

# Chapter 1

## Applied Criminology and Forensic Psychiatry: Cases and Practices

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### EXECUTIVE SUMMARY

*This chapter suggests a theoretical and empirical approach that makes use of an integrated methodology from a criminological, sociological, psychological and psychiatric perspective, in order to analyze the personality of the perpetrator of the crime or to examine a witness in order to assess his credibility. In particular, the Psychiatric expertise pursues the objective of ascertain the mental state of a person in the moment when he committed the fact provided by law as a crime, he is charged, therefore his level of responsibility, or in order to attempt to understand his future behavior considering the evaluation of the possible existence of social dangerousness. After a close observation of the concepts of mental competence, imputability and social dangerousness, the chapter focuses on the analysis of some expert cases, by comparing different methods related to clinical psychology (interview, level test, personality psycho-diagnostic tests that can be used even in the criminological field, defined as applied, to which are attributed practical aims pursued with scientific means. Finally, it points out the importance of providing reliable, coherent and non labeling judgments about the subject who has been submitted to psychiatric expertise. To achieve this aim, the criminologist, with psychiatric or psychological training, has many rudiments at his disposal in order to make well-founded choices, by adopting a non judging scientific behavior, wondering both about the reason of the criminal's behavior and the help that can be supplied in order to adopt a suitable conduct in future.*

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## **THE CRIME BETWEEN STEREOTYPES AND REALITY**

In the field of criminological and psycho-sociological studies of the deviance, when we are referring to interpretative patterns or schemes of analysis, we can believe that they are linked to a particular way of defining the man, the rule, the violation and the social reaction. The different meanings, in accordance with the definition and the dealing of these terms, have different implications as far as the criminal policy is concerned, depending on the cultural-ideological orientation where they are included.

The classic school, developed in the politico-cultural milieu of the enlightenment, for instance, turns his attention to the rational assumptions of punishability and, starting from the free will principle, that is the man free in the choice of his own behavior, considers the subject accountable for his actions because the crime is a conscious and voluntary violation of the penal law. To the positive school, on the contrary, developed during the XIX century, in opposition to the rationalism of the enlightenment, the crime appears an unavoidable manifestation of determined causes and not an expression of the free and responsible choice from the subject.

In this perspective the perpetrators of crime should be subjected to social defense measures suitable to prevent further criminal manifestations, by their removal from the society and, as far as possible, their social reintegration.

Considering the man as provided of free will or, on the contrary, determined in his way to behave from several factors, implicates opposite consequences as regards the penal definitions and the judicial interventions.

Both the addresses prevent, however, the finalization of theoretical and operational means fit to consider the infringement as a process that is referred to a subject able to act actively upon the surrounding reality, but that is at the same time determined by it. The possibility of going

over the dogma of the guilty as a moral being totally free in the choice of his actions or, on the contrary, the dogma of the offender as a being totally determined has been proposed again by someone in the man's consideration as a social actor (Debuyst, 1990, pp. 21-23).

By the expression of social actor we intend to indicate a subject that doesn't represent an abstraction insofar as he is holder of personal opinions, that are directly linked both to the position in the social context he belongs to and his personal background and future plans. So it is a subject that interprets the surrounding reality and acts accordingly because it is continuously called to intervene towards a variety of social transformations, result of transitions, coming out from the action of several factors, interacting among themselves in and with the time.

In this evolution process we cannot neglect crime and delinquency phenomena that, especially in the last few years, are assuming very alarming features both for their general trend and for the manifestation of specific rises in some kind of crime. Actually, we are not only present to a quantitative but qualitative springing up of various kind of crime and deviant behavior that is supported by an even more hard definition of what is lawful and what is unlawful, even in those behavioral fields where these certitudes seemed now consolidated.

The Courts system continues, in fact, to suggest concrete problems to solve to those who, in different way, are interested in themes concerning criminality and deviance (Bisi, 2002, pp. 507-527).

## **IMPUTABILITY, SOCIAL DANGEROUSNESS AND TREATMENT: PSYCHO-DIAGNOSTIC ORIENTATION**

In particular, in the criminological field one of the most recurrent problems is that of establish-

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