

# **Psychology and Law ● IAAP Division 10**

## **Newsletter : October 2016**

### **1. Greetings from the committee**

Dear Division 10 Members,

We hope that you have had a productive, fruitful year. The committee for the Division has met twice this year, in various combinations: firstly, in July, during the conference of the European Association of Psychology and Law, and later that same month during the ICP conference.

Please do not hesitate to contact us if you have any questions or suggestions.

### **2. Newsletter themes**

We wrote earlier that we will attempt to explore Psychology and Law in different countries in our newsletter, and we hope to do this before the end of this year, in a further newsletter. However, for the moment we would like to report on the special symposium we hosted at the ICP. The symposium was well attended, and stimulated a considerable amount of conversation during and after the symposium itself. We include the powerpoint slides at the end of this newsletter. We hope that you find the information as interesting as our delegates did.

### **3. Upcoming conferences**

#### **3.1 American Psychology-Law Society (APLS) conference**

The annual conference for the American Psychology-Law Society will be hosted in Seattle, United States of America, from 16 - 18 March 2017. Abstract submissions are closed, but it is still possible to register for the conference. Please find more information here: <http://ap-ls.wildapricot.org/APLS2017>

### **3.2 29th International Congress of Applied Psychology**

June 25 - 30, 2018: Montreal, Canada. This is the four yearly conference of our parent association (IAAP), and we will have our Business Meeting there. It is important to plan well ahead for this conference. The conference is already open for submissions.

<http://icap2018.com/submissions>

### **3.3 Australian & New Zealand Association of Psychiatry, Psychology and Law.**

24-26 November 2016, Auckland, New Zealand. The theme of this year's Congress is 'The Perils of Belief: Contending with the Consequences of Cults, Conspiracy and Contagion'.

Registrations are now open. Please see <http://anzappl.org/annual-congress/> for more information.

## **4. Miscellaneous**

If you have any information, news, or conferences that you would like to advertise in the newsletter, then please send it to Alicia Nortje ([Alicia.nortje@gmail.com](mailto:Alicia.nortje@gmail.com)). We aim to send the next newsletter before the end of the year.



## MORAL AGENTS

- ❑ All psychologists are moral agents
- ❑ Constantly make decisions that can be
  - right or wrong, and/or
  - good or bad
- ❑ Forensic field very challenging for several reasons:



- Purpose, provisions and administration of some legislation controversial
- Stakes high
- ❖ Miscarriage of justice
- Emotional
- In public eye
- ❖ Reputation.



## MORAL DECISIONS POOR

- ❑ Reasons
  - Personal values we use as heuristics are not always appropriate
  - Self interests
  - Emotions
  - Contextual factors



- Biological factors
- Fast and frugal
- ❑ Therefore not as rational and conscious as we think
- ❑ Cannot teach people to be ethical, but



- ❑ But can at least assist them to make decisions that are:
  - Fair
  - Defendable



## DEFENDABLE DECISION MAKING

### ❑ Requires

- Understanding of own moral values
- Understanding of their influence
- Moral sensitivity in professional context
- Small set of *appropriate* heuristics that we intuitively use in decision making

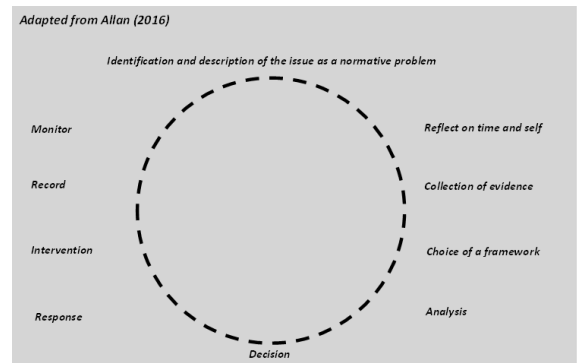


- Ethical principles
- Guidance to make just decisions based on overlapping:
  - ❖ Legal requirements
  - ✓ Natural justice
  - ❖ People's justice expectations
  - ✓ Psychological research



## MODEL

- ❑ Looking backwards, what is necessary to defend moral decisions
- ❑ That is demonstrate that they are fair



## TEACHING METHOD

- ❑ Used my understanding of how we make decision to develop a teaching method that will assist students to “learn” ethics and apply it



- ❑ Reading material
  - Philosophical
  - Ethical
- ❑ Reaction papers



#### ❑ Small and full group discussions of

- Vignettes
- Case studies
- ❖ PEFADRI



- ✓ Problem
- ✓ Evidence
- ✓ Framework
- ✓ Analysis – reasons for decision
- ✓ Decision – not right, but most defensible
- ✓ Response – those that might be affected
- ✓ Intervention



