

# PART I

## A HUMAN RIGHTS AND SOCIAL JUSTICE APPROACH TO FORENSIC PRACTICE

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# CHAPTER

# 1

## Conceptual and Historical Overview of Forensic Social Work

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### CHAPTER OBJECTIVES

**The major objectives of this chapter are to:**

- Describe a forensic practice framework using a human rights and social justice systems approach.
- Articulate the definition and theme-based strategies that distinguish forensic social work from social work practice as usual.
- Review the history of forensic social work, especially as it relates to the United States.

### CHAPTER COMPETENCIES HIGHLIGHTED

- Competency 3: Advance Human Rights and Social, Economic, and Environmental Justice
- Competency 5: Engage in Policy Practice

## Section One: Central Concepts and Theme-Based Strategies in Forensic Social Work

Social work has been an enduring and dynamic force, and its presence has helped improve individual and societal conditions. Born out of early-20th-century efforts of charity workers or “friendly visitors,” social work has grown from being a loose-knit group of community volunteers who were “doing good” to an internationally recognized profession endowed with the responsibility of providing social welfare services and advocating for social change (Addams, 1910; Ehrenreich; 1985; Richmond, 1917). However, contemporary social work practice finds itself in a complex and interactive global society fraught with social problems, and has arrived at a critical crossroad in which advancing the mission of social work involves equipping practitioners with additional skills.

Today, social workers are called on more than ever to navigate the legal system, collaborating from within the system to create lasting social change. Madden (2003) stressed the point: “If the social work profession is to be in control of its future, it must become committed to the role of exerting influence on the legal system through education, advocacy and proactive legal policy development” (pp. 3–4).

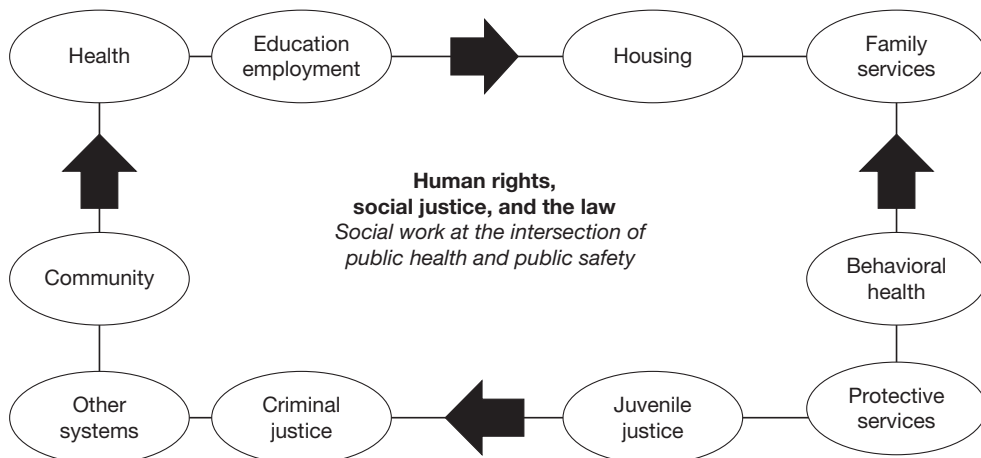
In contemporary social work discourse, scholars and practitioners have advanced the *Grand Challenges* (Uehara et al., 2013) to promote dialogue and policy reform about a range of social justice issues, including health disparities, mass incarceration, the interrelationship between substance use and incarceration, unemployment and education, and racial and ethnic inequalities in the juvenile and criminal justice systems (Poe-Yamagata & Jones, 2000). The mission of the Grand Challenges is to “galvanize social workers’ collective contribution to the quality of life and promotion of an equitable society in the 21st century” (Uehara et al., 2013), relying on social innovation to increase health and well-being among vulnerable populations, which are broadly a concern for forensic social workers. Additionally, social workers are compelled to be data driven and apply the empirical literature and the evidence from scientific research to address the most pressing social problems (Maschi & Youdin, 2012) (For more information see [http://aaswsw.org/wp-content/uploads/2013/12/Intro\\_Context\\_GCSW.pdf](http://aaswsw.org/wp-content/uploads/2013/12/Intro_Context_GCSW.pdf) or *From Mass Incarceration to Smart Decarceration. American Academy of Social Work & Social Welfare* at <http://aaswsw.org/wp-content/uploads/2015/03/From-Mass-Incarceration-to-Decarceration-3.24.15.pdf>).

To this end, this book frames forensic social work and collaboration through the lens of central guiding conceptual models of social work practice: a human rights, social justice and person-in-environment perspective along with social systems theory. We propose an integrated theoretical perspective that we refer to as a human rights and social justice systems (HR-SJS) approach. This perspective is useful for visualizing practice with clients influenced by a combination of social and legal issues. Figure 1.1 presents a conceptual diagram of the HR-SJS approach to forensic practice.

The HR-SJS approach, described in more detail in Section Two of this chapter, helps to visualize forensic social work practice in any practice setting. As illustrated, social workers working with individuals and families involved in the service systems are affected by social issues as well as laws, legal issues, and policies. As the arrows indicate, social workers can be involved with clients sequentially or concurrently, and be affected by civil law (e.g., going through a divorce, death of a loved one, sexual harassment on the job) or criminal law (e.g., victim of a violent crime, arrested for a nonserious or serious criminal offense).

