**Chapter 1 Introduction to Forensic Psychology**

**Learning Objectives**

1.1 Define forensic psychology.

1.2 Outline the history of forensic psychology.

1.3 Describe the roles and responsibilities of forensic psychologists.

1.4 Outline some of the professional issues faced by forensic psychologists.

1.5 Compare and contrast the fields of psychology and law.

1.6 Outline the training opportunities for students in forensic psychology.

**Chapter Outline**

**Defining Forensic Psychology**

*Learning Objective 1.1 Define forensic psychology.*

* Forensic psychology encompasses both civil and criminal sides of the justice system as well as both clinical and experimental psychology.
* Professionals who work in forensic psychology come from a wide range of graduate and professional backgrounds (e.g., direct services, researchers, etc.).
* Definitions of forensic psychology include both narrow and broad conceptualizations; this book adopts a broad definition: “***Forensic psychology*** *is the practice of psychology (defined to include research as well as direct and indirect service delivery and consultation) within or in conjunction with either or both sides of the legal system—criminal and civil.”*

**History of Forensic Psychology**

*Learning Objective 1.2 Outline the history of forensic psychology.*

* The roots of modern day forensic psychology and law were established in early part of 20th Century and include prominent figures such as Hugo Munsterberg (*On the Witness Stand*, 1908) and John Wigmore.
* Another early historical event was the publication, in the prestigious journal *Psychological Bulletin,* of a series of articles by Guy Whipple that in part related memory and the accounts of witnesses.
* *Brown v. Board of Education* (1954) marked the potential of using psychological research to inform courts about the negative consequences of social policies and practices.
* *In the United States and Canada, Brandeis briefs (written reports informing the court of relevant psychological research) have been utilized in court decisions. One such brief was prepared by the Canadian Psychological Association regarding the causes of criminal behaviour and the types of treatments that reduce the likelihood of reoffending.*
* The modern era of forensic psychology traces to the late 1960s when two psychologists, Jay Ziskin and Eric Dreikurs, began discussions that led to the creation of forensic psychology’s first professional association (and eventually, to the development of the American Psychology-Law Society).

**Roles and Responsibilities of the Forensic Psychologist**

*Learning Objective 1.3 Describe the roles and responsibilities of forensic psychologists.*

* Roles for forensic psychologists can be broadly divided into research and practice, though there is typically overlap between the two. Roles and tasks can include, but are not limited to:
  + ***Trial consultant:*** assist legal professionals in preparing their case, including case strategy, preparing witnesses, and jury selection. Jury consultants are more limited in Canada.
  + ***Expert witness:*** testify about “opinions based on specialized knowledge that he/she possesses,” including mental health and research in areas relating to psychology and the law. The requirements for allowing expert testimony are similar in the United States and Canada, and the determination of expert status is up to the judge.
  + ***Evaluator***: evaluate a defendant with respect to fitness to stand trial, mental state at the time of the offense, and dangerousness.
  + ***Treatment provider***: provide treatment, whether in forensic or psychiatric hospitals, community health centres, or private practices (see below for correctional treatment).
  + ***Researcher***: conduct studies on issues relevant to psychology and the law, and often work in a university setting or research institute.
  + ***Academic***: teach, research, and train graduate students.
  + ***Correctional psychologist***: employed within correctional facilities and acts as a clinician in providing treatment and completing assessments of inmates.

**Professional Issues**

*Learning Objective 1.4 Outline some of the professional issues faced by forensic psychologists.*

**Licensure and Registration of Psychologists**

* Each province has its own laws for practicing psychologists, and a psychologist must be licensed to practice psychology.
* The Criminal Code now allows for qualified individuals (such as psychologists) to conduct assessments for court purposes, which is a change from requiring psychiatric assessment.
* Regulatory boards are set up in each province to license psychologists, and requirements differ by province. All require an advanced degree (MA or PhD), a number of hours of supervised clinical work, and passing the provincial licensing exam.
* The regulatory boards are also responsible for protecting the public by enforcing codes of conduct (ethical and professional).

**Ethical Issues in the Various Roles of the Forensic Psychologist**

* Two most common ethical issues arising for psychologists:
  + *Multiple Roles*
    - Psychologists can have multiple roles, but ethics requires that the psychologist not be act in several capacities with one student/client. For example, it would not be ethical to conduct research with one’s own clients. The role of researcher and clinician need to be separate.
  + *Confidentiality and Privilege*
    - Regardless of the role of the psychologist, confidentiality is paramount. Information that is given to a psychologist by a client or participant cannot be disclosed, unless the information is of the type that the psychologist is legally bound to report (e.g. suspected child abuse). Clients/participants must know about the limits to confidentiality prior to engaging in treatment/research.