#### ❑ Initially: Understanding

- Own values and their influence
- Ethical principles
- ❖ What they involve
- ❖ How to apply them



#### ❑ Intermediary: Internalise knowledge and skills development

- Deeper understanding and discussions
- ❑ Finally: Application and feedback



## CONCLUSION

- ❑ Cannot teach people to be ethical
- ❑ Can
  - Help them develop insight
  - Introduce them to relevant information
  - Provide opportunities to integrate knowledge



- Provide opportunities to develop the necessary skills to make defensible decisions
- Provide a supportive and pleasant atmosphere to
  - ❖ Practice
  - ❖ Receive feedback





Ray Bull  
University of Derby  
United Kingdom

# 1. A beginning?

In the late 1970s (!!!) when I was an early career academic in London at one of the largest departments of psychology in the country, the Head of Department (at a full departmental meeting) asked for suggestions about whether our undergraduate curriculum needed any updating.

I put my hand up and then suggested that a new final year, optional module/course in 'Psychology and Law' (i.e. forensic psychology) would be a good idea.

In response to this several colleagues were negative, one of whom asked "Which other UK universities offer such a course?"; I replied "None"; to which he replied "Head, that's why we shouldn't".

However, the Head asked me to provide by the following meeting a written proposal, that was a few months later accepted.

## 2.

### Training

In the UK to become a qualified 'forensic psychologist' a person needs to complete:

- (i) a British Psychological Society (BPS)-accredited degree in psychology, that provides 'Graduate Basis for Chartered Membership', and
- (ii) a Health and Care Professions Council (HCPC)-approved postgraduate programme of training that is another step along the road leading eventually to registration as a forensic psychologist.

### 3.

Once a person has obtained an accredited Bachelor's degree in psychology, she/he will need to continue training and work towards registration with the 'Health and Caring Professions Council' (HCPC) and, in most cases, chartered membership of the British Psychological Society (BPS). This can be achieved by completing one of the following: either

(a) a BPS accredited Master's in Forensic Psychology, followed by a BPS Qualification in Forensic Psychology Stage 2 - this involves two years (full time) of supervised practice involving evidence of applying psychology in a variety of forensic settings;

or (b) an 'approved' Doctorate in Forensic Psychology.

Competition for such postgraduate training is strong. As well as a good Bachelor's degree, applicants also typically need evidence of good research skills plus relevant work experience, for example in a prison or within mental health services.

### 4.

#### Registration

Only by successfully registering with the 'Health and Caring Professions Council' (the statutory regulator) are people able to use the 'protected title' of "Forensic Psychologist" – and thus be able to 'hold themselves out as a forensic psychologist'.



5.

### Prospects

Due to the immense popularity in the UK of obtaining/studying for degrees in psychology, especially forensic psychology, an increasing number of UK universities offer postgraduate courses in forensic psychology.

In around the year 2,000 there were just a 'handful' of universities offering such postgraduate course but now there are **25**.

In light of this substantial expansion one might suppose that career prospects would be limited by the sheer number of people now successfully completing their postgraduate course in forensic psychology

– however, as far as I'm aware most forensic psychology postgraduands do obtain relevant employment in the prison /probation services and other organisations (some after completing a PhD, leading to university jobs).

6.

### The state of practice

In the UK Forensic psychology has been playing (and continues to play) a major role in devising, testing, and delivering evidence-based sessions/training/interventions within prisons (and to a lesser but growing extent in probation services).

Also, both in criminal and civil cases/proceedings courts have been increasingly willing to listen to expert evidence from forensic psychologists.

7.

### The state of research

Forensic psychology research in the UK is very buoyant. For example, every five years in the UK all universities' research achievements in all disciplines are assessed by a (fairly small) national panel for each discipline. For the first time, the most recent national panel for psychology had on it not one but two forensic psychologists.

It is difficult to offer an unbiased view of on which forensic psychology topics the UK is making (worldwide) the greatest contribution. However, others tell me that the investigative interviewing of victims, witnesses and suspects is one such topic. Other topics probably include (a) improving ways to detect truths/lies and (b) evidence-based interventions to reduce crime/re-offending.