The specialization of forensic social work is an ideal vehicle for navigating the sociolegal environment that goes beyond social work practice as usual. It is an integrative practice model that incorporates social work ethics, generalist and specialist practice, and the

**Figure 1.1 A Conceptual Model of a HR-SJS Approach to Forensic Practice**



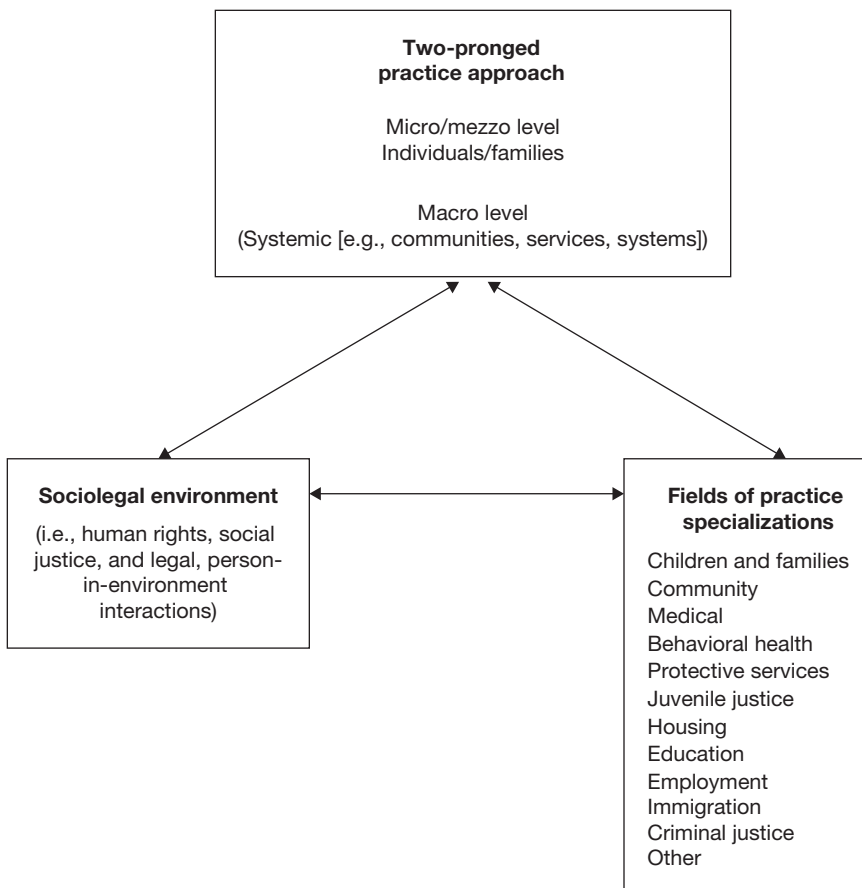
HR-SJS, human rights and social justice systems.

knowledge and skills of research, as well as the nature of evidence, law, policy practice, and interdisciplinary or interprofessional and intersectoral collaboration. In fact, a commitment to practice that involves psychosocial and legal interventions is consistent with the historic two-pronged integrated approach to social work practice.

## The Two-Pronged Approach to Social Work Practice

Social work has long used a two-pronged approach to facilitate change: (a) assisting individuals and families to improve functioning, and (b) combating unjust and unfair community and societal conditions through strategies of social reform (Bartlett, 1958; see Figure 1.2). These strategies are explained in the mission statement of the National Association of Social Workers' (NASW) *Code of Ethics* (1996) in which a historic and defining feature of the social work profession is "individual well-being in a social context and the well-being of society" (NASW, 1996). Central to the social work mission is consideration of the "environmental forces that create, contribute, and address problems in living" (NASW).

**Figure 1.2 A Two-Pronged Approach to Practice in the Sociolegal Environment That Influences Forensic Social Workers' Activities Across the Fields of Practice**



The two-pronged approach also is echoed in the Social Work Dictionary's definition of social work. It is defined as an "applied science of helping people achieve an effective level of psychosocial functioning and effecting societal changes to enhance the well-being of all people" (Barker, 2003). Consequently, social work practitioners target their interventions at the micro level (e.g., individuals), the mezzo level (e.g., families and groups), and/or the macro level (e.g., institutions, organizations, cultures and communities, and society) (Zastrow & Kirst-Ashman, 2012). Miley, O'Meila, and DuBois (2012) outlined four major goals for practice addressing multilevel assessment and intervention strategies. These four goals are:

1. enhancing people's individual functioning, problem-solving, and coping abilities;
2. linking clients to needed resources;
3. working to develop and improve the social service-delivery network;
4. promoting social justice through the development of social policy.

It is interesting that the seemingly opposite roles of helper and advocate have both unified the profession (a common person-in-environment perspective) and divided it (should the primary target of change be the individual or the environment? Bartlett, 1970). In social work literature, the environment is commonly referred to as the "social environment." We argue that expanding the definition of a "social environment" to include the ever present "justice environment" is necessary for achieving the best possible positive outcomes consistent with the dual mission of social work to enhance empowerment and individual, family, and community well-being.

