
UNIT 2 HISTORICAL PERSPECTIVE OF FORENSIC PSYCHOLOGY

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2.0 INTRODUCTION

You are already familiar with the definition of the Forensic Psychology and you have read in Unit 1 how knowledge of Forensic Psychology can be applied to criminal investigation, courtroom and prison (Correctional Home). These applications refer to the current status of Forensic Psychology. But this status was not gained within a day or two. It took a long time to gain this present day status. So in this Unit 2 we will make you familiar with the history of growth and development of Forensic Psychology, in order to understand how it attained the present day status. In doing so, we will mainly concentrate on the contributions of key persons in this field. Thus in this unit we will be dealing with early research in forensic psychology, and what was the role of forensic psychology in the courts, how did the armed forces use forensic psychology, what were the developments in forensic psychology after world war II and we would also deal with the current status of forensic psychology in the present day.

2.1 OBJECTIVES

After reading this unit, you will be able to:

- Describe the history of forensic psychology;

- Elucidate the many personalities who were associated with the development of forensic psychology;
- Explain the significance of experimental findings that led to the growth and development of Forensic Psychology;
- Analyse the application of Forensic Psychology was made possible in the Criminal Justice System; and
- Compare the contributions of different key persons in giving present day shape to Forensic Psychology.

2.2 KEY PEOPLE IN THE HISTORY OF FORENSIC PSYCHOLOGY

J. McKeen Cattell – Studied the psychology of testimony.

In 1893, Columbia University Professor J. McKeen Cattell conducted informal studies about the nature of witness testimony. During these experiments, he asked 56 students a series of questions that are similar to the types commonly used in a trial setting. After giving respondents 30 seconds to think about their answers, Cattell asked them how confident they were about their answers. Despite the fact that eyewitness testimony was already believed to be unreliable, Cattell admitted that he was surprised by the amount of inaccuracies there were among participating students

Hugo Munsterburg – Often called the first Forensic Psychologist.

Professor Hugo Münsterberg, in this book “On the Witness Stand,” in which is collected a series of magazine articles previously published by him, pointed the way to rational and scientific means for probing facts attested by human witnesses, by the application of Experimental Psychology to the administration of law. Psychology had been classified as a pure science. Experimental methods, to the development of which Münsterberg, made notable contribution, have lifted this branch of knowledge into the classification of applied sciences. Applied Psychology can be employed in various fields of practical life — education, medicine, art, economics, and law.

Experience has demonstrated that “certain chapters of Applied Psychology” are sources of help and strength for workers in various practical fields, but, says Professor Münsterberg — “The lawyer alone is obdurate. The lawyer and the judge and the jurymen are sure that they do not need the experimental psychologist . . . They go on thinking that their legal instinct and their common sense supplies them with all that is needed and somewhat more . . . Just in the line of the law it therefore seems necessary not to rely simply on the technical statements of scholarly treatises, but to carry the discussion in the most popular form possible before the wider tribunal of the general reader.”

Alfred Bient – His work in psychological testing served as a basis of many modern assessments.

Inspired by Cattell’s work, Alfred Binet replicated Cattell’s research and studied the results of other psychology experiments that applied to law and criminal justice (Bartol, 2005). His work in intelligence testing was also important to the development of forensic psychology, as many future assessment tools were based on his work.

William Stern

Psychologist William Stern also studied witness recall. In one experiment, students were asked to summarize a dispute they witnessed between two classmates. Stern discovered that errors were common among the witnesses, concluding that emotions decrease the accuracy of witness recall (Stern, 1939). Stern continued to study issues surrounding testimony and later established the first academic journal devoted to applied psychology.

William Marston

William Marston created not only her lasso of truth but also the systolic blood pressure test, that is the predecessor to the modern lie detector. Marston was a graduate in psychology and a law degree holder . He got the idea for a lie detection machine based upon blood pressure after his wife, Elisabeth, suggested to him that “When she got mad or excited, her blood pressure seemed to climb.”

Marston eventually created his systolic blood pressure test, and according to Marston, he and his colleagues tested a total of 100 criminal cases in Boston criminal court, and his systolic blood pressure test led to correct determinations in 97 of them. Dr. Marston soon thereafter either coined the phrase “lie detector” himself or adopted it from a reporter to whom he described the wonders of his device.

