

# Forensic psychology: a case of multiple identities

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## Introduction

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This introductory essay explores the span of forensic psychology and examines the roles of forensic psychology practitioners. We adopt a broad definition for forensic psychology as witnessed by the topics included in the handbook. However, we argue that the term forensic psychologist is unhelpful and potentially misleading as no one individual can hope to have the breadth and depth of knowledge included within this volume. Rather we think that there are a family of settings within which forensic psychology is applied and that context is critical to limiting claims of expertise.

When considering the development of methods, theories and practice of an emergent forensic psychology most authorities locate its modern origins in Europe during the late nineteenth and early twentieth centuries (Gudjonsson and Haward 1998; Wrightsman and Fulero 2005; Weiner and Hess 2006). The Leipzig experimental laboratory of William Wundt is usually considered the starting point. Students influenced by this approach included Cattell, who conducted early experiments on witness testimony in the USA, as did Binet in France, Stern in Germany (Bartol and Bartol 1987) and Santamaria in Spain (Prieto *et al.* 2000). Munsterberg, a student of Wundt, was invited by William James to establish a laboratory at Harvard in 1892. Interestingly, Munsterberg attempted to apply experimental principles to many areas including work, education and the arts, as well as law.

Theoretical ideas were also being expounded by Freud, who offered models to explain psychopathological thinking as causes of criminality, and Goddard (1915), who suggested that causes of crime lay in 'mental deficiency', which was associated with intellectual and emotional incapacity.

European psychologists applied this knowledge by appearing in court to present details of experimental observations on suggestibility and errors in

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recall (the first American psychologist appeared in court in 1921). Other early work saw interventions in juvenile delinquency: for example, Grace Fernald worked with psychiatrist William Healy in Chicago to establish the first clinic designed to diagnose 'problem' children, with Healy publishing *Honesty: A Study of the Causes and Treatment of Dishonesty in Children* in 1915 (Bartol and Bartol 1987).

The boundaries of a discipline of forensic psychology were also being charted in the United States. Burt produced a legal psychology text in 1931 and Toch's edited collection on the psychology of crime appeared in 1961. In the UK Haward wrote the first review paper on legal psychology in 1961, with his textbook entitled *Forensic Psychology* being published in 1981.

The 1976 volume of the *Annual Review of Psychology* saw Tapp's paper examining the forensic psychology literature, which was updated by Monahan and Loftus in 1982. Their analysis suggested that psychology's contributions to understanding and predicting legal phenomena clustered in three domains: validity of assumptions underlying substantive law (e.g. competence, deterrence); clarifying the nature of formal legal processes (e.g. roles of judges, jurors, defendants and process components such as evidence, procedures and decision rules); mapping the contours of the informal legal system in which decision makers act (criminal justice system, mental health system). They drew attention to a number of recurring themes: a divergence between theory testing and theory generating research (and they argue a place for both approaches); problems of the external validity of laboratory-based simulations and analogue research, concluding there is little value in research that has low or poor ecological validity employing unrealistic scenarios; the growing influence of psychology on the law. They were critical of the disjunction between the legal topics that psychologists study and the importance to law of these topics. For example, much research effort addresses crime and criminals yet less than 10% of law courses concern criminal law. Much effort addresses decision making in trials yet 97% of criminal convictions are negotiated guilty pleas. (A point also made by Carson (2003, p. 23) in the UK context). They suggest that one reason for the skew is the diet of crime and courtroom dramas in the media, which may operate as a heuristic bias in perception of the scope of the law. They pointed out the virtual non-existence of psychological research into tort or tax law.

Kagehiro and Laufer (1992) undertook an informal content analysis of journals publishing psycholegal research and reported that about one-third of articles dealt with either expert witnessing, jury decision making or eye-witness testimony.