## **Advancing a HR-SJS Perspective for Forensic Practice**

### **Applying a Human Rights Framework**

Applying a human rights framework to the laws, policies, and practices with forensic populations and settings can be used to assess the extent to which these laws meet basic human rights principles. In particular, the principles of a human rights framework can provide assessment guidelines for developing or evaluating existing public health and criminal justice laws or policies, such as U.S. compassionate and geriatric release laws. The underlying values/principles of a human rights framework include dignity and respect for all persons, and the indivisible and interlocking holistic relationship of all human rights in civil, political, economic, social, and cultural domains (United Nations [UN], 1948). Additional principles include participation (especially with key stakeholder input on legal decision making), nondiscrimination (i.e., laws and practices in which individuals are not discriminated against based on differences, such as age, race, gender, and legal history), transparency, and accountability (especially for government transparency and accountability with their citizens; Maschi, 2016).

The Universal Declaration of Human Rights (UDHR) also is an instrument that provides assistance with determining the most salient human rights issues affected. Ratified in 1948 as a response to the atrocities of World War II, 48 countries, including the United States, voted in favor of the UDHR (UN, 1948). It provides the philosophical underpinnings and relevant articles to guide policy and practice responses to the aging and seriously and terminally ill in prison. The UDHR preamble underscores the norm of "respect for the inherent dignity and equal and inalienable rights" of *all human beings*. This is of fundamental importance to crafting the treatment and release of the aging and seriously ill persons in prison.

Using a case example of aging and seriously ill people in prison, there are several UDHR articles that are important to consider when providing a rationale and response to the aging and seriously ill population in prison. For example, Article 3 states, "Everyone has the right to life, liberty, and the security of person." Article 5 states, "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." Article 6 states, "Everyone has the right to recognition everywhere as a person before the law." Article 8 states "Everyone has the right to an effective remedy by the competent national tribunals for

acts violating the fundamental rights granted him by the constitution or by law,” and Article 25 states, “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food and clothing” (UN, 1948).

## The Social and Justice Environments

The social environment is often viewed as the place in which person-in-environment interactions occur (Zastrow & Kirst-Ashman, 2012). However, although the social environment is commonly viewed as omnipresent, the justice environment that is informed by human rights is equally present. The justice environment consists of individuals, families, and communities seeking fairness, equality, freedom from oppression, and the balance of power, as well as the laws, policies, and legal system that affect the social environment (Barker, 2003).

The presence of justice, if not explicitly stated, is implicit in the descriptions of the social environment as usual. The social environment may range from an individual’s interactions with social or organizational settings (e.g., home, school, society, work, agency, and neighborhood), social systems (e.g., individuals, groups, families, friends, work groups, and communities), attributes of society (e.g., laws and social norms and rules), social institutions (e.g., health care, social welfare, education, juvenile and criminal justice, and governmental systems), to social forces (e.g., political, economic, cultural, environmental, and ideological forces; Zastrow & Kirst-Ashman, 2012). Although person-in-environment interactions describe social settings and interactions, it also suggests justice situations (e.g., denied employment because of a disability or history of incarceration) or settings (e.g., involvement in juvenile and criminal justice settings) and justice-oriented interactions (e.g., associating with delinquent peers, being arrested by the police for driving while intoxicated, being a victim of a bias or hate crime, or losing one’s home to eminent domain).

## Envisioning Forensic Practice in a Sociolegal Environment

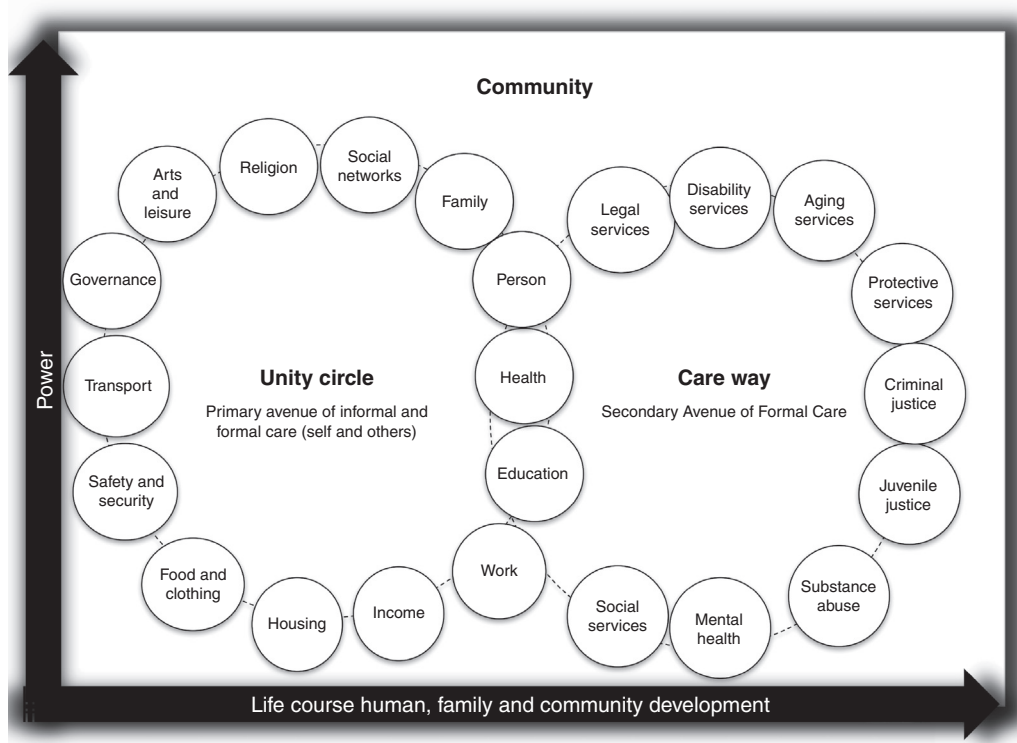
Most clients are affected by some type of legal issue, such as divorce, custody of children, accessing civil rights, death and inheritance, or being convicted of a felony (Madden & Wayne, 2003; Saltzman & Furman, 1999; Schroeder, 1997). In the United States, it is critical that social workers be aware of how our federal legal system operates. The U.S. legal system is made up of different branches, levels, and types of government. Laws range from the federal level—governing the entire United States—to individual state laws, as well as local ordinances and regulations from municipalities, counties, and quasi-public agencies (Saltzman & Furman, 1999). Madden (2003) argued that law, with its legal rules and mandates, should be viewed as a mechanism that frames social work practice.

