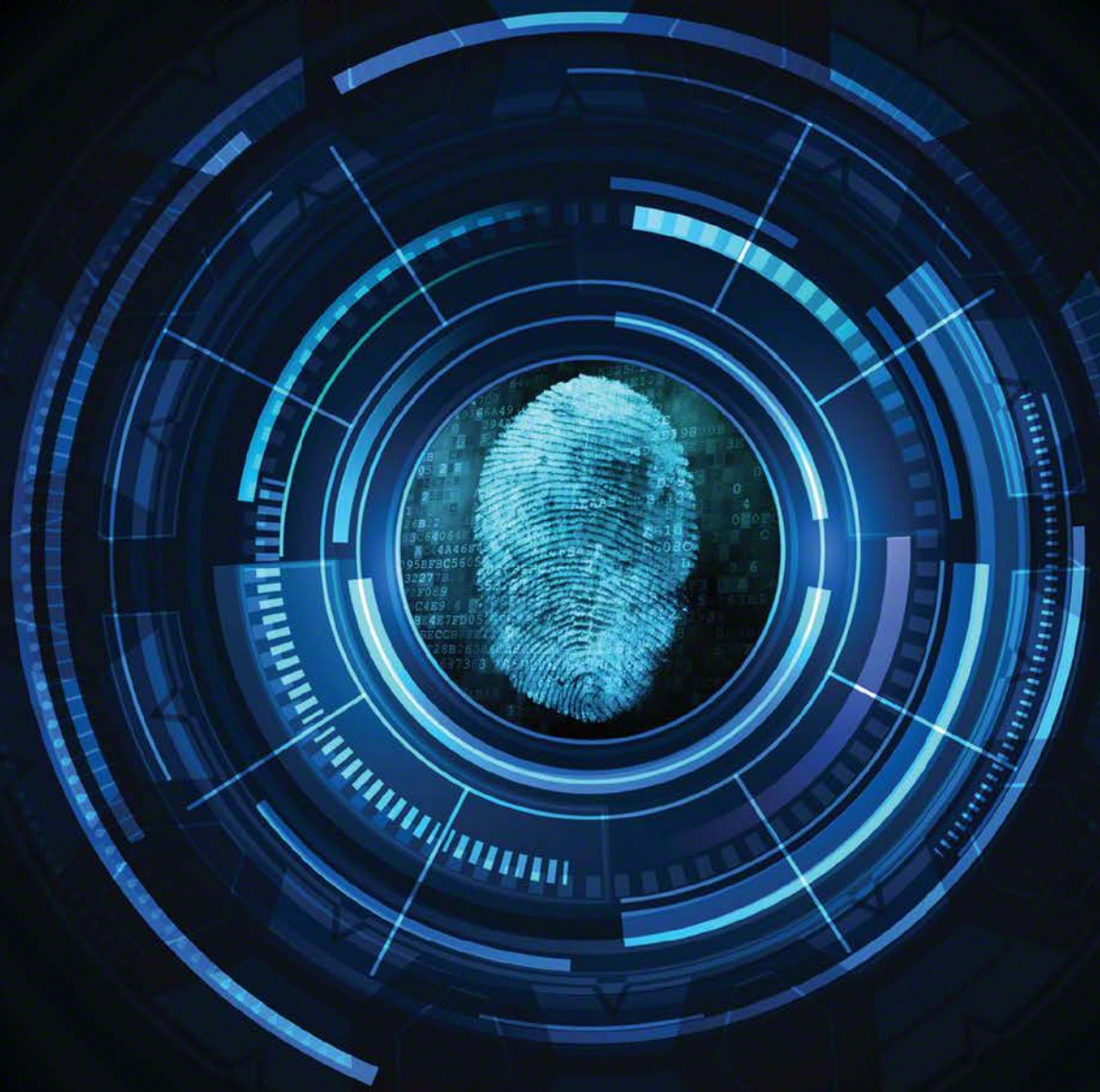
Introduction to Forensic and Criminal Psychology

Seventh Edition



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Introduction to Forensic and Criminal Psychology

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Introduction to Forensic and Criminal Psychology

7th Edition

Dennis Howitt Loughborough University

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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 writing of this seventh edition of *Introduction to Forensic and Criminal Psychology* was interrupted by the COVID-19 pandemic, so the updating covers a four-year period. It is important to me that this book reflects the most significant up-to-date research and ideas in the field. Our understanding of issues gradually evolves with every new theory and research study. Forensic and criminal psychology is not simply a compendium of settled facts. The disparity of voices on a topic is essential and needs to be demonstrated in any textbook. Consequently I have endeavoured to represent this variety of views as well as changes in the dominant views within the field. This is not entirely an orderly, even and predictable process. What appeared to be the case in the first edition of the text may no longer apply or may have substantially reversed. 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. Nevertheless, there is a great deal to be learnt from topics like this so that mistakes and inadequacies are not repeated.

