Offenders, Deviants or Patients?

provides a practical approach to understanding both the social context and treatment of mentally disordered offenders. Taking into account the current public concern, often heightened by media sensationalism, it addresses issues such as sex offending, homicide and other acts of serious bodily harm.

This fourth edition comes after extensive new research by academics and professionals in the field and reflects recent changes in law, policy and practice, including:

- New sex offending legislation
- Proposals to amend homicide legislation
- A new Mental Health Act

Using new case examples, Herschel Prins examines the relationship between mental disorders and crime and looks at the ways in which it should be dealt with by the mental health care and criminal justice systems.

Offenders, Deviants or Patients? is unique in its multidisciplinary approach and will be invaluable to all those who come into contact with serious offenders or those who study crime and criminal behaviour.

Herschel Prins has worked in the fields of criminal justice and forensic mental health for over fifty years. He has served on a number of public and voluntary bodies, authored numerous books and articles and continues to teach part-time at the Universities of Leicester and Loughborough.
BY THE SAME AUTHOR

Offenders, Deviants or Patients?
An introduction to the study of socio-forensic problems
Tavistock, 1980

Offenders, Deviants or Patients?
Second edition
Routledge, 1995

Offenders, Deviants or Patients?
Third edition
Routledge, 2005

Criminal Behaviour
An introduction to criminology and the penal system
Second edition
Tavistock, 1982

Dangerous Behaviour, The Law and Mental Disorder
Tavistock, 1986

Bizarre Behaviours
Boundaries of psychiatric disorder
Tavistock/Routledge, 1990

Fire-Raising
Its motivation and management
Routledge, 1994

Will They Do It Again?
Risk assessment and management in criminal justice and psychiatry
Brunner-Routledge, 1999
Offenders, Deviants or Patients?

Explorations in clinical criminology

4th Edition

Herschel Prins
This book is dedicated to the memory of Dr Peter Duncan Scott, CBE, MD, FRCP – mentor and friend, and to all my colleagues past and present in forensic psychiatry (forensic mental health).
Tolle lege, tolle lege (Take up and read, take up and read)
(St Augustine of Hippo, *Confessions* (AD 397–8), Book 8, Chapter 12)

Audi partem alteram (Hear the other side; sometimes rendered as ‘Listen to both sides’)
(St Augustine of Hippo, *De duabus Animabus Contra Manicheos*, Chapter 14)
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No attempt has been made to conceal the identities of those persons whose cases have been in the public domain (for example, those who have been the subject of extensive media coverage). In all other instances, the cases derive from the author’s personal knowledge. Every effort has been made to make the illustrations anonymous, and, to this end, composite accounts have been given. Despite these necessary ethical precautions, it is maintained that the illustrations provide sufficient authenticity concerning the issues presented.
The law – an advance apology

I have endeavoured to ensure that references to the law and its implementation are current at the time of going to press. However, such is the rapid pace of its evolution (some might say revolution!) it may be that in some places I have erred in my citation and/or interpretation. Should this be the case, I proffer my apologies and would request any reader who wishes to do so, to inform me of my ‘fault’.
Preface: some explanations