After World War I, Marston pursued an academic career, and he appeared as an expert witness in the now famous 1923 *Frye* case, in which the defense unsuccessfully attempted to introduce his expert testimony as to the innocence of the defendant on the basis of his systolic blood pressure test. Frye was accused of murder in the District of Columbia and, after first denying all knowledge of the event, confessed and provided police with correct details of the killing. A few days later, Frye recanted the confession, claiming that he admitted to the crime because he had been promised a share of the reward for his own conviction.

Marston then gave Frye his deception test in a D.C. jail and found his claim of innocence to be entirely truthful. When Marston was introduced as an expert witness at trial, the presiding judge excluded the evidence on the grounds that the test had been administered in jail 10 days before Frye testified in court and that it was irrelevant to the veracity of his testimony. Frye was convicted of murder. The case was appealed on the ground that the trial judge erroneously excluded Marston’s testimony.

2.3 EARLY RESEARCH IN FORENSIC PSYCHOLOGY

The birth place of Forensic Psychology is the Leipzig in Germany. The world’s first psychological laboratory was founded in Leipzig by Wilhelm Wundt. At Leipzig laboratory sensory and behavioural phenomena were both measured and subjected to experimental manipulation. Wundt developed experimental psychology in his laboratory with both theory oriented and applied goals. His refined techniques and the instruments that he devised helped his students a lot. His students spread through Europe and equipped with his techniques and instruments began to demonstrate the applications of psychology to day to day life including matters affecting the law. Other students came from the Old and

New Worlds to study under Wundt and on return they made lasting contributions of relevance to jurists. Cattell as mentioned earlier examined experimentally the nature of testimony and revealed the effects of situational and individual differences. Cattell's early experimental work into human testimony in 1893 generated considerable interest among researchers including Binet.

Cattell posed a series of questions to students at Colombia University, asking them to provide a response and rate their degree of confidence in their answer (1895). Cattell's results indicated a surprising degree of inaccuracy, which generated interest among other psychologists who went on to conduct experiments on eyewitness testimony.

Inspired by Cattell's work, Alfred Binet replicated Cattell's research in France and studied the results of other psychology experiments that applied to law and criminal justice. His work in intelligence testing was also important to the development of Forensic Psychology, as many further assessment tools were based on his work.

Alfred Binet (1857 – 1911) helped to found the first psychological laboratory in France at Sorbonne, Paris in 1889. Having studied both medicine and law, he was well placed to apply psychology to legal problems, and his work greatly influenced French legal thinking.

Like Cattell he was initially interested in the psychological nature of testimony, but later turned to the study of intellectual assessment for which he is better known. In collaboration with Theodore Simon he is credited with developing the world's first intelligence test as psychometric instrument. This was designed specifically for identifying children of "defective intelligence", a purpose which gained considerable forensic importance in the UK in the second half of the 19th century. The undoubted value of the Binet-Simon Test for many educational purposes created a wide spread demand through out the Western world and had wide-reaching forensic implications.

One of the first people to study Forensic Psychology was William Stern in 1901. He conducted the study with his students examining memory and how much a person could recall at different time intervals after observing a photo.

This study was the foundation for research into the reliability of eyewitness testimony in court cases. Stern determined from his study that in general, recall memories are inaccurate; the more time between seeing the picture and being asked to recall it, the more errors were made.

People especially recalled false information when the experimenter gave them a leading question such as, "Did you see the man with knife?" The person would answer "yes", even if there was no knife present. Leading questions are often used in police interrogations and in questioning witnesses. Stern continued to study issues surrounding testimony and later established the first academic journal devoted to applied psychology.

Self Assessment Questions 1

- 1) Answer briefly
 - i) Who is called the first Forensic Psychologist?

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- ii) Which place is called the birthplace of forensic psychology?
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- iii) Discuss briefly Cattell's experimental work.
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- 2) Fill in the blanks:
- i) The world's first psychological laboratory was founded by
- ii) Alfred Binet replicated Cattell's research in
- iii) Binet-Simon Test was designed specifically for identifying children of
- iv) One of the first people to study Forensic Psychology in 1901 was

2.4 FORENSIC PSYCHOLOGY IN THE COURTS

During this time, psychologists were also beginning to act as expert witnesses in criminal trials throughout Europe. In 1896, a psychologist by the name Albert von Schrenck-Notzing testified at a murder trial about the effects of suggestibility on witness testimony.