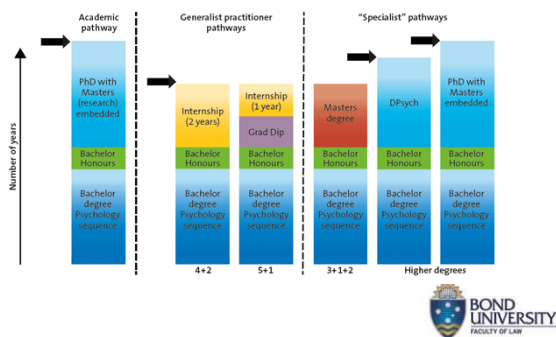
## Forensic Training in Australia

### Overview

- Current state of psychology training in Australia.
- Evolution of forensic psychology in Australia.
- Capabilities and guidelines for forensic training.
- Some challenges.



## AUS Current Psychology Pathways



## Area of Practice Endorsement

- Clinical neuropsychology
- Clinical psychology
- Community psychology
- Counselling psychology
- Educational and development psychology
- Forensic psychology
- Health psychology
- Organisational psychology
- Sport and exercise psychology



## Forensic Training Early 1990s



## Forensic Training 2000



## Forensic Training 2016



## Structure of Forensic Training in Australia

- Coursework.
- Placements.
- Research.

## APAC Core Capabilities and Attributes

- Knowledge of the discipline.
- Ethical, legal and professional matters.
- Psychological assessment and measurement.
- Intervention strategies.
- Research and evaluation.
- Communication and interpersonal relationships.



## Forensic College Course Approval Guidelines

Knowledge of the discipline:

- Legal and broader justice system issues.
- Rules of evidence.
- Competency in case law.
- Conflict-resolution, mediation, alternative dispute resolution, and therapeutic jurisprudence



## Forensic College Course Approval Guidelines

Knowledge of the discipline, specialist teaching in at least three:

1. Family Law and Child-Protection.
2. Criminal Law, including psychological and sociological theories of crime and antisocial.
3. Civil Litigation and Administrative Law.
4. Forensic neuropsychology.
5. Legal processes and procedures.



## Forensic College Course Approval Guidelines

Ethical, legal and professional matters

- Ethical issues in various forensic settings.
- Communicating ethical obligations.



## Forensic College Course Approval Guidelines

Psychological assessment and measurement

- Knowledge and skills training in risk assessment.
- Evaluation of malingering, faking good, impression management.
- Knowledge and skills training in forensic (investigative) interviewing.
- Skills training in a variety of forensic assessment methods.



## Forensic College Course Approval Guidelines

Skills training in evidence-based clinical assessment and intervention strategies:

- Mental disorders.
- Indigenous and CALD.
- Specific forensic populations.
- Mediation and dispute resolution.
- Populations vulnerable to becoming involved in legal proceedings.



## Forensic College Course Approval Guidelines

Research and evaluation:

- Legally informed psychological questions.
- Unique ethics in forensic settings.
- Communicate research findings in forensic settings.



## Forensic College Course Approval Guidelines

Communication and interpersonal relationships

- Providing expert evidence.
- Forensic consultancy.
- Psychologists role in forensic settings.
- Forensic mindset.



## Forensic College Course Approval Guidelines

- Placement requirements – 1000 hours supervised practice.
- Assessment requirements:
  - Investigative interviewing
  - Mock trial
  - Court reports.
  - Clinical competence with forensic populations.

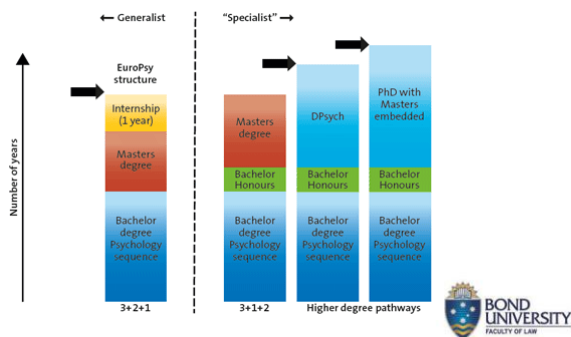


## Necessity of forensic training

- R v Muirhead – psychological testimony based upon insufficient information.
- Tennison and Gourlay FCA 2010 – leading questions in interviewing a child.
- Potential for iatrogenic treatment effects from non-evidenced based interventions delivered by non-trained forensic practitioners.



## AUS Future Pathways to Registration



## Challenges for Forensic Training

- Suitably qualified supervisors.
- Exactly how to interpret capabilities.
- How much evidence constitutes a capability?