I preface this book with a number of explanations. First, why a fourth edition in the light of the fact that considerably longer intervals have elapsed between the publication of the previous three? The answer is simple, and I hope acceptable. The pace of change in criminal justice and forensic mental health (or ill-health as I prefer to describe it) has been increasingly rapid – as is the accumulation of new research and other data. We have had new legislation on extended sentences, sexual offenders, changes in mental health law and proposals for the reform of the law of homicide, being just a few examples. In such times of rapid (and sometimes ill-thought-through) changes, a degree of explanation is required. I hope the foregoing comments have justified my decision. Second, why insert a subtitle? Although the first edition had one, the second and third editions did not have one, so why now? I decided that this fourth edition should be in the nature of my own personal explorations in the field of clinical criminology, this term now being an accepted description of the various issues to be discussed in the following pages. My emphasis is on the word explorations, since a degree of modesty dictates that I should not attempt to provide definitive answers to questions as emotive and complex as those addressed in the following pages. It may interest readers to know how I alighted upon the subtitle, An Introduction to the Study of Socio-Forensic Problems, in the first edition. On reflection, I consider that it was a fairly apposite (if perhaps slightly grandiose) description at the time of the book’s inception. Forensic psychiatry, forensic psychology, forensic social work and forensic nursing have only really come of age in more recent times (see Chapter 1). There is another and slightly more personal take on that choice. Some years earlier, on the occasion of our marriage, my wife and I received a congratulatory telegram from my colleague Dr Peter Scott; it contained the words ‘socio-forensic best wishes’. Such a term seemed to represent the nature of our task and thus it stayed in my memory until Offenders, Deviants or Patients? first came to be written.¹ Third, I have to explain one or two omissions in the present text. There are no chapters devoted specifically to female offenders or on the abuse of alcohol or other substances. However, both
these areas are mentioned at various places in the text. Readers will see
that, generally speaking, the book follows the sequence adopted in previous
editions. However, there are one or two modifications. Chapter 1 is in the
nature of a memoir of my fifty-plus years in the field. It is not included out
of self-advertisement (at least I hope not), but I concluded that a personal
statement concerning some of the general changes I have witnessed over
such a lengthy period might provide a personal context for the rest of the
book. I have to confess that the idea concerning its conclusion is not
original. One of the assessors for the proposal for the third edition had
suggested that I write something similar. At that time, I did not choose to
pursue the matter, and now regret not having had the good sense to do so.
Thus, I now make amends. Finally, I have deleted the chapter on the uses
of literature and drama. This is not because I have changed my mind
concerning their usefulness, but because I have dealt with the topic in other
places (see, for example, Prins 1991). This deletion has enabled me to
include a specific chapter on homicide rather than subsume it under the
general chapter on violence. And so, after this slightly self-indulgent
Preface, I can now move to my second (and I hope final) piece of self-
indulgence contained in Chapter 1.

Notes

1 At the time of the appearance of the first edition there were very few British texts
on forensic-psychiatric matters. My work was never intended to be a substitute
for these. However, it seems to have received general acclamation as an
introductory text. And so later editions have been intended to be just that – an
introduction to the field written by a comparative layman. The later works by
forensic psychiatrists Robert Bluglass and Paul Bowden, John Gunn and Pamela
Taylor, Malcolm Faulk, and Derek Chiswick and Rosemarie Cope provide more
comprehensive accounts, as do the works of forensic psychologists such as
Ronald Blackburn, Clive Hollin, Kevin Howells, Graham Towl and David
Crighton, Mary McMurran and Dennis Howitt, and readers will find them
referred to at various places in the following pages.

2 A fuller account of my personal context may be found in my memoirs – Mad, Bad
and Dangerous to Know: Reflections of a Forensic Practitioner. Waterside Press,

Reference

Acknowledgements

The authors of books of reference owe considerable debts to those who have assisted in their gestation and birth. Mine is no exception. My thanks go to a number of kind folk. To Mr Nigel Shakleford who, over the years, has given me both information and advice from the Mental Health Unit at the one-time Home Office, now the Ministry of Justice. To Dr Sian Rees of the Department of Health for information concerning the state of the nation’s mental health (or rather lack of it!), and for details of the revised procedures for instituting inquiries after mental health homicides. To Mr Paul McEvoy of the Fire and Rescue Service Directorate, Department of Communities and Local Government, for statistics relating to fires in the UK. To Mr Ben Manley of the Parole Board for supplying me with certain Parole Board publications. To Maya Bhudia of the British Crime Survey for printing me off a copy of a section of the latest British Crime Survey. Various academic colleagues and friends have come to my aid with great forbearance. Professor Ronnie Mackay of De Montfort University for assistance concerning matters relating to the insanity defence and disability in relation to the trial. To my former colleague Kate Brookes at Loughborough, and now reader in law at the University of Wolverhampton, for information concerning corporate manslaughter. To two of my former postgraduate students at Leicester University’s Department of Criminology for help with a number of matters; Anna Hefford, Barrister, for help with matters relating to children who kill; to Carlene King Doctoral, researcher in the Department of Psychiatry, Manchester University, for downloading from the Internet a number of items – and for generally being very supportive of my endeavours.