During the next fifteen years a slew of textbooks and handbooks appeared, providing both general coverage such as Carson *et al.*'s (2007), which included topics such as predicting violence, identification evidence, jury decision making, contested evidence, impulsivity and offender reasoning, and more focused and specialist topics such as those appearing in the Wiley series on the psychology of crime, policing and law (Ainsworth (1995) on psychology and policing; Jackson and Bekerian (1997) on offender profiling; and Dent and Flin (1992) on child witnesses). Other texts focused more particularly on crime, e.g. Bekerian and Levey (2005) who recognize that any mainstream psychological theories and methods are relevant to the commission or investigation of crime or the assessment and treatment of offenders. Harrower (1998) proposes that our understanding of crime comes from: developmental psychology, concerned as it is with the social influences and intellectual development throughout the lifespan which may impact on offending behaviour; social psychology, which looks at attitudes, group processes and conformity as contributing to a cycle of offending; biological psychology, which draws on genetic influences that might lead to offending behaviour.

Notwithstanding this expansion, an informal survey conducted by the present authors of articles appearing in *Legal and Criminological Psychology* (1999–2008) and *Law and Human Behaviour* (1999–2005) reveal the continued absence of studies investigating non-criminal aspects of law. The bulk of papers still address legal process issues, with research into juries dominating in the American journal (a fifth of all papers) and research into witnesses and interviewing dominating the British journal.

Thus in these eclectic origins we see legacy traces of different traditions influencing the emergent and potentially divergent pathways of forensic psychology, namely: methods deriving from both experimental research and clinical assessment; early appearance as expert witnesses associated with controversy, e.g. Schrenck-Notzing's retroactive memory falsification; contribution to police stationhouse, courtroom and prison; involvement in and of embryonic developmental, social and occupational psychologies; ideas drawn from psychoanalytic and constitutional theories of criminality; practice and research roles.

With the growing expansion of topics, Carson (2003, p. 1) asks the question whether we should be considering psychology and law as a subdiscipline (i.e. of either of the respective core subjects), an interdisciplinary collaboration (between the two) or as a new integrated project (of law and psychology). Alongside the extended range of topics included within forensic psychology there has also been a functional separation. For example, Bartol and Bartol

(2008) took another approach and subdivided their textbook into areas of subspecialisms: police psychology, criminal psychology, correctional psychology, victimology and psychology of the courts. They identified up to sixteen different locations which constitute work settings for forensic psychology practitioners.

So whilst forensic psychology has emerged as an identifiable subdiscipline within psychology, this has been conflated with discussions about the writ of the psychologists who are active within this field. In this chapter we will attempt to delineate and separate these two.

**Definitions: forensic psychology**

In table 1 sample definitions are given from various authors differentiating attempts to delineate the subject matter, and table 2 the practical application of forensic psychology.

Brigham (1999) concluded that there are two types of definitions. The first is a broad definition such as that provided by Monahan and Loftus (1982). They suggest that all branches of the science of psychology may be considered as potentially having some application to the legal domain. In contrast, Blackburn (1993) describes forensic psychology as psychology applied to the courts. It is unclear who are entitled to call themselves forensic psychologists. Otto and Heilbrun (2002) indicate that there is a relatively small group of forensic psychology specialists, but a much larger group of psychologists who provide occasional services or do so in a circumscribed area. Some are accidental experts who provide services unexpectedly. They argue for an emergent forensic psychological assessment as a subspecialism. They base this on their estimation that literally hundreds of thousands of forensic evaluations conducted by psychologists take place in prison and mental health settings as well as non- correctional settings. Thus they suggest that a clear treatment focus is absent within the specialty area of clinical forensic psychology, whereas there has been a rapid growth in assessment methodologies. In the UK the move to integrate provision of offender mental health services within the mainstream of health provisions may further reinforce a view of forensic psychology as a clinical subspecialism. However, most forensic psychology texts now incorporate the wider remit of psychological theories as they apply to the justice system rather than exclusively to the courts, as indeed do we, as evidenced by the topics for inclusion within this handbook.