## A HR-SJS Perspective

We propose a social justice systems (SJS) perspective that conceptualizes the interaction of persons within a “social justice” environment. The core social work value of social justice is a central aspect of this perspective. Barker (2003) defined social justice as “an ideal condition in which all societal members have the same rights, protection, opportunities, obligations, and social benefits.” The sociolegal environment represents a combination of social justice (person-in-environment interactions that seek a balance toward social justice or fairness) and the legal environment (which represents the law, the legal process, and institutions that seek individual and community protection). Thus, the SJS perspective allows social workers to pursue optimal social and justice outcomes for their clients across all fields of practice.

Figure 1.3 depicts a HR-SJS map that shows the different pathways individuals and families may travel in across the social service and/or justice systems of care. These service trajectories may span a continuum from the least to most restrictive service environments. The human rights and social justice system is comprised of an individual’s proximal social system and the “social and justice sectors of care.” Each sector of care represents a service

**Figure 1.3 A Conceptual Diagram With Examples of the Different Informal or Formal Systems That Individuals and Families May Use Concurrently and/or Sequentially in the Social and Justice Sectors of Care. It Can Be Used for Prevention, Assessment, and Intervention Mapping**



subsystem in which individuals are affected by this sector’s laws and policies. Although health and education are universal services, the other subsystems are specifically designed to provide services for individuals and/or families at risk. Individuals and families may have varied patterns of system bias and discrimination, unmet service needs, and/or concurrent and/or sequential service-use patterns that include health, education, social services, child welfare, mental health, substance abuse, and juvenile justice and criminal justice service sectors of care.

The HR-SJS framework builds upon a generalist social systems theory. Social systems theory focuses on “the relationships that exist among members of human systems and between these systems and their impinging environments” (DuBois & Miley, 2012). Within each larger system are smaller nested subsystems. A change in one part of a system affects other parts of the system (L. C. Johnson & Yanca, 2015). For example, social work practitioners commonly assess and intervene in the subsystems of family, health care, education, and social service, as well as political and legal systems.

In an ideal world, these social systems would function at their optimum potential. Families would be able to care for the physical, emotional, and social development of young and elderly family members; health and mental health institutions would assist all individuals in achieving and maintaining optimal physical, mental, emotional, and spiritual health; educational institutions would help all individuals to achieve the knowledge and skills needed to excel in society; social service systems would be able to help all individuals



in need; and the political and legal system would provide protection, safety, and human rights to all individuals and families by developing or implementing laws, maintaining order, and fostering their creativity and potential.

However, the reality of our global society, in which oppression of individuals and groups based on difference, does not match this ideal. The interaction between and among systems is often conflicted because of social tension, service barriers, missed opportunities, power struggles, oppression, and other social injustices. L. C. Johnson and Yanca (2015) argue that when applying social systems theory, individuals' needs and rights must be considered in the context of larger systems because of these divergent environmental demands.

When applying a HR-SJS approach, social interactions among individuals and their environment also are viewed as dynamic and multidimensional. The interaction between individuals and the different systems in their environment may significantly affect their level of functioning. For example, a single mother with four children who has no mode of transportation will be unable to travel to obtain much-needed public assistance or food stamps. Because social workers "strive to ensure access to needed information, services, and resources; equality of opportunity; and meaningful participation in decision making for all people" (NASW, 1996), a social worker for this family can apply a two-pronged approach to intervention: He or she may provide resource links to public assistance and employment services and transportation as well as advocating for the development of free or affordable shuttle services for social service recipients.

Social workers also must recognize that individuals and families may be involved in multiple systems concurrently or sequentially (Garland, Hough, Landsverk, & Brown, 2001). For example, a child with emotional and behavioral problems may simultaneously be involved in special education services, community mental health services, and probation. Another child may have initially entered the child welfare system and then later gone through the juvenile justice system. The role of the social worker will include identifying obstacles, making resource linkages, or advocating for needed resources across these social institutions (Finn & Jacobson, 2003).