Hugo Munsterberg's ardent belief that psychology had practical applications in everyday life also contributed to the development of Forensic Psychology. In 1908, Munsterberg published his book '*On The Witness Stand*', advocating the use of psychology in legal matters. Munsterberg was generally disliked by many of his peers in psychology and by much of the legal community.

Despite these dislikes, Munsterberg continued to advance the frontiers of Forensic Psychology, introducing hypnosis into the courtroom, and conducting experimental work directed at contemporary problems of evidence.

Munsterberg followed Cattell back to the USA in 1892. He setup a psychological laboratory at Harvard and actually attempted to introduce applied psychology into the American courtrooms.

After Munstueberg's death in 1916, his place in experimental psychology was taken by Judd, a student of Wundt. He established a laboratory at Yale and invented refined experimental techniques and devised instruments for contributing to Forensic Psychology.

In 1911 another of Wundt's pupils, Professor Karl Marbe, created legal history by demonstrating in court the phenomenon of reaction time in a civil action, proving to the court's satisfaction that the engine driver assumed to be responsible for a railway accident could not have stopped train in time to avert disaster. Marbe was the first psychologist to testify at a civil trial. He also testified in a criminal trial.

The first published case where an American psychologist qualified as an expert witness was in 1921. The psychologist had been conducting research into the juvenile delinquency and concluded that the twelve year old attempted rape victim in the case was a '*moron*' and could not be believed. The psychologist testimony was rejected by the court which noted, 'It is yet to be demonstrated that psychological and medical tests are practical, and will detect lies on the witness stand'.

This court rejection of the psychological evidence may have discouraged other psychologists from testifying. It was not until the date 1940s or early 1950s that psychologist began to testify regularly in the American courts. However, according to Valciukas, psychologists in the USA were not admitted as expert witnesses on mental disorder until 1962 and on issues of competency until two decades later.

An American version of the Binet-Simon test was prepared and issued as the Stanford-Binet test, and later updated by the Terman and Merrill (1937) version opf that test. Translated into many other languages, it became the standard test of juvenile intelligence until the introduction of the Wechsler Intelligence Scale for Children (WISC, Wechsler, 1955). The latter was based on a completely different system and was easier both to use and to explain to the juvenile courts. But in the UK, school medical officers continued to use the Terman-Merrill version of the Stanford-Binet Test in carrying out their legal responsibilities under the 1944 Education Act for several decades of the post-war period.

The usefulness of Binet-type psychometrics was so well established that the American Psychological Association (APA) was asked to device tests for use in recruitment for the armed forces. The result was that there emerged the first group tests of intelligence, the Alpha for literates and Beta for both literates and persons unable to understand English language. The Alpha Test alone was used on nearly 2 million recruits, and retained for Army use postwar.

Gray cites the many benefits which accrued to applied psychology from the use of the so called Army Tests (Alpha & Beta). They enabled the practical usefulness of psychological tests to become widely known to the general public. Because group testing was so economical compared with individual testing, many of the private schools, smaller institutions, commercial companies, and other organisations could afford to adopt them for their particular use. They initiated a

rapid growth of new group tests. The group tests were devised by those who contributed to the original APA test items. The need for the standardisation and validation of the new tests required new statistical techniques. This established statistics as a necessary subject in all psychology courses.

Although Munsterberg had introduced the first vocational test as early as 1910, it was the success of the Army Tests (Army Alpha & Army Beta) in selecting men and women for specific functions within the armed services which expanded group testing nationwide. Such a national test movement made the judiciary to become aware of it. Ultimately this awareness made it possible in due course to introduce test results into the courtroom with an acceptance.

One other pioneer of Forensic Psychology who deserves mention is William Marston. He was a student of Munsterberg. In 1922 he became the first American Professor of legal psychology. As a student of Munsterberg, he maintained the tradition established by Wundt. He continued Wundt's experimental work on the physiological effects of deception. In 1917, Marston found the systolic blood pressure had strong correlation to lying. This discovery later led to the design of the modern polygraph detector. In lie detection this polygraph is used even today.