5 Forensic psychology: a case of multiple identities

Table 1 Definitions of forensic psychology

Authors	Definition
Toch 1961	Science that studies the process whereby justice is arrived at ... examines the people who take part in the process and looks at their purposes, motives, thoughts and feelings
Monahan and Loftus 1982	All psychology is relevant to substantive law since any aspect of human behaviour may be the subject of legal regulation
Gudjonsson and Haward 1998	That branch of applied psychology which is concerned with the collection, examination and presentation of evidence for judicial purposes
Bartol and Bartol 2008	A research endeavour that examines aspects of human behaviour directly related to legal processes (e.g. eyewitness memory and testimony, jury decision making or criminal behaviour) and the professional practice of psychology within or in consultation with a legal system that encompasses both criminal and civil law and the numerous areas where they interact. Therefore FP refers broadly to the production and application of psychological knowledge to the civil and criminal justice systems
Goldstein 2003	Involves the application of psychological research theory and practice and traditional and specialized methodology to provide information relevant to a legal question
Wrightsman and Fulero 2005	Any application of psychological research methods theory and practice to a task faced by the legal system and encompasses and includes psychologists of all sorts ... is a profession as well as a field of study ... participates in the legal system ... has rich, varied and extensive sources of information
Howitt 2006	Forensic Psychology is literally psychology applied to the courts ...
Needs 2008	Forensic Psychology is the application of methods, theories and findings from a wide range of areas within psychology to the contexts and concerns of criminal and civil justice. The settings in which forensic psychologists work include the police, the courts, prisons, secure units and hospitals, probation and other community based services and academia

Table 2 Definitions of forensic psychology practice

Blackburn 1993	The provision of psychological information for the purposes of facilitating a legal decision
Heilbrun 2000	The professional practice by psychologists within the area of clinical psychology, counselling psychology, neuropsychology and school psychology when they are engaged regularly as experts and represent themselves as such, in an activity primarily intended to provide professional psychological expertise to the judicial system
APA 2008	‘Forensic practitioner’ refers to a psychologist when engaged in the practise of forensic psychology ... such professional conduct is considered forensic from the time the practitioner ... provides expertise on an exclusively psycho-legal issue

## The psychologist as forensic practitioner

Brigham (1999, p. 280) asks why does any of this matter? His own answer is that such confusion leaves professionals in a ‘definitional limbo’, which is uncomfortable for them and confusing for the courts. Moreover, clarity of identity was important when the American Academy of Forensic Psychology petitioned the American Psychological Association for the discipline to be certified as a speciality because this was critical for the credentialing process. Otto and Heilbrun (2002, p. 5) argue that forensic psychology is at a cross-roads and needs to clearly distinguish practice, educate legal consumers and devote more attention to treatment issues. Carson (2003) writes that insufficient attention has been paid to the structural and thematic issues within the field and, as such, important opportunities are lost for developing relationships between researchers and practitioners, interfacing between lawyers and psychologists and growing organizational arrangements nationally and internationally.

Wrightsmen and Fulero (2005) note that there is controversy as to who actually is a forensic psychologist and how to train to become one, a problem that they predict will increase as more students seek training. This is only a problem if there is a unitary and all embracing term, forensic psychologist, but is not an issue if there are agreed and recognized specialisms. Fulero and Wrightsmen are of the view that forensic psychology encompasses and includes psychologists of all sorts of training and orientation (i.e. clinical, experimental, social and developmental). This suggests that psychologists who may have as one focus of their concerns examining behaviour in a forensic setting have a claim to be called forensic psychologists rather than seek an identity as a clinical or social psychologist.

Given its wider scope, Gudjonsson and Haward (1998, p. 67) propose that forensic psychology’s corpus of knowledge is now too great to be claimed in its entirety by one person. Needs (2008) suggests that some commentators believe the breadth of settings and client groups is excessive and unsustainable, and attempts at integration smack of political manoeuvring, leaving practitioners vulnerable. He is of the view that no one individual could be an expert in all or even many of forensic psychology’s potentially relevant areas.