Various publishers have kindly granted me permission to reproduce parts of previously published material as indicated in the text: to Professor A. Goode, Chairman of the Editorial Board, Medicine, Science and the Law, and to the British Academy of Forensic Sciences (which holds the copyright). To Wiley-Blackwells for permission to reproduce certain material contained in Chapter 1 – material which first appeared in my article ‘Fifty Years’ Hard Labour – a Personal Odyssey’ (Howard Journal of Criminal
Justice, 2007, 46(2): 176–193). To the editorial staff at Routledge and Psychology Press for their continuing support. This book would never have seen the light of day without the expert word-processing skills of Mrs Janet Kirkwood, who has worked with me for over thirty years. Her forbearance and skill have been highly commendable in making such good copy out of my scrawled drafts. Finally, I have been singularly fortunate in having an exemplary copy-editor in Christine Firth. She has with charming good grace corrected errors and suggested improvements in both style and content.
Chapter 1

Some autobiographical reminiscences

I HAVE been here before.

(Dante Gabriel Rossetti, *Sudden Light*, 1853)

I should stress at the outset that what follows is somewhat partial; some readers may also find it idiosyncratic.¹ For example, I have not included anything but the barest details of my early life (for some of these, see Jones 2007; Prins 2007a, 2008, 2010). Suffice it to say that some of my family were heavily involved in work with adult offenders and with disadvantaged young people. Being orphaned as an adolescent no doubt played an important part in my subsequent career choices. Following a period of not entirely successful employment in industry and commerce, and a period of National Service in the Royal Air Force, I opted for teacher training. However, my applications to teacher training colleges were not successful; thus countless numbers of young minds were saved from my ministrations! A social science diploma was followed by probation training and subsequent employment in the probation service in 1952. Training for probation work in those early days was provided under the auspices and management of the Home Office. It was very much practice based and, by present-day standards, might possibly be regarded to some extent as not being very academic. In my view such criticism would be unwarranted, since the course equipped students for the very wide range of duties undertaken at that time. (For accounts of the development of probation work and training, see Prins 1964; Smith 2006; Burnett 2007; Prins 2007b; see also McKnight’s (2009) critical article on the gradual demise of the probation service in its former role.) As stated above, what follows presents merely a bird’s eye view of my experiences in criminal justice and forensic mental health. My reminiscences are not presented in discrete compartments. Instead, I have tried to provide a sequential account covering some fifty-five years, divided where helpful into year bands.

One phenomenon stands out very clearly. This was the small-scale nature of the work and its organization. For example, by present-day standards, the Probation Service was a comparatively small enterprise. It was not
particularly hierarchical, as is the case nowadays. Some areas did not even have a Principal Probation Officer (as they were then called) in charge. Bedfordshire was one such example. It was headed by a Senior Probation Officer with a comparatively small number of main-grade staff. Contact with ‘clients’ in what was a predominantly rural area (apart from the Boroughs of Bedford, Luton and Dunstable) was facilitated by reporting centres. These were situated in a variety of locations, for example, church halls or local authority offices such as health centres. These were often in quite isolated locations. Nowadays, I have little doubt that these would be regarded as quite inappropriate (pace John Reid – ‘not fit for purpose’). This would be largely on the grounds of breaching Health and Safety Regulations. I do not think any of us considered the possible hazards to which we were exposing ourselves. Whether this blithe indifference was a good or a bad thing is no doubt open to debate. In five years’ service in the county I recall being physically intimidated on only one occasion (I found the chairman of our Quarter Sessions far more intimidating – see later!).

Another more general aspect of the Probation Service in those early days was its country-wide small-scale membership. One could attend an annual general meeting of the National Association of Probation Officers (NAPO) and know personally more than a handful of those attending. Another notable feature was the almost total absence of female Principal Officers in the Service. I recall the one exception as being the redoubtable Kate Fowler, Principal Officer in Sheffield. As I shall demonstrate later, in more recent times things have changed significantly for the better.