**Professional Associations and Publications**

* Several professional groups represent psychology and law, including the American Psychology-Law Society (APLS; Division 41 of the American Psychological Association), the American Board of Forensic Psychology (ABFP), the European Association of Psychology and Law (EAPL), and the Australian & New Zealand Association for Psychiatry, Psychology & the Law (ANZAPPL).
* *APLS member statistics (2006):*Of more than 2100 members and fellows, nearly two-thirds are male, but there are indications that this imbalance will shift in the next decade as 78% of the over 600 student members of APLS are female. The majority work in applied settings. Minorities are underrepresented (less than 5%).
* *Journals***:** There are also many journals that are entirely devoted to forensic psychology topics, including *Law and Human Behavior*, *Criminal Behavior and Mental Health*; *Behavioral Sciences & the Law*; *Psychology, Public Policy, and the Law;* and *Legal and Criminological Psychology.*

**Differences Between Psychology and Law**

*Learning Objective 1.5 Compare and contrast the fields of psychology and law.*

* One of the difficulties faced by those in forensic psychology centers on fundamental differences in how the two disciplines approach their respective fields. Psychology is grounded in theory and empirical research to test those theories. The legal system, on the other hand, is ultimately concerned with the individual case.
* There are two basic models of justice in Western societies.
  + In *Inquisitorial models* (used in a number of European countries) a judge or magistrate takes an active role in determining the facts of a case.
  + American and Canadian law are based on an *adversarial model* of justice. In this model, a judge is considered to be an impartial referee between two opposing parties. Once both sides present the evidence, the judge or jury acts as an impartial and passive fact finder, reaching a decision based in theory on an objective and unbiased review of the evidence presented in court.
* The adversarial system presents unique difficulties for psychologists who are often hired by one side or the other in a criminal case or civil dispute to conduct a psychological evaluation of an individual.

**Haney’s Taxonomy**

* *Haney’s Taxonomy* (1980): Haney discusses many of the conflicts that arise between law and forensic psychology and conceptualized the complexity and diversity of roles for psychologists in the legal system, suggesting a three-fold taxonomy:
  + *Psychology in the law* refers to the “explicit and conventional use of psychology by lawyers in the legal process” (p. 153). This relationship accounts for the most common role of psychologists involved in legal issues, since it encompasses the activities of psychologists who conduct court-ordered evaluations or who consult with lawyers on legal issues.
  + *Psychology and law* involves the use of “psychological principles to analyze and examine the legal system” (p. 154). Research that follows from this relationship examines the assumptions that the law makes about behaviour.
  + *Psychology of law* focuses on the psychological study of issues such as why people need the law and why people obey the law, and falls into two major categories: 1) psychologists can study the origins and existence of law, in terms of the psychological functions that law serves; 2) psychologists can study how laws operate as a determinant of behaviour.

**Training in Forensic Psychology**

*Learning Objective 1.6 Outline the training opportunities for students in forensic psychology.*

* When the field of psychology and law began to expand in the 1970s, the majority of psychologists who conducted research or engaged in practice were not specifically trained in psychology and law.
* This began to change with the creation of the first psychology and law graduate program in the United States, when the University of Nebraska began its program in 1973. Since then, programs have been established in many other universities in the United States, Canada, Europe, Australia, and elsewhere in the world.
* In most states, a Ph.D. or PsyD is required for forensic psychology practice. A Ph.D. degree in clinical psychology is typically based on a combination of training in research and practice, whereas in other areas of psychology (e.g., social, cognitive) it is primarily a research-based degree. A PsyD (or Doctor of Psychology) program places greater emphasis on the practice of psychology and less emphasis on independent research.
* *Graduate programs***.** Some graduate programs in forensic psychology adopt the scientist-practitioner model of clinical training, offering basic research and practical training in clinical psychology but with an emphasis on forensic applications. Other programs are non-clinical in nature, focusing training on more traditional fields of psychology. A few programs offer joint-degree programs, with students obtaining a Ph.D. and a law degree.
* The graduate program at Simon Fraser University (SFU: Burnaby, British Columbia) provides training in all three interest areas (clinical, experimental, legal).

**Suggested Answers to Discussion Questions**

1. What are the implications of the lack of diversity among professionals in forensic psychology?

* While minority groups are overrepresented in the correctional system (e.g. Aboriginal people in Canada make up 22% of offenders, while only accounting for 4% of the Canadian population, as a whole), there are very few Aboriginal psychologists in Canada, and even fewer who are in the correctional system.
* In fact, only 10% of forensic psychologists are members of minority groups.
* This lack of diversity could be problematic in introducing cultural biases in assessment, lack of culturally sensitive treatment programs within the institutions, and lessened understanding of factors relating to risk for recidivism.

2. Why might psychologists working under adversarial models of justice experience difficulty carrying out ethically competent practice?