Another parameter embedded in these practice definitions is the roles that may be played, with one obvious differentiation being whether the individual in question is an academic researcher or a practitioner or both. Rice (1997)

discusses the scientist–practitioner split in psychology generally, but his arguments hold for forensic psychology in particular. He charts the emergence of psychology as a profession as well as a science. He discusses the ‘project’ of being recognized as a profession, which requires gaining control over a specialized body of knowledge providing the intellectual basis for practice and exclusive rights to control training and accreditation.

Take, for example, the psychologist as expert witness. Gudjonsson and Haward (1998, p. 67) distinguish subspecialities within the field of expert witnesses, which have specific terminology and skill sets associated with the role to be played. These are:

1. clinical assessment, in which it is the mental state of a person involved in some legal proceedings that is central and involves a personal interaction and some form of formal assessment using objective methods;
2. experimental, in which there is no direct contact with the parties involved in a case but rather a series of studies may be performed to substantiate the testimony of one of the parties;
3. actuarial, where evidence is presented on the probability or likelihood of some event, as in calculations of insurance compensation as a result of personal loss or injury;
4. advisory, when the forensic psychologist may be asked to examine evidence from another expert or provide pointers to counsel when another expert is giving evidence in court.

## Professional developments, training and accreditation

In 1977, the British Psychological Society established a Division of Criminological and Legal Psychology. The majority of members of this Division were clinical psychologists with another proportion being academic psychologists. There was no training route for practitioners in forensic arenas. Most practitioners were clinical psychologists who specialized in this area.

At the time the Division was created, Lionel Haward was vehement that the founders should not use the term forensic psychology, arguing that some degree of separation should be maintained between practitioners and academics on the one hand, and on the other hand between those who provided expertise for the courts and those who worked in other settings. All could be members of the Division (Gudjonsson and Haward 1998). Farrington (1999) notes that the naming of the new Division allowed for a broad inclusion of



psychologists working within a wider spectrum than just the purview of the courts, although in 1999, the name was changed to the Division of Forensic Psychology.

In the UK, there has been a major shift towards criminological psychology, with the majority of members of the Division of Forensic Psychology being prison-based psychologists, and a substantial proportion of these being trainee psychologists in the prison service. All full members of the Division are now required to have training in forensic psychology, and clinical psychologists cannot automatically become full members. This training is very much focused on prison service work.

If the curriculum of British courses in forensic psychology is examined there is an emphasis on the second of Monahan and Loftus' themes, legal processes: with one out of five areas of knowledge being devoted to the application of psychology to processes in the justice system and another looking at roles within the criminal justice service such as victims and offenders. Two areas are devoted to 'competency in communicating information' and 'undertaking research' (Needs 2008). Thus over the last ten to fifteen years the focus of British 'forensic' psychology has been narrowed to mean 'criminological' and more specifically 'penal' psychology in terms of the arenas of practice. This has also been reinforced by a rapid growth in the number of trainee forensic psychologists within the prison system who are employed to deliver or oversee the delivery of manualized, group-based programmes.

Thus during the early years, forensic practice in the UK was not seen as a distinct specialism per se with its own training pathway, but as a domain of psychological practice that was open to a range of different types of psychologists who might offer their expertise to the judicial system in any number of ways and through a diverse set of skills and expert knowledge.

However, the situation in the UK has gradually changed and a rather narrow training route now leads to the general title 'Forensic Psychologist'. This route does not require any pre-qualifications in clinical or counselling psychology and has become largely populated by trainees who are employed in the prison service. The overall membership of the Division has also shifted towards a preponderance of psychologists working in the penal system and in crime. At the time of writing, the voluntary system of regulation of psychologists by the British Psychological Society (BPS) was being relinquished for a statutory system of legally protecting certain titles, including 'Forensic Psychologist'.

