Civil law seeks to determine responsibility for wrongdoing and appropriate compensation for individuals who have been wronged. It considers psychology an adjunct profession in this endeavor, with psychologists offering evidence to help the trier of fact arrive at just decisions. The law treats causality and causation from the perspective of this overall orientation. When a defendant is accused of wrongfully causing a certain outcome, the legal system marshals its resources to either prove causality or defend against the accusations. In terms of civil (tort) cases, this usually refers to personal injury, negligence, or malpractice, and there may be judgments of liability and subsequent awards for damages and compensation. Romano (1999) underscores that causation is intrinsic to virtually every case that an attorney will ever handle. Freckelton (2002) concurs, even indicating that causation is central to most litigation: “Proof of causation lies at the very heart of the resolution of most civil and criminal litigation” (p. 478).

The terms “causality” and “causation” are defined similarly in the lay dictionary, with “causality” defined in a more general way as the relationship between cause and effect, whereas “causation” is defined as the act or process of causing (Oxford; Jewell & Abate, 2001; Merriam-Webster, 2003). However, in common usage, the legal professions and mental health professionals interchange the terms, and do not keep the implied distinction that one should be used more as a product and the other as a process. In this chapter, I examine the concept of causality as it is treated in philosophy, the law, medicine, and psychology. I also present the concepts of “thin” and “crumbling” skulls, because they allow a bridge between law and psychology. The chapter terminates with suggestions, including how to standardize terminology, and presents a causality scale and a list of 25 causality factors for consideration in arriving at conclusions in evidence offered in court.
Causality and Causation in Different Disciplines

Causality and Causation in Philosophy

The ancients considered behavior as beyond human control, although causality has been a concern from the earliest writings, as evidenced by the Biblical stories of original sin, Adam, Eve, the apple, and the snake (Pearl, 2000). In Western philosophy, the Greeks were first to consider the issue of causality. Aristotle described four causes: material, formal, efficient, and final. Efficient causes refer to those external agents held responsible for a particular event or phenomenon (Haynes, 1992). The types of efficient cause that have been suggested include those that are sufficient, insufficient, necessary, necessary and sufficient, first (in a chain), principal (primary), immediate (no other intervenes), and mediate (a cause that works only through another). To make a valid inference of causality, conditions such as covariation, temporal precedence, logical connection, and whether there is an equally plausible explanation need to be considered.

The study of causality in philosophy is marked by inconsistency as much as if not more than in the legal and psychological fields. Aristotle criticized Plato for having a restricted view of causality (Cocchiarella & Lord, 2001). Flew and Priest (2002) argue that only efficient causality (defined as the agency producing the result) among the four causes in Aristotle’s doctrine directly concerns causality. In contrast, Craig (1998) argues that the four causes all play roles in causal explanation. Haynes (1992) stated that for centuries the concept of causality in philosophy was subject to divergent opinion, discourse, and “impassioned debate.” Different schools exist with respect to understanding causal connections, from those that argue that, because they are inferred from perceptions they can always be invalidated, to those that are more realist and positivist, indicating that the connections exist beyond any perception and we need to find the best ways of observing and measuring them (Haynes, 1992). Blackburn (1994) points out that some philosophers deny causation, because of ambiguity in the concept of link (e.g., Hume). This tradition continued into the past century, where Russell (1910, 1918, 1950) labeled the law of causality a “relic” (Psillos, 2002). Pearl (2000) points out that “causality is a notion shrouded in mystery, controversy, and caution, because scientists and philosophers have had difficulty defining when one event truly causes another” (p. 331). The law, however, requires that causality be identified, so that responsibility can be assigned to a wrongdoer.

Schultz (2003b) argues that the definition of causality that best applies to the forensic context is not clear. She indicates that three philosophical views of causality may apply to the medicolegal context. First, Aristotle’s concept of efficient cause indicates that one event necessitates the other, in a cause and effect relation. Second, causes may exist in the plural, as sets of conditions that jointly necessitate an outcome. Third, in the counterfactual definition, cause is inferred by arguing that the effect would not occur if the causal event had not taken place. Haack (2005), writing on the philosophy of science implicit in the Daubert trilogy (Daubert v. Merrill Dow Pharmaceuticals, Inc., 1993; see the next section, by