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 any 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 or give a critique 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 curious thing about books is that only the authors' names are to be found on the cover. However, there would be no book to hold in your hands if it were left to the authors alone. Authors are dependent on numerous enormously talented people who make them appear far more able than they actually are. Take proof reading as a simple example. If I am faced with this task for a manuscript I will miss the vast proportion of the typos and, worse still, change the text willy-nilly. That will never do. Fortunately help is at hand in the form of people with the proof reading skills for which I was back of the queue. They also got ahead of me in the clever queue. And to top it all they are so nice and polite even when exasperation with the author must be beyond tolerance.

Much the same is true of all of the other individuals that I wish to thank but in their own distinct ways. They are all a joy to work with. Thanks to the internet they are widely spaced around the world. It is very welcome to work with colleagues in India. Several editions of this book were written in Southern India though not this particular one regrettably.

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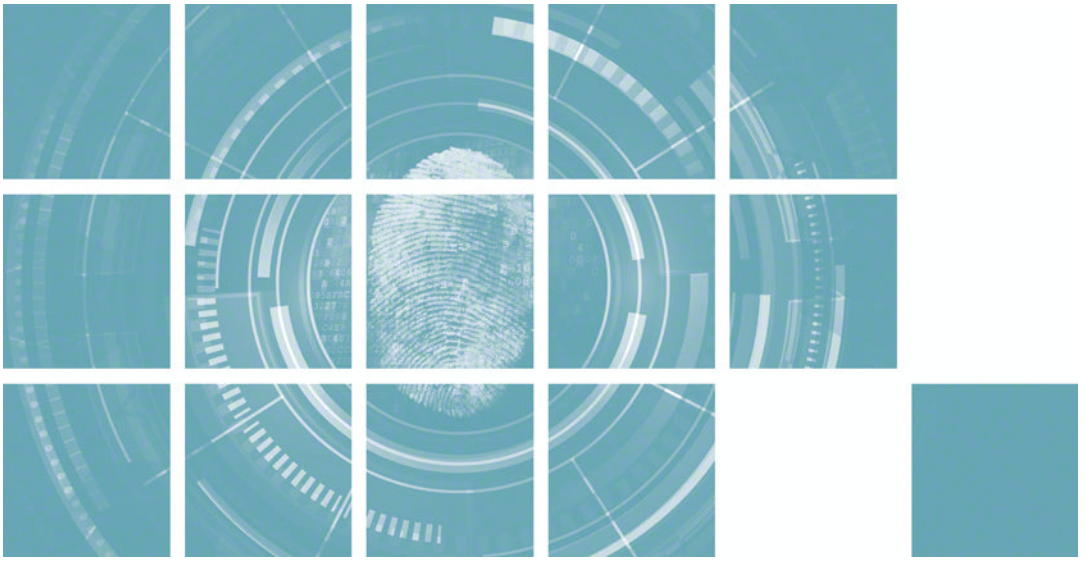

What is forensic and criminal psychology?

Overview

- The strictest definition regards forensic psychology as psychology applied to the work of courts of law. Nevertheless, often the term is used more generally to include all aspects of criminal justice.
- The term 'forensic and criminal psychology' is used in this book to describe the very wide discipline of psychology applied to the law, legal system, victims and law breakers.
- The disciplines of psychology and the law both concern human nature but they have many incompatibilities. When lawyers and psychologists use identical words, different meanings may be intended.
- The twin skills of 'practitioner' and 'researcher' are involved in the development of forensic and criminal psychology. Practitioners are routinely expected to pursue research.
- Histories of forensic and criminal psychology depend on the finishing point rather than the starting point. Clinical psychologists, for example, may see the history primarily in terms of how concepts of mental illness and other vulnerabilities developed within the legal system and the need for expert advice to inform courts of law. 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.
- The growth of forensic and criminal psychology became rapid in the late twentieth century and up to now. Prior to this interest in the field was somewhat spasmodic, perhaps minimal. Nevertheless, the discipline had much earlier roots in crucial legal changes which demanded psychological expertise.
- Forensic and criminal psychology benefits from being a truly international discipline. 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* is not straightforward. 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 is, 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. It is a long-established term in psychology. In practice, the term forensic psychology is applied far more widely than courts of law and includes the entire criminal justice system, such as 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?