Marston testified in 1923 in the case of Frye vs. United States.: This case is significant because it established the precedent for the use of expert witness in Courts. The Federal Court of Appeals determined that a procedure, technique, or assessment must be generally accepted within its field in order to be used as evidence.

2.4.1 Forensic Psychology in the Armed Force Services

During the interwar years no significant advance in Western Forensic Psychology appears to have taken place. But the Second World War created an unprecedented demand for applied psychologists. (A special innovation was the development of military psychology). The military psychologists were needed for selection programmes as well as for operational research. They were also engaged in criminal investigation for ultimate purpose of prosecution of war criminals. This wartime experience made the courts more favourably inclined to see the relevance of psychological evidence.

Self Assessment Questions 2

1) Who testified at the murder trial in 1896?

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2) Name the book that Munsterberg published in 1908.

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3) Who was Judd and where did he establish the laboratory of experimental psychology?

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4) Who was Karl Marbe and how did he create legal history?

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5) What led to the design of modern polygraph detector?

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6) Fill in the blanks:

- a) The first published case where an American psychologist qualified as an expert witness was in
- b) It was not until the late 1940's or early 1950's that psychologist began to testify regularly in the
- c) According to Valciukas, psychologists in the USA were not admitted as expert witness on mental disorder until
- d) In 1922 became the first American professor of Legal psychology.
- e) Wartime experience made the courts more favourably inclined to see the relevance of

2.5 DEVELOPMENT OF FORENSIC PSYCHOLOGY IN THE UK

Two statutes of performed social significance made a great impact upon the development of Forensic Psychology in the UK. These were the Education Act, 1944 and the National Health Service Act, 1946. The Education Act 1944 provided school medical officers with the services of educational psychologists while the National Health Service Act, 1946 provided consultant psychiatrists with the services of clinical psychologists.

Since both types of medical practitioners had statutory duties regarding court proceedings, clinical and educational psychologists found themselves frequently providing evidence for courts albeit vicariously, as part of their routine duties. The psychologist's quantitative data on persons appearing in court, commonly embodied in a subjective report by the medical witness, added a new dimension on which judicial decision were made.

2.5.1 Hearsay Problems

Initially psychologists were not allowed to present their reports to the court separately and independently. Psychologist's report was embodied in the subjective report by the medical witness. Medical reports tended to include only those facts selected from the psychologist's findings that supported the medical view of the case. But sometimes the psychological findings were inconsistent with medical opinion and in those cases psychological reports were misrepresented. This really needed that psychologists present their report independently. And after a long struggle early in 1958, psychologist was called as a 'medical witness' in his own rights in UK.

2.5.2 Changes in Forensic Psychology Practice

The postwar years have seen a number of significant changes in Forensic Psychology practice. The expansion of Forensic work, the introduction of specialised and forensic training courses, the recognition of a career structure etc. prove the changes. Of particular professional significance, however, is the widening of the problems presented by particular cases and the techniques adopted in findings solutions for them. Last few decades have seen a number of forensic issues, which have exercised the mind of both lawyers and psychologists, come into prominence. These issues include problems arising from recovered memories of child sexual abuse, disputed confessions, and post-traumatic stress disorders (PTSD).

2.5.3 The Pornography Phase

The sexually permissive attitudes which evolved after the Second World War resulted in a rapid increase in pornographic material. The proposition that explicit sexual material was corrupting was unchallengeable in the court, making any evidence to the contrary inadmissible. However, British Parliament acknowledged that in some cases the assumed corruption could be mitigated by the material having some artistic, literary or scientific merit. Effective use was made of this Section 4 defense in Penguin Book Case (1961), when twenty-three expert witnesses testified on the literary merits of *Lady Chatterley's Lover* and secured an acquittal. The 'public good' defence enabled psychologists to be brought in

as expert witnesses. At first there were clinicians who used sexual materials for therapeutic purposes for treating sexual disorders. Later, psychological expertise was widened as more bases for the public good defence became apparent.

The public good defence enabled psychologists to dispel sexual ignorance, to some extent, by educating the court from the witness box. The effective lowering of sexual prejudice did much to boost the acquittal rate.

