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Behavioral sciences and forensic criminology in the Accusatory System

Eric García-López

Garrido, V. (2018). *La Criminología Forense y el Informe Criminológico*. [Forensic Criminology and the Criminological Report] Ciudad de México: Tirant lo Blanch.

In the legal fields, there are frequent mentions of cases, judgments and standards of the US justice system, and it is common to hear voices that allude to the Daubert standard -the majoritarian replacement of the Frye standard - or to the Kumho case, among many others. Even some Latin American jurists mention Rule 702 of the so-called "Federal Rules of Evidence". Taken together, these criteria have a noticeable forensic influence, since they imply the evaluation of scientific evidence before the courts of justice. Also, there are several mentions about cases and rulings of courts of justice in the United States in which the importance of the scientific study of human behavior has been underlined, as it happens, just to mention two examples, in the Jenkins judgment and the Roper vs. Simmons case.

In the Jenkins judgment - dating from 1962 - it was established that both psychologists and psychiatrists are entitled to issue a diagnosis - in this case, on schizophrenia - and present their findings before the courts of justice. And in Roper vs. Simmons case - that happened in 1994 -, the Supreme Court of the United States required the help of the American Psychological Association (APA) -in the year 2005- to provide valuable information on the neurobiological and cognitive immaturity of the adolescent brain. Founded on these psychological-neuroscientific studies, the Court finally based the unconstitutionality of imposing the death penalty on adolescents who commit a serious crime.

These two cases, among many others, affirm the importance of studying the brain and human behavior, as well as its decisive influence on the legal system; however, it is shameful that today there are still people who do not know about this old mistake: to pretend that psychology is less scientific than psychiatry, and to accept it as such shows not only a widespread banality, but a resounding ignorance. Especially, because it violates the mutual contributions that currently converge in Neuro-law, Criminology and

Forensic Psychopathology, concepts and applications of ordered amalgam contributing to justice.

Indeed, one of the objectives of our disciplines is to contribute to Justice, and that is why a book like the one coordinated by Professor Vicente Garrido Genovés is so well received, whose Mexican edition has been in charge of Luz Anyela Morales Quintero. This book constitutes a rigorous scientific production that in seventeen chapters addresses topics such as "the test and its assessment in Mexico: implications for the criminological task", the "triple criminal risk model" -written with such a clarity that distinguishes Santiago Redondo Illescas-, or "the decisions of the Supreme Court and the knowledge of Criminology", just to mention a few.

The readers of this work will not be able to skip any of the chapters that structure "Forensic criminology and the criminological report", since in each one of them they will find practical guidelines and essential approaches to understand the links between jurisprudence and the criminological expertise, as well as the criminological analysis of the crime scene and the assessment of child sexual abuse, among many other issues that are insurmountable for those who dedicate their professional practice to these obscure areas, and for whom not only a robust academic education is required, but also a great and indispensable nobility.

The RAE [Royal Academy of the Spanish Language, for its Spanish acronym], states that the word *noble* is an adjective that implies being eminent, illustrious and generous; and this is what this book is, a faithful reflection of its authors, who have dedicated their lives to opening a path in Iberoamerica to disciplines as necessary as Legal and Forensic Psychology, Criminology and, in general, to the scientific study of human behavior in all the legal fields.

This work has been published in Mexico, in February 2018; and in March of the same year, the Faculty of Law of the *Benemérita Universidad Autónoma de Puebla* and the *Tribunal Superior de Justicia* [Meritorious Autonomous University of Puebla and the Superior Court of Justice] of the

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same state, as well as the *Universidad de Guadalajara* and the *Instituto Nacional de Ciencias Penales* [University of Guadalajara and the National Institute of Criminal Sciences], received Professor Garrido Genovés and Professor Morales Quintero in their respective premises. The brilliant review published in Chapter 7 should be highlighted, where reference is made to the Jenkins judgment and adds, prospectively:

"[...] it is worth analyzing the opportunities and challenges represented by the role of criminology within the Accusatory Criminal System, particularly as forensic science and, specifically, regarding the processes of admissibility and assessment of their knowledge in that area "(p 275).

Likewise, the author rightly points out that in Mexico - in terms of forensic work in general - "[...] it is very likely that we are at present like the United States were in the 90s" (p 276), more concerned about the admission of the expert than about the scientific support of their contributions. One factor that does not contribute to this situation is the terminological confusion observed in recent university degrees,

when it was so necessary to strengthen postgraduate courses, rather than importing erroneous translations.

To conclude this review, the importance of "assessing the forensic criminological evidence for legal operators", an unequivocal sign of the indispensable dialogue between black robes and white coats, cannot be ignored. In this chapter, Professor Vicente Garrido draws attention to the cognitive biases inherent in the judicial process and proposes a valuable practical guidance as general questions for the evaluation of criminological evidence.

In short, this work exceeds what is required in Daubert: the topics explained in it are demonstrable; the foundations of each chapter are based on scientific publications of high impact; the margin of error of social and behavioral disciplines is analyzed, and the scientific community acknowledges that the contents are the result of a rigorous evaluation and selection process.

With this new book, readers have before them an essential work to respond to the courts of justice and to balance the crime and its actors, aggressors and victims, always seeking the restoration of the social fabric.