Not only was the Probation Service small scale, but also other services were similarly constituted. The fairly recently established Children’s Departments (through the Children Act 1948) were only just beginning to get into their stride. A notable exception to the predominantly male leadership in the Probation Service was the appointment of women as Children’s Officers as heads of the new departments. Perhaps this was a reflection of the notion that women were more likely to have a better understanding of children’s (particularly small children’s) needs. Mental health services were also small scale, having their origins in Poor Law organization and practice. In those early days mental health duties were carried out by Relieving Officers, later by Duly Authorized Officers, then by Mental Welfare Officers, and of course much later by Approved Social Workers under the Mental Health Act 1983.²

The Prison Service was also comparatively small scale. Local prisons (for example Bedford) were run by a governor (sometimes a former senior military officer), a handful of warders (prison officers), a chaplain and a part-time medical officer (usually a visiting general practitioner (GP)). In the ensuing decades things have changed quite dramatically. The independent Prison Commission disappeared when the Home Office assumed total responsibility for prison affairs, and luminaries such as Sir Lionel Fox
and Alexander Paterson disappeared from the scene. Prison administration now consists of a bewildering mixture of complicated organization and gross overcrowding, leading to hardship for inmates and staff alike.

To return to my early days in the Probation Service. My reason for this is that it was in these early days that I first developed my long-standing interest in the field of forensic psychiatry (now known as forensic mental health). This new title reflects the current multidisciplinary approach to mentally disordered offenders. My immediate predecessor had decided to emigrate with his family to Australia. However, his departure was in some jeopardy because one of his clients had killed his wife. The police were anxious that my former colleague should stay in the UK to give evidence at the Assizes. In the event, they were persuaded to rely upon a sworn statement as to his knowledge of his client. The latter was subsequently committed to Broadmoor (High Security) Hospital. I recall that there was no formal inquiry held into the circumstances leading up to the murder. The client had been known to the mental health authorities as well as being on probation. Nowadays an independent inquiry would have of course been mandatory (see later comments). Although I had no personal involvement in the case, its features intrigued me. My interest was heightened by the fact that the local asylum (as it was then called) was located within one of my court areas. Under the Criminal Justice Act 1948, the hospital could, if they agreed, receive offenders on probation with a requirement that they receive inpatient or outpatient treatment for their mental condition if this was of a fairly minor nature. Thus began my acquaintance with those offenders who became the subject of both criminal justice and mental health interventions. In those early days the probation officer’s statutory functions were solely to be concerned with making arrangements (in consultation with the treating psychiatrist) for the amendment or discharge of the order. However, this limitation did not stop me from furthering my interest in matters forensic-psychiatric. This interest had been lying dormant since my student days on the Home Office training course. We were fortunate in having some excellent lecturers on the topic of psychiatric aspects of delinquency, examples being Professor Trevor Gibbens, seminars by the distinguished psychoanalytic psychiatrist-doctor Denis Carroll, and at a later stage by Dr Peter Scott, with whom I was subsequently to work as a psychiatric social worker at Stamford House Remand Home for Boys. This is an appropriate point to refer to the ground-breaking Criminal Justice Act 1948; ground-breaking because some of its provisions tend to be forgotten in the welter of criminal justice legislation passed in the past few decades. In 2007 Lord Justice Judge, addressing an audience of law students and lawyers, noted that in the previous ten years Labour had created more than 3000 new criminal offences, produced 115,000 pages of legislation and passed numerous Bills including 24 criminal justice measures. He commented on the fact that between 1925 and 1985 we managed
with only one each decade (as reported by Robert Verkaik, Law Editor, *The Independent*, 31 October 2007).