## Forensic Psychology : current issues, and prospects

with perspectives from 3 countries

Invited Symposium, organised by Division 10 of the International Association of Applied Psychology

ICP congress, Yokohama, 2016

Australian Forensic Psychology training competencies  
*Bruce Watt (Australia)*

Forensic Psychology in the UK  
*Ray Bull (United Kingdom)*

Training forensic practitioners and researchers to be moral agents  
*Alfred Allan (Australia)*

Psychology and Law in South Africa : current issues and prospects  
*Colin Tredoux, Alicia Nortje (South Africa)*

Discussant: *Ray Bull (United Kingdom)*

## Psychology and Law in South Africa : current issues and prospects

*Colin Tredoux, Alicia Nortje*

University of Cape Town, South Africa  
(special thanks to Alfred Allan for assistance)

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## Historical notes

### REGARDING SOUTH AFRICA IN GENERAL

- Prior to 1994, South Africa did not practice universal franchise
- A long history of colonialism and a related policy called **apartheid** resulted in white minority rule for over 3 centuries
  - After the 1950s, SA was embargoed, and in many respects **cut off** from the rest of the world

## Historical notes 1

### REGARDING PSYCHOLOGY IN GENERAL

- Voluntary registration of **psychologists** from 1955, under the Health Professions Council
- Formal registration in 1974: legislation, and creation of **Professional Board for Psychology**

See Allan & Louw (1995, 1996) for detail

Tredoux & Nortje

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## Historical notes 2

### REGARDING FORENSIC PSYCHOLOGY IN PARTICULAR

- Despite starting in 1916, **Psychology** had little role in forensic mental health matters prior to the 1970s - **Psychiatry** dominated practice and training, and this was legislated to some degree

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- Some psychologists appeared as expert witnesses, but were viewed skeptically
  - e.g. In matters that had to do with 'psychopathy' treatment (see Silkstone, 2012, for more details)
- This changed significantly, in 1998 (amendment to the Criminal Procedure Act), empowering psychologists to assess and report criminal responsibility (BUT in addition to a psychiatric report, not in replacement of)

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Act No. 68, 1998 CRIMINAL MATTERS  
AMENDMENT ACT, 1998

(d) The official *curator ad litem* shall upon receipt of an application from the registrar as soon as practicable—

- (i) obtain reports on the State patient concerned by—
  - (aa) the superintendent of the institution, the person in charge of the place where the State patient is being detained or the medical practitioner in charge of the patient; and
  - (bb) two medical practitioners,
 and either the said superintendent or one of the said two medical practitioners shall be a psychiatrist, provided that he or she may obtain a report by a registered clinical psychologist in addition to the aforementioned reports;

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## Registration categories

- Prior to 2011, the Professional Board for Psychology recognised the following categories
  - Clinical, Organizational, Research, Counseling, Educational
- In 2011, after tremendous amount of lobbying around the category of neuropsychology, the category of neuropsychology was introduced

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**SCOPE OF PRACTICE OF NEURO-PSYCHOLOGISTS**

8. In addition to the scope of the profession as prescribed in the regulations, the
- (a) assessing, diagnosing, and intervening in the psychological disorders of people experiencing neuropathology or compromised functioning of the central nervous system; diagnosing, and evaluating psychological disorders caused by neurological conditions and differentiating them from other psychological and non-neurological disorders; treating, and rehabilitating the psychological disorders of people suffering from central nervous system dysfunction; referring clients to appropriate professionals for further assessment on intervention;

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- The category of neuropsychology as it stands does not limit practice in respect of neuropsychological conditions to neuropsychologists

For instance:

**SCOPE OF PRACTICE OF COUNSELLING PSYCHOLOGISTS**

4. In addition to the scope of the profession as prescribed in the regulations, the following acts fall within the scope of practice of counselling psychologists:
- (a) Assessing, diagnosing, and intervening in clients dealing with life challenges, and developmental problems to optimise psychological well-being; assessing cognitive, personality, emotional and neuropsychological functions in relation to life challenges and developmental problems; assessing developmental processes (e.g. career choice), and adjustment;

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At the same time as introducing the new category of neuropsychologist (as a registrable category of practice), the Professional Board introduced the category of **Forensic Psychologist**

**SCOPE OF PRACTICE OF FORENSIC PSYCHOLOGY**

9. In addition to the scope of the profession as prescribed in the regulations, the following acts fall within the scope of practice of clinical psychologists:
- (a) conducting psychological assessments, diagnoses, and interventions, referring clients to appropriate professionals for further assessment or intervention;
  - (b) providing therapeutic interventions;
  - (c) advising on the development of policies, based on forensic psychological theory and research;

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- (d) designing, managing, and evaluating forensic psychology-based programmes, and interventions; designing, managing, and conducting research; reporting on, and supervising research, in forensic psychology;
- (e) training, supervising students, interns, and other registered psychology practitioners in forensic psychology;
- (f) conducting psychological practice and research in accordance with the Ethical Rules of Conduct for Practitioners registered under the Health Professions Act, 1974, adhering to the scope of practice of forensic psychologists; and
- (g) providing expert evidence and/or opinions.