Terminology has changed somewhat over the years. For example, in the 1980s and 1990s when the field was fast becoming established, 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 primarily 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. Some of their contemporaries 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. They exclude much of the criminal justice system of which the courts are just part. The work of psychologists in the police and prison services is clearly relevant to courts of law, though they may only rarely, if ever, work directly in courts. Currently, forensic psychology is defined to also include activities beyond courts of law by professional associations. It is worthwhile gleaning definitions of forensic psychology/psychologists from their websites:

> Forensic Psychology is the application of psychology within the legal system to create safer communities and to assist people to find pathways away from criminal behaviour.
>
> British Psychological Society (2021)

> Forensic psychology is a specialty in professional psychology characterized by activities primarily intended to provide professional psychological expertise within the judicial and legal systems.
>
> American Psychological Association (2021)

> 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.
>
> Australian Psychological Society (2021)

Collectively, these definitions make it clear that forensic psychology is an applied, professional discipline with an emphasis on practice. This is what approved training programmes provide. However, there are many academic psychologists who do pertinent research in the field without this practitioner orientation. The contexts in which practitioners work are various (Wrightsman, 2001).

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 agreement, perhaps because of the very broad definitions currently employed.

The organisational infrastructure of forensic psychology has developed substantially. 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).
- 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.
- This is combined with an additional requirement of having had extensive practical experience in at least one area of forensic psychology.

Underlying this list is the view that the education and training of all psychologists working in the forensic field should be broad and comprehensive, encompassing a wide range of knowledge, skills and abilities. It is not enough to know the minimum to function on a day-to-day basis.

Defining *criminal psychology* is not straightforward 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 is distinct from the social context of crime and the criminal justice system. Thus criminal psychology involves knowledge and skills which substantially overlap with those of forensic psychologists described above. Perhaps the main difference between the two is that forensic psychology may involve the civil law as well as the criminal law. The phrase 'forensic and criminal psychology' used in this book tacitly acknowledges difficulties in defining the ambits of both 'forensic' and 'criminal psychology'. There is no rigid distinction between the two.

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 stumbling block. Very few researchers/practitioners are trained in both disciplines in depth. Terms like 'psychology and the law' imply a comfortable relationship between the two. In the USA, forensic psychology is differentiated from what is termed 'correctional psychology' which is essentially psychology applied to the prison or correctional system (Neal, 2018). Prison psychology is the term used essentially for this elsewhere. 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) – matters relevant to police investigations.

Attempts at a marriage between psychology and the law face difficulties. Both psychologists and lawyers face problems 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. Baron (2019) characterises the way that legal people understand human behaviour as being a form of folk psychology.

This, she suggests, is a belief that the causes of a person's behaviour are primarily regarded as being the result of mental states. So beliefs, emotions and desires are seen as commonsense psychological explanations of what causes people to do things. These are attributes of the mind. This form of folk psychology explanation tends to minimise the importance of other possible causes of our actions such as our social environment.

For others, such as Carson (2011), ideas of the incompatibility of psychological thinking and legal thinking can be overstated. Although the two value different sorts of knowledge and argument differently, this is less serious than the general view among 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, Penrod, Studebaker, Huss, and O'Neil (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. Expert witnesses are required to establish their scientific credentials in court and their opinions will normally be supported by scientific evidence. 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.

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. Brodsky, 2013, British Psychological Society, 2017a).

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. Principles designed to exclude 'junk' science were formulated as a consequence of what happened in court. What is interesting is that the decision stipulated 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 which involves 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 feature 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 should 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 psychology 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 polarised views seem somewhat 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 help 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. The latter reflects a view of the nature 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 became established in the 1990s in medicine and 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 know what sorts of research are needed by them possibly unlike some 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 feature of the field (e.g. British Psychological Society, 2007/8; 2011).