The 1948 Act had appeared as a Bill in 1939, but was shelved on the outbreak of the Second World War, as were plans for the East Hubert psychiatric prison, later to become Grendon Underwood, now known as Grendon (see Home Office 1939). This milestone piece of legislation abolished flogging as a penalty (except for assaults on prison staff; this penalty was also subsequently abolished). The Act introduced the new sentences of Corrective Training (CT) and Preventive Detention (PD) for ‘habitual criminals’ (a provision first introduced in the Prevention of Crime Act 1908). Borstal was brought more into line with contemporary ideas, in the new guise of Borstal Training. And, as already noted, the Act introduced a new power for the courts to impose probation orders with a requirement for mental treatment. The statutory frameworks for this penalty have been modified over the years, for example, the offender’s consent to the making of such an order is now no longer required, and the imposition of such an order counts as a conviction for sentencing purposes. The other point to note is that the former term ‘probation order’ is now subsumed as an option under a community treatment order. The term ‘probation’ and all that goes with it is sadly fast disappearing. Many of the provisions of the 1948 Act were subsequently to be abolished or amended substantially, for example, the discrete sentences of Corrective Training and Borstal Training. Preventive Detention was also abolished but has, to a certain extent, made a number of fresh appearances as the ‘extended sentence’ in its various guises, for example, the current provision in the Criminal Justice Act 2003 for those convicted of certain violent and serious sexual crimes to be given indeterminate sentences. One consequence of this particular penalty has been to exacerbate current overcrowding in our prisons (of which more later in this book). Later enactments introduced the Parole System, the suspended sentence and an ever-increasing range of community sanctions. It is worthy of note that the Parole System (as amended from time to time) relies heavily on forensic-psychiatric input and, from its inception in 1967, has mandated the presence of a psychiatrist on those panels of the Board considering life-sentence and other serious cases. In recent times, other forensic professionals (such as forensic psychologists) have become involved in the Board’s work.

**The 1950s and 1960s — the wider field**

The 1950s and 1960s saw a further number of far-reaching innovations in the delivery of criminal justice and mental health care. My justification for a high degree of selectivity is that my observations arise out of personal acquaintance with some of them. The year 1957 witnessed a significant change in the law concerning the relationship between mental disorders and
homicide. As I shall show subsequently, the Homicide Act 1957 was introduced following the *Report of the Royal Commission on Capital Punishment* of 1953 (Gowers 1953). In general terms, the Gowers Commission had recommended a widening of the scope for seriously disordered mental states to be proffered as a defence to a charge of murder. If such a defence was accepted, the charge of murder would be reduced to that of manslaughter on the grounds of diminished responsibility. This provision derived in part from its long-standing use in Scotland. In practice, it sits alongside the more restrictive M’Naghten rules. As is so often the case with new legislation, high hopes were raised during the statute’s early days. However, the wording of Section 2 of the Act, and to some extent Section 3 (which deals with the vexed issue of provocation), have led over the years to a number of somewhat fraught exchanges between the law and psychiatry. Such exchanges were, of course, not new. Dr Henry Yellowlees received something of a mauling when he gave evidence for the defence in the trial of John George Haigh – the so-called ‘acid bath murderer’. It is a sad fact that, because of such encounters, some general psychiatrists of my acquaintance have become reluctant to enter the criminal court arena. For discussion of a number of these issues, see Blom-Cooper and Morris (2004) and Law Commission (2006). Following closely on the heels of the Homicide Act 1957 came the Mental Health Act 1959. The Act modernized existing mental health legislation which had its roots in outmoded nineteenth-century emphasis on legalism. The Act was of considerable forensic-psychiatric importance. Under the new legislation, it became possible, on the basis of medical evidence, for the courts to commit seriously mentally disordered offenders to hospital in lieu of other penalties. Written medical evidence from two authorized medical practitioners (almost always psychiatrists) was required for the implementation of an unrestricted order. However, for the implementation of an order restricting the discharge of the patient (in order to protect the public from serious harm) one of the medical practitioners was required to give oral evidence. Prior to the 1959 Act, the procedures for admitting seriously mentally disordered offenders to hospital had proved to be somewhat cumbersome and not frequently used. Another important feature of the 1959 Act was the introduction of the controversial category of psychopathic disorder. This is a category that continues to bedevil law, psychiatry and psychology, and is dealt with in detail later in the book. The Act also introduced Mental Health Review Tribunals enabling patients, both under the Act’s civil and criminal powers, to appeal against their detention. As with the Parole Board, psychiatric inputs (in respect of both reports to Tribunals and membership of Tribunal panels) were of considerable significance. During the 1960s I witnessed a number of other changes of ‘socio-forensic’ interest. The Suicide Act 1961 removed the offence of attempted suicide from the statute book. This liberalizing piece of legislation thus removed the albeit comparatively rare, but nonetheless distressing,