In the United States, the American Psychology–Law Society (AP-LS) voted for a narrow definition as a clinical speciality in 1998. Two years later, the



American Psychological Association (APA) designated forensic psychology as a speciality (clinical, counselling and school psychology being the other specialities so designated). With the growth in applied psychology and the development of a number of domains of practice has come the desire for regulation, certification or licensing of psychologists. Some of these attempts define the required qualifications; others protect a number of titles; and others prescribe a number of years of university education either with or without a period of supervised practice. Such regulation has a primary aim of protecting the public from unqualified or unethical practitioners.

By 1977 psychologists required a licence to practise. Licensing is conducted at state level. There is an Association of State and Provincial Psychology Boards (ASPPB), which is an umbrella organization for those authorities throughout the USA and Canada who administer licensing and certification. There is now an agreed national licensing examination, the Examination for the Practice of Professional Psychology, which has been adopted across the United States and Canada (Rehm and DeMers 2006). The American Psychological Association accredits doctoral-level programmes in clinical psychology, counselling psychology and school psychology.

The American Board of Professional psychology now has a specialty certification in forensic psychology.

In Australia, psychologists working in the justice arena usually have clinical backgrounds (Priest 1994). During the 1980s Australian universities introduced courses that were entirely devoted to psychology as applied to the justice system. Forensic psychologists have to complete a minimum of six years' full-time university training plus further supervised practice.

While there is a wide range of practice across Europe in terms of regulation, there is now an agreed benchmark, the EuroPsy, which has been ratified by the psychological associations of thirty-four European countries. This requires at least five years of university education plus at least one year of supervised practice. This is a generic benchmark of the level expected for professional practice with later specialization into different areas such as psychotherapy. However, this benchmark does not have the force of a European law as such.

Given that all types of psychologists may be working in a forensic setting, it is questionable whether it makes sense to think of there being a common curriculum that could produce a generic 'forensic' psychologist. We suggest therefore that the term forensic psychologist be dropped, and if psychologists are working in a forensic setting it is their responsibility to ensure that they have the necessary competencies to practise competently and ethically. If psychologists wished to have their skills as practitioners in a forensic domain

then this would be a post-registration certification as in the model adopted in the United States.

To the extent that the term forensic psychologist actually seems unhelpful, in that it does not have an agreed meaning, nor is it clear what knowledge base such a label conveys and its future is uncertain, we propose that a definitional framework might enable some conceptual differentiation between types subsumed by the term.

### A definitional framework for forensic psychologists

Our definitional framework would clarify the type of activity that may be subsumed within forensic psychology and profiles different types of individuals working in the field. We employ the device of a mapping sentence to do this (see chapter 8.2, this volume). A mapping sentence lays out the critical domains of a definitional system. We have identified four such domains:

- A. roles (e.g. Gudjonsson and Haward 1998);
- B. disciplinary focus, i.e. having as a direct concern a forensic focus or using a forensic focus as one (of several) areas of interest (Carson 2003), discipline based, drawing from all aspects of psychology (Monahan and Loftus 1982) or subdisciplinary, meaning drawing on a narrower specified aspect (Gudjonsson and Haward 1998);
- C. locations of activity (Needs 2008; Bekerian and Levey 2005; Bartol and Bartol 2008);
- D. the volume of time and focus on forensic psychology (Otto and Heilbrun 2002; Bekerian and Levey 2005).

By drawing a profile across these domains we can identify, for example, a clinical practitioner offering expert services to the courts as their dominant activity (i.e.  $a_2b_2c_5d_3$ ). This profile would give such a person a score of 12, representing the narrowest definition allowing a practitioner to provide expert testimony in court. A lawyer conducting analogue research into police decision making out of academic interest, using a sample of undergraduates, would have a score of 4 represented by a profile  $a_1b_1c_1d_1$ , which would be the lowest threshold for participating in the widest remit of a forensic psychology as suggested by Carson (2003). Other profiles would indicate the forensic activity by locale and specify the type of psychologist, i.e. those working in prisons or correctional institutions, police or hospital settings as an academic researcher or a professional practitioner. By considering a family of designations it can be made clearer as to what the individual's training and role qualifies them to do.