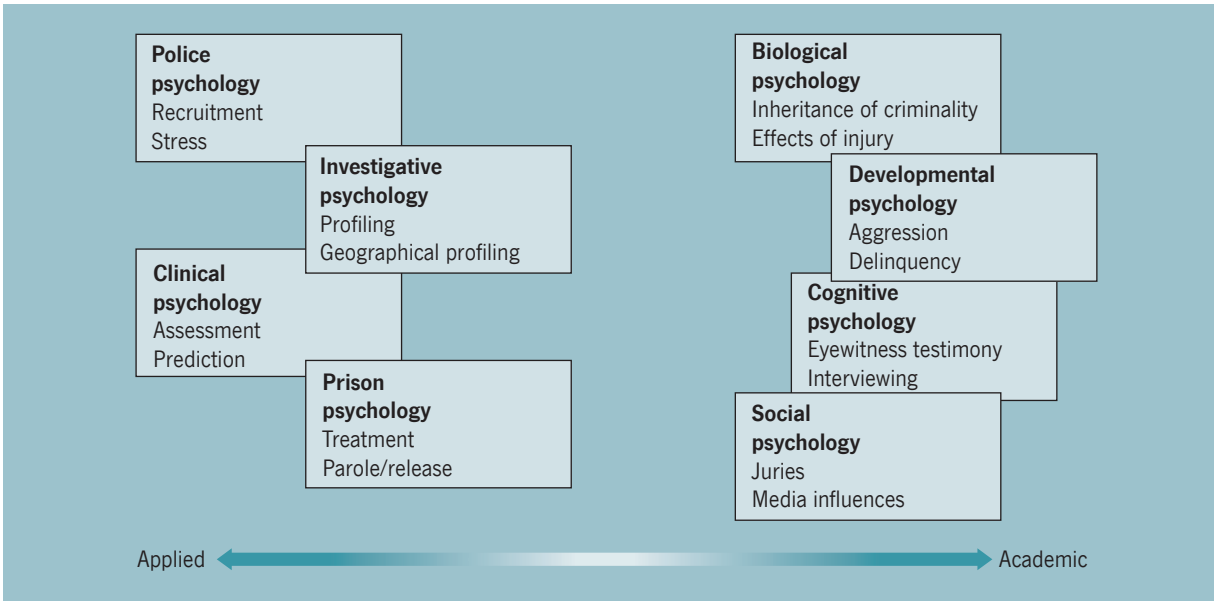

Figure 1.1 Major components of forensic psychology

History of forensic and criminal psychology

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 self-serving nature of history cannot be escaped. 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. 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. Probably most accounts of the history of forensic and criminal psychology dwell more on 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. Important events in this history are to be found in Figure 1.2. Some of them 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 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