A HR-SJS approach balances the goal of maximizing outcomes on both individual and societal levels. It also emphasizes the need for the knowledge and skills in forensic or legal issues, interprofessional and intersectoral collaboration, and generalist social work that integrates advanced clinical and/or policy practice. The HR-SJS approach helps to frame social workers' efforts in pursuing social change, especially for vulnerable and oppressed populations affected by systemic issues (e.g., poverty, discrimination). Consistent with the *NASW Code of Ethics* (NASW, 1996), assessing for social and justice outcomes can "ensure access to needed information, services, and resources; equality of opportunity; and meaningful participation in decision making for all people." Thus, the jurist-practitioner social worker who is savvy with both policy and the law can more competently engage in multilevel intervention strategies that include direct practice, community organizing, supervision, consultation, administration, advocacy, social and political action, policy development and implementation, education, and research and evaluation (NASW, 1996).

## Conclusion

This section reviewed the essential definitions and core concepts of social work practice in a sociolegal context. It presented a HR-SJS approach in which the "environment" of the human rights, social justice, and person-in-environment perspective represents social and justice issues. The need for forensic social work to integrate a two-pronged approach to practice, in which practitioners act as facilitators in which individuals, families, and communities empower themselves within sociolegal environments as well as changing those environments directly, was reinforced. Given the complexity of social problems in contemporary communities and societies, adopting a two-pronged approach is one way to uphold U.S. (NASW, 1996) and international (International Federation of Social Work, 2000) mandates for social work practice.

## Section Two: Definitions and Central Themes of Forensic Practice

As a professional social worker, inevitably you will encounter diverse individuals, families, or communities affected by social/environmental and legal issues. Poverty, homelessness, parental divorce, exposure to family or community violence, and juvenile or criminal offending are just some of the hardships clients face. Frontline social workers in a variety of settings (e.g., community-based child and family services, health care, education, child welfare, mental health, substance abuse, social services, juvenile justice, and criminal justice systems) interact daily with clients who have multiple problems, including legal ones. For example, a social worker may have a client who is a single father facing allegations of child neglect. He knows little about the child welfare policies and laws affecting his family or how to navigate the court system. Thus, it is imperative that social workers supplement their generalist and specialized practice expertise with knowledge of the laws and policies that influence their client populations. The practice of forensic social work is ideal because social workers are positioned to take action in a sociolegal environment because justice issues are much more explicitly present.

We argue that all social workers across all fields of practice, not just those in juvenile and criminal justice settings, often assist clients affected by laws and policies or problems in accessing resources. Therefore, it is imperative that practitioners integrate their understanding of collaboration, the law, and specialized skills with generalist social work practice. This book helps prepare practitioners with the knowledge, values, and skills to navigate the social and legal issues that affect clients.

### Definitions and Themes of Forensic Social Work

- Generalist practice
- Forensic specialization
- Forensic ethics
- Therapeutic jurisprudence
- The use of evidence and evidence-based practices
- Collaboration
- Cultural humility

We also argue that effective forensic social work practice requires a two-pronged approach to helping clients. This dual approach involves intervening with clients on both an individual level to address a client's social well-being (e.g., referral to mental health counseling) and/or at the legal or policy levels (e.g., representing a youth in court as a child advocate or participating in lobbying efforts to advocate for legislation that addresses special population needs). We define forensic social work as an integrated (i.e., generalist, specialized, and collectivistic) approach to social work practice with diverse populations across diverse practice settings in the sociolegal environment. Exhibit 1.1 illustrates this definition. This exhibit depicts a broad definition of forensic social work that integrates the knowledge and skills of generalist and specialized social work, forensic social work, and collaboration.

The integrated role of forensic social workers allows us to assume multiple professional roles, functions, and activities. This strategy is designed to improve clients' social functioning and environmental conditions through collaboration with clients, professionals, and other stakeholders within and across different systems of care. The "forensic" or "legal" aspect of the work situates social workers in a position to honor their professional commitment to social justice through the use of legal knowledge and skills, including advocacy and policy practice.

## Exhibit 1.1 A Broad Conceptualization and Definition of Forensic Social Work and Interprofessional Practice

<b>Human Rights, Social Justice, and Legal Framework</b>
<b>Forensic Lens With Nine Core Competencies (Council on Social Work Education, 2015)</b>
<ol style="list-style-type: none"> <li>1. Demonstrate Ethical and Professional Behavior</li> <li>2. Engage Diversity and Difference in Practice</li> <li>3. Advance Human Rights and Social, Economic, and Environmental Justice</li> <li>4. Engage in Practice Informed Research and Research Informed Practice</li> <li>5. Engage in Policy Practice</li> <li>6. Engage With Individuals, Families, Organizations, and Communities</li> <li>7. Assess Individuals, Families, Organizations, and Communities</li> <li>8. Intervene With Individuals, Families, Organizations, and Communities</li> <li>9. Evaluate Practice With Individuals, Families, Organizations, and Communities</li> </ol>
<b>Forensic Social Work = Generalist + Forensic + Collaboration</b>
<b>Generalist Social Work</b>
<ul style="list-style-type: none"> <li>• Generalist Knowledge, Values, and Skills</li> <li>• Apply to the Process of Change With Individuals, Families, Groups, Organizations, and Communities</li> <li>• Integrated Strategies Incorporate: Ethics, Direct Practice, Case Management/Care Coordination, Research, and Advocacy</li> </ul>
<b>Forensic Specialization</b>
<ul style="list-style-type: none"> <li>• Specialized Social Work at the Intersection of Public Health and Public Safety</li> <li>• Actively Incorporates the Use of Legal Knowledge, Laws</li> <li>• Actively Incorporates Use of Evidence and “Facts” and Evidence-Based Practice/s</li> </ul>
<b>Collaboration</b>
<ul style="list-style-type: none"> <li>• Collaboration Knowledge, Values, and Skills With Individuals, Families, Organizations, and Communities</li> <li>• Interprofessional, Interdisciplinary, and Intersectoral Collaboration</li> <li>• Integrative Care and Practice</li> </ul>