2.5.4 The Phase of Investigative Hypnosis

The clinicians had been using hypnosis routinely as part of their forensic activities since the early 1950s. In the beginning, there were requests from medical practitioners to reduce anxiety of witnesses by hypnosis. These were the cases where reducing anxiety by medication deemed inappropriate for the medical condition of the witnesses. This followed an already established practice of anxiety-reduction by hypnosis, using post-hypnosis suggestions, for candidates taking the driving test or other types of examination. From this developed the notion of using hypnosis with other witness to assist recall of significant facts.

This was later extended to victims, accused persons and parties to civil action. Bryan gives a general account of the use of forensic hypnosis, which aroused much controversy within the profession. At the peak of its popularity with the UK constabularies, Haward hypnotised seventeen potential witnesses in one week. Reiser and Udolf refer to a large number of USA cases which involved the use of hypnosis, and McConkey and Sheehan showed that there was a substantial increase in the use of hypnosis in Australia between 1981 and 1987.

By the late 1980s police interest in hypnosis had dissipated. This was due to a number of factors which came to prominence at about the same time. In the USA, evidence derived by hypnosis was being barred by its failure to meet the Frye Rule. This Rule stated that the evidence derived from scientific tests is inadmissible unless generally recognised as reliable for the purpose by the appropriate scientific community.

Hypnosis is not generally recognised as a reliable means of retrieving information. More importantly, the use of the hypnosis has in the USA resulted in a number of cases of miscarriage of justice. This led to many states of USA prohibiting its use for evidential purposes. In the UK, the Home Office issued guidelines concerning the use of hypnosis by the police which effectively discouraged its use by constabularies.

Wagstaff gives a well-reasoned discussion of the Home Office Circular. More recently, McConkey and Sheehan discuss some of the dangers of using hypnosis in police investigation and provide detailed and helpful guidelines for practitioners about its use. A consistent view among the scientific community is that hypnosis should only be practiced by clinical psychologists and medical practitioners. They, in addition to their professional qualifications, have had specific training and experience in the use of hypnosis and are knowledgeable about police procedures and investigative interviewing.

For formal investigations and enquiries where those involved are not required to testify in a criminal court, less objection to the use of investigative hypnosis has been made. The technique has proved to be of value in selected cases, although forensic application of hypnosis is limited.

2.5.5 Cognitive Interview

About twelve years ago, new interviewing techniques have been developed which overcome the legal and practical problems encountered with investigative hypnosis. Known as the 'Cognitive Interview', the techniques can also be used with children and persons with learning disability. This is a considerable advantage over the use of investigative hypnosis.

The Cognitive Interview is now commonly being used by police forces in the UK to elicit memory recall of witness and victims. Sometimes this is also used in case of cooperative suspects. There are fewer objections to police officers utilising the technique than has been the case with hypnosis. It is likely that in the future the Cognitive Interview will replace the need for investigative hypnosis, except in cases of psychogenic amnesia. In future, Forensic Psychologists may be increasingly called upon to train police officers in Cognitive Interview techniques. In complicated cases, they may be requested by the police to conduct the interview themselves.

2.6 POST WORLD WAR II GROWTH IN USA

Significant growth in American Forensic Psychology did not happen until World War II. Psychologists served as expert witnesses, but only in trials that were not perceived as infringing on medical specialists, who were seen as more credible witnesses. In the 1940 case of the People vs. Hawthorne, the courts ruled that the standard for expert witness was in the extent of knowledge of a subject, not in whether or not the witness had a medical degree.

In the landmark 1954 case of Brown vs. Board of Education, several psychologists testified for both the plaintiffs and the defendants. Later, the courts gave support to psychologists serving as mental illness experts in the case of Jenkins vs. United States (1962).

2.6.1 Current State

Forensic psychology has grown and evolved along with the development of new technologies, precedents and assessments. Forensic Psychology is in growing demand among graduate students, and several colleges and universities in USA offer dual degree programmes in law and psychology. In 2001, Forensic Psychology was recognised as a specialisation within psychology by the American Psychological Association.

Self Assessment Questions 3

Read the following statements and mark right (✓) or wrong (×)

- 1) By the late 1980s police interest in hypnosis dissipated. ()
- 2) The cognitive Interview is now commonly being used by police forces in the UK. ()
- 3) Significant growth in American Forensic Psychology did not happen until World War II. ()
- 4) Forensic Psychology has not yet been recognised as specialisation within psychology by the APA. ()

2.7 LET US SUM UP

Early Research in Forensic Psychology

J. McKeen Cattell conducted some of the earliest research on the Psychology of testimony. Inspired by Cattell's work, Alfred Binet replicated Cattell's research and studied the results of other psychological experiments that applied to law and criminal justice. His work in intelligence testing was also important to the development of Forensic Psychology, as many future assessment tools were based on his work. Psychologist William Stern also studied witness recall. Stern continued to study issues surrounding testimony and later established the first academic journal devoted to applied psychology.