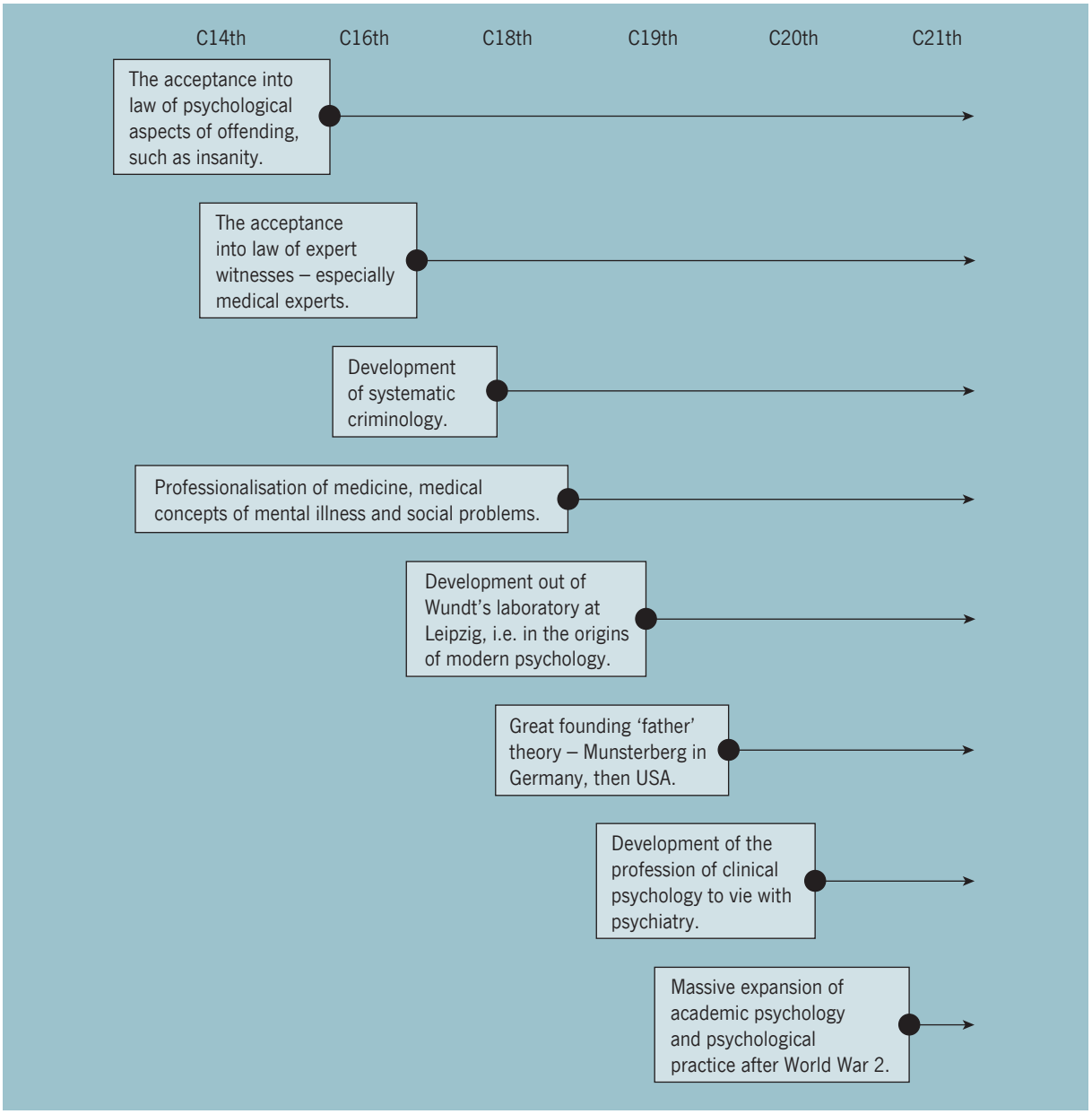

Figure 1.2 Different components in the historical origins of forensic and criminal psychology

1230, Bartholomaeus Anglicus, a professor of theology in France, published *De Proprietatibus Rerum*. This contained descriptions of a wide variety of mental conditions such as *melancholie*. In England, 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 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 somnambulistic 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.

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 focused concern on 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.
- 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.

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 in general. Indeed, some of the earliest criminological contributions seem unquestionably psychological in nature. There are a number of aspects to consider:

- One of the first examples of forensic and criminal psychology is in the work of Italian Cesare Beccaria in the late 1700s. Beccaria regarded humans as possessing free will, which is subject to the principles of pleasure and pain. This is an 'economic' model in which we are seen to evaluate the costs and benefits (pleasures and pains) of our actions prior to engaging in them, such as when we decide to commit a crime. He believed that punishment for criminal behaviour is not desirable in itself, but is important in order to deter people from crime. Thus punishment needs to be proportionate or commensurate with the crime – and inflicted as a means of deterrence. It is argued by some that Beccaria's ideas led directly to the abandonment of barbaric torture of prisoners in a number of European countries (McGuire, 2000).
- The publication of the first official crime statistics in France in 1827 was a crucial development. Statistical data allowed the development of investigations into the geographical distribution or organisation of crime. This continues in criminology today, and geographical profiling of crime is important in areas of forensic and criminal psychology. The Frenchman André-Michel Guerry and the Belgian Adolphe Quetelet began the tradition of crime statistics. Modern computer applications have refined this approach enormously. It is now possible to study databases specifying the geographical locations of crime down to the household level, for example.
- The idea of the biological roots of crime was an important late-nineteenth-century idea in the work of the Italian doctor Cesare Lombroso. He took groups of hardened criminals and carried out what might be called an anthropological study of their features. He compared the criminals' features with those of soldiers on whom