## Definitions

### Generalist Social Work

Embedded in our definition of forensic social work are the general principles of social work practice, such as the International Federation of Social Work’s (IFSW) definition. According to the IFSW:

The social work profession promotes social change, problem solving in human relationships, and the empowerment and liberation of people to enhance well-being. Utilizing theories of human behavior and social systems, social work intervenes at the points where people interact with their environments. Principles of human rights and social justice are fundamental to social work. (IFSW, 2000)

## Forensic Social Work

There are a number of definitions of forensic social work. They range from general to specific and they may focus on one or more practice settings or populations. For example, Barker and Branson (2000) placed forensic social work in a broad “legal” environment, and they defined it as a “professional specialty that focuses on the interface between society’s legal and human service systems.” In contrast, Hughes and O’Neal (1983) defined forensic social work as specifically relating to the intersection of mental health and law, in which social workers “function in this space in which mental health concepts and the law form a gestalt.” Roberts and Brownell (1999) described forensic social work in terms of the knowledge and skills needed for the specific populations served, particularly victims and offenders. In this case, forensic social work is the “policies, practices, and social work roles with juvenile and adult offenders and victims of crime.” In comparison, Green, Thorpe, and Traupmann (2005) defined forensic social work more broadly as “practice, which in any manner may be related to legal issues and litigation, both criminal and civil.”

In the scholarly literature, Barker (2003) perhaps provides the broadest definition:

The practice specialty in social work that focuses on the law, legal issues, and litigation, both criminal and civil, including issues in child welfare, custody of children, divorce, juvenile delinquency, nonsupport, relatives’ responsibility, welfare rights, mandated treatment, and legal competency. Forensic social work helps social workers in expert witness preparation. It also seeks to educate law professionals about social welfare issues and social workers about the law.

## Forensic Ethics and Evidence-Based Practice

An important part of understanding the landscape of ethical dilemmas in forensic practice involves the recognition that the criminal and juvenile justice systems have vacillated between implementing overly punitive, reactive sentences for offenders (rather than providing opportunities to avoid incarceration) and offering treatment.

Among the most important decisions in juvenile justice, for example, was the U.S. Supreme Court decision to outlaw the death penalty (*Roper v. Simmons*, 2005; a case that involved the murder of elderly women by a 17-year-old during the course of a burglary) on the basis of the finding of developmental neuroscience that the adolescent brain matures into the 20s (Steinberg, 2008). Forensic social workers should consider that in the child welfare and juvenile justice fields, efforts to shape policy are related to helping the public and policy makers apply findings from the empirical literature in comprehensible ways, and understand how specific fields such as neuroscience and structured risk assessment can inform our understanding of adolescent behavior, and what the limitations are in terms of the incomplete understanding of the relationship between an immature brain and immature behavior (S. B. Johnson, Blum, & Giedd, 2009). There are ongoing debates about the ways in which scientific evidence can be used to determine the extent to which adolescents can be held accountable for delinquent or criminal acts (Aronson, 2007). Generally, clarifying the role of the social worker and exactly how evidence-based interventions are conceptualized and applied in forensic settings is an important undertaking.

Ethical questions regarding accountability are intricately tied to the methods of risk determination used in the justice system. Social workers must consider the research evidence concerning the strengths and limitations of specific structured risk assessment tools often used by forensic evaluators to make judgments about the likelihood that a person will commit harm in the future. The interactions of various risk factors used in assessment must be considered, such that a person who is found to be at risk for future violence (e.g., based on an offense history) may also be at risk for health problems and mental health disorders (e.g., depression, suicidality, and substance abuse). In addition to risk factors, protective factors must also be included as part of assessments.

Of relevance to the ethics of risk assessment in forensic practice, there is often a dual relationship between public health and public safety in criminal justice. Integrated health and public safety approaches that combine functions of criminal justice and treatment, such as providing community-based care for drug offenders simultaneously with implementing appropriate monitoring and supervision, can effectively address recidivism and improve social function (NIDA, 2011). Social workers can play a role in advocating for reforms that impact outcomes among specialized populations. For example, regarding registry and community notification policies for sex offender management, we know that policies that are better informed by research evidence result in a better allocation of resources. Such reforms could also address stigma, reduce barriers to offender reintegration, and potentially reduce recidivism (Levenson, Grady, & Leibowitz, 2016).