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## The important difference

### SCOPE OF PRACTICE OF NEURO-PSYCHOLOGISTS

- 8. In addition to the scope of the profession as prescribed in the regulations, the following acts fall within the scope of practice of neuro-psychologists:

### SCOPE OF PRACTICE OF FORENSIC PSYCHOLOGY

- 9. In addition to the scope of the profession as prescribed in the regulations, the following acts fall within the scope of practice of clinical psychologists:

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## However!

Our reading of the law in South Africa is that registration in this category (Forensic Psychologist) would **not** in itself make a practitioner qualified to give expert evidence for e.g. in a court of law

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## Forensic psychologists as expert witnesses

- Psychologists who are experts are allowed to make inferences and give opinions about matters within their field of expertise in psychology, provided that it is helpful and based on admissible facts
- Experts must be specialists
- A title or qualification does not make a person an expert

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## Some dangers in our registration system

The most contentious issues for both neuropsychologists and forensic psychologists

1. the degree to which their areas have distinct bodies of knowledge that require dedicated study
2. the degree to which their areas of expertise and practice are just specialist forms of clinical psychology

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## Forensic Training in South Africa

Although we have had a category 'Forensic Psychologist' since 2011, this category – as far as we are aware - remains unpopulated, as does the category of 'Neuropsychologist'

There are several reasons for this, one that is already I think under legal action

But very significantly in the case of Forensic Psychology, there is no formal training in this area in SA

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On offer at the moment are a number of individual courses only, usually components at

- MA level, in the training of Clinical Psychologists. This is usually a very small component, and it may involve rotation as an intern through a Forensic Psychiatry Ward
- Honours level academic courses
- Undergraduate level academic courses

(But UNISA has indicated interest in creating an MA Program specifically for Forensic Psychology)

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The remaining two ways of becoming involved in forensic psychology include

- focusing on forensic psychology through research,
- or gaining practical experience as a clinical psychologist.

The former option is not degree-specific, and this research expertise can be achieved at a Masters or Doctoral level, whereas practical experience could be gained through an internship programme, for example at a prison, a rehabilitation centre or a psychiatric hospital.

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## South African universities and academic staff in the area of forensic psychology

*University of Cape Town*  
*University of the Free State*  
*University of Johannesburg*  
*University of KwaZulu-Natal*  
*North West University*  
*UNISA*

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## Forensic psychology research in SA

- Eyewitness Testimony
- Preparing child witnesses for court
- Predicting dangerous behaviour/risk
- Crime, policing
- Credibility assessment, deception
- Psychology in the courts
- Investigative Psychology
- Role and effect of apologies, forgiveness
- Miscellaneous clinical forensic issues

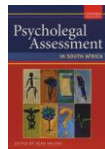
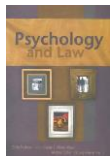
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## Publications in the area

We have a recent Division 10 newsletter we can send you with a list of publications

Apart from those, there are two broad scope books available



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## Examples of practice of Forensic Psychology in South Africa

- assessment of personal injury, especially after accidents involving motor vehicles;
- assessment of parenting capacity in cases of divorce or marital separation, and where custody of children is contested;
- mental competence of criminal defendants;
- risks posed by inmates of psychiatric hospitals in terms of potentially violent behaviour.

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## Ethical codes in Psychology in SA

Psychology and law academics and practitioners were closely involved in the development of an ethics code that the Professional Board published in 2002

used the codes of the American Psychological Association, Canadian Psychological Association and South African Institute of Clinical Psychologists for guidance.

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## Infractions of ethical codes

What kinds of infractions mostly occur?

- The majority, around one-third, of transgressions can be regarded as improper professional role conduct.
- Followed by negligent and/or incompetent treatment and/or patient care (27%),
- fraudulent conduct (20%),
- disclosure of confidential information without permission (13%).

Hoffman & Nortje, 2015

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## Conclusion

- In some respects, Forensic Psychology has developed over the years in SA, and has most recently taken a strong hold in a formal, professional sense
- The lack of training, and the contentious issues around the nature of the registration still need to be resolved

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- There remain issues about the nature and quality of expert testimony in court, not resolved by the registration changes
- Research in Forensic Psychology issues remains a fairly small, niche activity in South Africa – for students, not a bad thing, as lots of room for activity!

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