* Because the psychologist is typically hired by one side or the other, there is the potential for the individual being evaluated to see the psychologist as less than objective, which may be more problematic when the psychologist is hired by the Crown prosecutor. There may also be pressure to advocate for one side or the other.
* Haney (1980) described many conflicts that can occur between psychology and the law, and further created a taxonomy describing the different ways that psychology and the law interact.
  + Psychology in the law involves the use of psychological

3. List and describe some of the historical underpinnings of the field of forensic psychology. How did the field develop to look as it does today?

* Hugo Munsterberg published *On the Witness Stand* in 1908, reviewing the research on psychology in the legal system, including topics such as eyewitness testimony and false confessions, arguing for a greater use of psychological research within the legal system. This publication was followed by criticism by Wigmore (1909) who suggested that psychological testimony should not be admitted in the courts. He did, however, suggest that psychology could offer help to the legal system.
* In 1909, Louis Brandeis submitted the first brief outlining social science research which was instrumental in the decision made by the court. Briefs like this one came to be known as Brandeis briefs.
* Also in 1909, Guy Whipple published a series of articles in *Psychological Bulletin* examining the research on observers’ memory of events.
* *Brown v. Board of Education (1954)*: Psychologists wrote a brief describing the negative effects of segregation in schools, which was cited in the Supreme Court Decision.
* Modern forensic psychology was influenced by Ziskin and Dreikurs, whose discussions in the 1960’s led to the development of the American Psychology-Law Society, which publishes a major journal (*Law and Human Behavior*), and created professional guidelines for the practice of forensic psychology.

4. Why was *Brown v. Board of Education (1954)* a pivotal case in the field of psychology generally? How did it shape the intersection of psychology and the law?

* *Brown v. Board of Education (1954)* is the first instance where a brief describing social science research was cited in a Supreme Court decision, paving the way for psychology to interact with the legal system. This use of psychological research also showed the “potential of using psychological research to inform courts about the negative consequences of social policies and practices” (p. 8).

5. Select two different roles of a forensic psychologist and describe an ethical issue that could arise in each of these roles.

* Evaluator/Treatment Provider
  + Often, the person being evaluated/treated is not the actual client (this is usually the attorney, or the court)
  + Confidentiality for the person being evaluate/treated cannot be considered, given that the assessment/treatment is used in court proceedings.
  + There is also the issue of bias: It is important for the psychologist to be objective (e.g. not favor one side over the other), in spite of being contracted by either the prosecution or the defense.
* Expert Witness
  + The expert witness also has to consider the issue of objectivity, giving information to the court to assist in making the judgment.
* Researcher
  + Psychological researchers are required to follow ethical guidelines (in Canada, this is set out by the Tricouncil Guidelines for Ethical Research).
  + Important issues include risk of harm to participants, ensuring voluntary participation, and allowing participant withdrawal without negative consequences.
* Academic
  + Academic psychologists must be aware of the issues of multiple roles with students, power differentials that are inherent in these relationships, and giving appropriate credit for academic work/publication.
* Trial Consultant
  + Research must be conducted on appropriate samples, results must be reported honestly, and witnesses should not be tainted during preparation. As well, these psychologists must only consult within their area of expertise, and avoid affecting the outcome of a case.
* Correctional Psychologist
  + Often performing multiple roles (treatment and discipline of offenders).

6. Describe some of the difficulties that could arise if a forensic psychologist who has been treating an individual agrees to also perform a forensic evaluation for the courts on that same individual.

* The issue of engaging in multiple roles with one individual is a problem for forensic psychologists. In this particular instance, confidentiality becomes an issue, as does bias/objectivity. Obviously, the psychologist will not be able to maintain confidentiality, given that they will be reporting the results of the evaluation to the courts. However, the defendant needs to be made aware of the lack of confidentiality, and the reason for it. The psychologist needs to still respect privacy, and only give the relevant information to the appropriate parties (e.g. judge, defence, prosecution). In terms of bias, the psychologist needs to remain objective, regardless of which party is contracting their services.

**Suggested Activities**

1. Review Bersoff et al. (1997) for a discussion of models of graduate training in forensic psychology. Think about the model that you might like to pursue if you decide to study in the field of forensic psychology. Look at the various Canadian graduate programs in forensic psychology. Which programs interest you? What are the requirements for entrance?

2. Reenact a debate in class between Munsterberg and Wigmore regarding the psychological factors that can affect a trial’s outcome. Students may also do a brief literature review (including a review of the Juries & Decision-making chapter in this test) to compare knowledge today compared to his suppositions then.

**Key Terms**

confidentiality, p. 15

expert witness, p. 9

forensic psychology, p. 4

trial consultant, p. 9

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**Suggested Readings and Websites**

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American Board of Forensic Psychology: www.abfp.com.

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American Psychology-Law Society: www.ap-ls.org.

Canadian Psychological Association: www.cpa.ca.

International Association of Forensic Mental Health Services: www. iafmhs.org.