## **Therapeutic Jurisprudence**

A central concept of the HR-SJS approach is viewing laws and policies as an intervention level. This principle is derived from the therapeutic jurisprudence literature, which examines the therapeutic (i.e., positive) and antitherapeutic (i.e., negative) consequences of legal rules, procedures, and actions (Madden & Wayne, 2003). According to Madden and Wayne (2003), “at the heart of therapeutic jurisprudence is the concept that law, consistent with justice, due process, and other relevant normative values, can and should function as a therapeutic agent” (p. 339). Thus, the impact of the law on a client may have positive or negative effects. For example, an individual with disabilities may win a court case for job discrimination based on legal protections inherent in the Americans With Disabilities Act. This is an example of how a law provides positive protections for this individual. In contrast, a single mother being released from prison on a controlled dangerous substance offense is denied public assistance based on a law that denies benefits to individuals with prior drug charges. This is an example of how a law provides negative or antitherapeutic effects on this mother’s ability to receive needed services for herself and her family. Therefore, social workers must evaluate the intervention effects of the legal process and the outcomes on individuals, families, and communities. Based on this evaluation, an intervention strategy that incorporates a two-pronged approach, which enhances social functioning and improves social justice outcomes, can be devised.

Social workers who adopt principles of therapeutic jurisprudence will also be positioned to create conditions that empower clients or influence the development of laws and the ways current laws and policies can be applied most beneficially. Therapeutic jurisprudence is a useful perspective for social workers in interprofessional settings who are working with professionals such as medical providers, psychologists, psychiatrists, police officers, probation officers, or attorneys. This perspective crosses professional boundaries and incorporates another important element, interdisciplinary collaboration, which is particularly concerned with creative problem solving in which the combined knowledge, skills, and techniques of multiple professionals seek to achieve social and justice outcomes (Madden, 2003; Madden & Wayne, 2003; Petrucci, 2007). A professional specialty, forensic social work, which focuses on equipping social workers with additional legal knowledge, is particularly well suited to take a leading role in the rapidly growing practice arena of the sociolegal environment.

## **Collaboration**

As the various definitions suggest, social workers who practice in a sociolegal environment must be well versed in collaboration. This includes working with other professionals (e.g., attorneys, doctors and nurses, and victim advocates), law enforcement personnel, and clients, family members, and other stakeholders.

Historically, social workers have practiced in a variety of “host” agency settings, such as hospitals, schools, industries, psychiatric clinics, police departments, and court and criminal justice settings (Brownell & Roberts, 2002; Jansson & Simmons, 1986; see Section Three in this chapter). With the increasing intricacies of social problems and dwindling resources, social workers’ involvement in interdisciplinary collaboration within and across agencies is often unavoidable (Bronstein, 2003; Graham & Barter, 1999; Guin, Noble, & Merrill, 2003; Payne, 2000).

In particular, forensic social workers often work with interdisciplinary teams. When they do, the elements of interdisciplinary team practice often consist of

- a group of professionals from different disciplines;
- a common purpose;
- the integration of various professional perspectives in decision making;
- interdependence;
- coordination and interaction;
- communication;
- role division based on expertise (Abramson & Rosenthal, 1995).

The ability to work interdependently with others is critical to achieving successful client outcomes. As Bronstein (2003) noted, interdisciplinary collaboration is an “effective interpersonal process that facilitates the achievement of goals that cannot be reached when individual professionals act on their own.” Social workers who incorporate interdisciplinary collaboration into forensic practice are able to address sociolegal issues with the help of a variety of professionals in a group problem-solving process, which makes it possible to examine the problem from all angles (Abramson & Rosenthal, 1995).

In addition to multidisciplinary practice skills, multicultural competence is critical for forensic social work practice in which diverse populations are served. The following section underscores the important role of diversity in social work practice.

## Diversity and Cultural Humility

*Diversity* or other related terms, such as *cultural humility*, *multiculturalism*, *cultural competence*, and *vulnerable populations*, are commonly used in social work practice (Barker, 2003; Beckett & Johnson, 1995; Logan, 2003). The *Social Work Dictionary* defines diversity as “variety, or the opposite of homogeneity” (Barker, 2003). Diversity within social organizations commonly refers to the “range of personnel who more accurately represent minority populations and people from varied backgrounds, cultures, ethnicities, and viewpoints” (Barker, 2003).

### Incorporating Cultural Humility in a Human Rights and Social Justice Paradigm

1. to engage in self-reflection and self-critique;
2. to bring into check the power imbalances, by using person-focused interviewing and care;
3. to assess anew the cultural dimensions of the experience of each person/family;
4. to relinquish the role of expert to the client, becoming the student of the client;
5. to see the client’s potential to be a capable and full partner in the therapeutic alliance.

### Cultural Humility Self Reflection

1. Identify your own cultural and family beliefs and values.
2. Define your own personal culture/identity: ethnicity, age, experience, education, socioeconomic status, gender, sexual orientation, religion . . .
3. Are you aware of your personal biases and assumptions about people with different values than yours?

4. Challenge yourself in identifying your own values as the “norm.”
5. Describe a time when you became aware of being different from other people (based on Alsharif, 2012).

