

Forensic Psychology: The Interface of Psychology, Law, and Public Policy

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Forensic Psychology is practiced at the intersection of psychology and the law, and it tackles crucial questions about community policy. It is a large and varied sub-specialty with some intriguing opportunities in these times of pressure on the profession as a whole. I will briefly describe some of the major areas in which forensic psychologists work, some of the potential opportunities, and a change of mind-set that may be required to work successfully in this area.

Family Law: This is the area of forensic psychology most familiar to practicing clinicians. It is also, unfortunately, one of the most contentious and difficult areas in which to practice. This area involves questions of divorce, child custody, visitation, and step/adoptive parenting issues. It is often emotionally charged, and it sometimes blends into questions of abuse allegations and veracity of trauma-based memories. The often-confrontational nature of much of psychological practice in this area sometimes turns off psychologists to the other areas of forensic practice. It is worth noting, however, that when I served on the NH Board of Examiners of Mental Health Practice, about a third of consumer complaints came from this area of practice. Practitioners in custody cases should closely review the APA standards for custody evaluations before focusing a practice in this area.

Criminal Law: This area involves assessment, treatment planning, consultation, and program development for clients involved with the criminal justice system. Within this area, psychologists may conduct competency to stand trial examinations; attempt to determine a person's state of mind at the time of an alleged crime and the question of legal sanity, and determine the level of an accused's understanding when they signed a Miranda waiver or produced a confession. There is an extensive body of social-psychological literature on police interrogation as a social situation, and on various factors that make a person likely to give a false-but self-implicating-statement under interrogation. There is an increasing body of literature on the criminal defendant as 'multi-problem family descendent.' The interesting areas of psychology and criminal law involve helping to plan for the effective treatment, whether within the community or in incarceration, of persons with combinations of low IQ, substance abuse, and mental health problems. This creates opportunities in a little-known area of practice, correctional psychology.

Correctional Psychology: Prisons have become the "treatment centers of last resort" in our current society. There are now four times more prisoners in 24-hour mental-health facilities within prisons than there are in all the state hospitals in the United States. More than 115,000 prisoners are on psychotropic medication. The largest majority of federal and state prisoners have approximately an 8th grade education, a 4th to 6th grade reading level, and significant substance abuse problems. This multi-problem population is cared for quite out of sight of mainstream psychology. There are employment, research, and program development opportunities here. What really works for persons with modest developmental delays in

managing their substance use? Can materials in a sex offender treatment program be modified to be accessible to prisoners with significant reading and language problems? Would modification of court and probation documents, to simplify them conceptually, result in greater compliance and reduce probation violations? What works in preventing recidivism? Finally, what treatments within the prisons are actually effective? As state budgets become deformed to the point where the prisons often get more funds than the state universities, these are crucial public policy questions.

Civil Legal Practice: This area involves questions of employment discrimination, sexual harassment in the workplace, personal injury and the emotional effects thereof, workplace stress, and alternative dispute resolution. In this area psychologists can do: evaluation of individuals who allege emotional damages from workplace or personal injury events; consultation to businesses about the emotional climate of their workplace; and mediation and judgment in attempts to resolve disputes before they reach formal court proceedings. This area probably requires a mind-set shift for psychologists, as it requires more “business creation” than the profession has been used to, more personal marketing, and contact development. It can provide both significant income and very interesting psychological questions.

Expert Witness Practice: Many psychologists have particular areas of academic expertise, whether it is evaluation of sex offenders, the consequences of trauma, or how treatment of blended families should occur, etc. There are often calls from attorneys to help educate a court or a jury on these issues. Expert witness work can become the unfortunate “battle of experts.” It can also be higher-minded than that. Psychologists can often ask to testify only about scientific knowledge in a particular academic area, providing a context for judge or jury to evaluate testimony. One can, for example, testify about what is known about the police interrogation as a social-psychological situation of conformity pressure—and allow the judge or jury to decide whether those factors influenced the current case.

Special Education Law: What does this child need? What is the school district obligated to provide? What will work? How do we know? With school systems typically spending from 16-25% of their budgets on special education services—and yet, some 48% of VT prisoners, for example, were recipients of special education services—this area is ripe for examination of what benefits individuals and communities. It is up for public policy examination. Are there more effective ways of dealing with people for whom academics are difficult? Should we be looking at a significant investment in apprenticeship programs as they do in Germany—rather than trying to make the student fit a traditional academic mold? There are opportunities here in consultation, program development, program evaluation, and creative community response. After all, Dr. Dennis Littky, who created many effective alternative programs in the Winchester NH school system is a clinical psychologist who was trained at University of Michigan. Psychology has much to offer in this area.

Personnel Selection: This is an oft-ignored area. Psychologists in this area typically aid in the screening of potential applicants for jobs which require certain personal characteristics. In particular, screening of security personnel is a major need in this post-September 11th world. Are persons stable enough to carry firearms? Is a little authority likely to go to people’s heads? How is this person likely to deal with stress and time pressure? Do they have substance abuse issues

that would interfere with performing the job? How truthful are they likely to be? There are consultation and contracting opportunities here with police agencies, security firms, and other government branches.

A Note on Mind-Set: A considerable portion of forensic psychology runs counter to psychology's traditional collaborative and consultative approach to problem-solving. The model of the legal system actually goes back to biblical times when contending factions would appoint "champions" to fight for their cause; the tribe or nation of the victorious champion would gain "spoils" as if they had won a military battle. David and Goliath come to mind. In the modern era, the lawyers are the "champions" of different legal positions; English common law believes that the clash of these champions in vigorous battle will produce the best approximation of truth. Whether this is or is not so would be the subject of another paper. However, in the context of psychological practice, it is necessary to learn how not to take personally an attorney's attempts to discredit your work; how to defend resolutely one's positions, practices, and conclusions; and how to avoid becoming compromised into saying more than one's data supports. The loyalty of the forensic psychologist is to the data and to the process of producing findings comfortably, not to any particular case outcome.

If one is to practice in this area, relative comfort with confrontation, the ability to deflect attack with humor, mental agility, and a willingness to continually update one's knowledge in the literature are required. There is interesting work out there, and the opportunity to influence important issues of public policy is possible, if this mind-set is one the psychologist can grow comfortable with. There are surprising opportunities to help people. My greatest satisfactions in this area of practice are when a judge turns to me and thanks me for making a person's personal story and behavior accessible to him. This can lead to a resolution of whatever the dispute is, and that actually has a good chance of helping a human being.

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