Forensic Psychology in the courts

During this time, psychologists were also beginning to act as expert witnesses in criminal trials throughout Europe. In 1896, a psychologist by the name of Albert von Schrenck-Notzing testified at a murder trial about the effects of suggestibility on witness testimony. Hugo Munsterberg's ardent belief that psychology had practical applications in everyday life also contributed to the development of forensic psychology. In 1908, Munsterberg published his book *On the Witness Stand*, advocating the use of psychology in legal matters. Despite the contributions, Munsterberg was generally disliked by many of his peers in psychology and by much of the legal community.

Stanford psychologist Lewis Terman began applying psychology to law enforcement in 1916. After revising Binet's intelligence test, the new Stanford-Binet test was used to assess the intelligence of job candidates for law enforcement positions.

In 1917, psychologist William Marston (a student of Munsterberg) found that systolic blood pressure had a strong correlation to lying. This discovery would later lead to the design of the modern polygraph detector.

Marston testified in 1923 in the case of *Frye vs. United States*. This case is significant because it established the precedent for the use of expert witnesses in courts. The Federal Court of Appeals determined that a procedure, techniques or assessment must be generally accepted within the field in order to be used as evidence.

Post-world War II Growth

Significant growth in American forensic Psychology did not happen until after World War II. Psychologist served as expert witnesses, but only in trials that weren't perceived as infringing on medical specialists, who were seen as more credible witnesses. In the 1940 case of the *People vs. Hawthron*, the courts ruled that the standard for expert witnesses was in the extent of knowledge of a subject, not in whether or not the witness had a medical degree.

In the landmark 1954 case of *Brown vs. Board of Education*, several psychologists testified for both the plaintiffs and defendants. Later, the courts gave support to psychologists serving as mental illness experts in the case of *Jenkins vs. United States (1962)*.

Forensic Psychology has continued to grow and evolve during the past three decades. Increasing number of graduate programmes offer dual degrees in psychology and law, while other offer specialised degrees emphasised Forensic Psychology. In 2001, the American Psychological Association officially recognised Forensic Psychology as a specialisation within psychology.

2.8 UNIT END QUESTIONS

- 1) What were the two statutes of profound social significance that made a great impact upon the development of Forensic Psychology in the UK?
- 2) When was it that a psychologist was called as a 'medical witness' in his own right in UK?
- 3) What led to a rapid increase in pornographic material?
- 4) What is Frye Rule?

2.9 GLOSSARY

Hypnosis	: An artificially introduced passive state in which there is increased amenability and responsiveness to suggestions and commands.
Moron	: Adult with IQ range 50 - 69
Pornography	: Explicit description or exhibition of sexual activity in literature, films etc., intended to stimulate erotic rather than aesthetic feelings.
Post Traumatic Stress Disorder	: It is a severe anxiety disorder that can develop after exposure to any event that results in psychological trauma.
Standardisation	: Standardisation implies finding out reliability and validity of a psychological test along with stating objective procedure of administering and scoring the test as well as setting norms for the test.
Testimony	: Oral or written statement under oath or affirmation

2.10 SUGGESTED READINGS

Rieber, R.W. and Vetter, Harold J (Eds) (1978). *The Psychological Foundations of Criminal Justice: Historical Perspectives on Forensic Psychology*. John Jay Pr. NY

Veeraraghavan, Vimala (2009). *Handbook of Forensic Psychology*, Select Scientific Publishers, New Delhi.

2.11 ANSWERS TO SELF ASSESSMENT QUESTIONS

Self Assessment Question 1

- 4) a) Wilhelm Wundt, b) France, c) defective intelligence and d) William Stern

Self Assessment Question 2

- 5) a) 1921, b) American Courts, c) 1962, d) William Marston, e) psychological evidence

Self Assessment Question 3

- 6) (i) ✓, (ii) ✓, (iii) ✓, (iv) ×