## The Diversity Dilemma

How can forensic social work develop a “way to be” that is affirming and inclusive of diversity? Many of the professions that collaborate in correctional settings are struggling with this question. In law, attorneys speak of “antioppressive legal practice” and the activation of “privilege and disadvantage” (Kafele, 2005). In psychiatry, a leading text reminds the reader that cultural considerations should be paramount, for example, when offering expert assessment in areas such as competency to stand trial, the presence of mental illness, or the use of psychological testing across cultures (Tseng, Matthews, & Elwyn, 2004). In mental health treatment, the U.S. Department of Health and Human Services Substance Abuse and Mental Health Services Administration (SAMHSA) published extensive guidelines in 2001 mandating that correctional settings create comprehensive plans for addressing cultural practice in their settings.<sup>1</sup> In medicine and health care delivery, practitioners discuss the importance of “providing care within a framework of cultural meaning,” expecting all colleagues to do so as standard practice (Hufft & Kite, 2003). And in social work, the core of our ethics mandates cultural competence, even when correctional institutions may not seem responsive to such concepts.<sup>2</sup>

## Diversity and the Justice System

A glaring example of the lack of cultural responsiveness, indeed the lack of acknowledgement of the role of privilege and race in the U.S. justice system, can be found in the overrepresentation of persons of color and persons from communities in poverty among the incarcerated population. James (2000) provided a good overview of some of these issues, citing rates of arrest for working-class crime versus typical “white-collar” crime; the use of those in prison as a source of labor; the overrepresentation of African American men in justice system “supervision” (e.g., probation, incarceration, or parole); uneven statistics for lengths of sentences and state executions; and inconsistencies between the U.S. justice system and some provisions of international human rights. James (2000) also noted that when state justice systems deny political rights (including, at times, the right to vote) to those who are or have been incarcerated, this disproportionately affects people of color and the poor. Addressing these issues is squarely within the realm of “diversity practice,” and it is social work’s responsibility to respond, as a profession that is based on an ethics of human rights.

## Diversity in Practice

Diversity and forensic social work practice encompass several overlapping mandates. At the micro end of the spectrum, recruitment and retention of personnel throughout service and justice systems should reflect the diversity of the communities in which those systems operate. Those systems must also accommodate all individuals who are participating, whether accused, aggrieved, or employed, and respond to their diverse characteristics and abilities. Forensic social workers are ethically bound to develop practice skills grounded in an understanding of clients in their contextual identities and lives. In the mezzo section of the spectrum, social service programs and services must be vigilant regarding unintended structural biases that favor or accommodate individuals with certain backgrounds or characteristics over others. This extends to governmental agencies as well, whose policies and procedures may rise to

<sup>1</sup> These can be accessed at: <http://store.samhsa.gov/shin/content/SMA14-4849/SMA14-4849.pdf>

<sup>2</sup> See, for example, Van Wormer (2001) on the conflicting paradigms of the two arenas.

the level of regulation or law and thus have even more impact on individuals' and families' lives. Finally, at the macro end of this continuum, the intersection of forensic social work with considerations of diversity points to the need to work for the improvement of human rights conditions throughout all nations. Wherever a forensic social work practitioner finds herself or himself on this continuum, the remaining segments cannot be ignored.

## Conclusion

The broad definition of forensic social work incorporates the knowledge, values, and skills of social work, policy practice, the approaches to the law, collaboration, and diversity. Consistent with the mission of social work, forensic social work involves a two-pronged approach to assessment and intervention with diverse clients in a sociolegal environment. With the increased complexity of social problems, adopting this approach will help increase social and justice outcomes for the diverse populations we serve. Section Three of this chapter describes the history of forensic social work using the United States as the case example to illustrate how a two-pronged approach to practice was integrated throughout this specialized arena of practice.

## Section Three: The History and Evolution of Forensic Social Work

Social workers respond to individuals in the criminal justice system, and work to change the system in which such individuals find themselves. Moreover, social workers not only respond to individuals affected by state and federal laws, but also work to change those laws. Forensic social work is as old as social work itself, and it represents the full diversity of our profession, which includes advocating for those accused or convicted of a crime; standing up for victims; responding to youth in juvenile justice systems; testifying in court on behalf of both litigants and defendants; supporting and working alongside law enforcement professionals; and working to improve or change the processes and policies of the U.S. justice system.

How could social work not be present in all these arenas? Our profession revolves around social justice and human rights. Throughout U.S. history, social justice (and in later years, global and universal human rights) has been the core of the theory and practice of social work. Social workers stand for those who cannot; speak for those who have been silenced; and seek to create conditions of empowerment for individuals, families, and communities.

In this light, the history of forensic social work is hard to separate from the history of social work. In fact, one of social work's first professional societies was the National Conference of Charities and Corrections. Formed in 1879, pioneer social worker Jane Addams became the leader of the organization in 1909. This suggests the importance given to corrections, both in early conceptualizations of social services formed over a century ago and in today's understanding of the proper venues for social workers as actors and advocates. To trace the history of forensic social work, we first need to look at the history of forensic policy in the North American colonies and then at the creation of social work and the introduction of social workers to carry out or change those policies. Exhibit 1.2 lists major historical events in the history of forensic social work in the United States.

### The History of Forensic Policy

#### The Colonial Era

No history of social work can be written without reference to the English Poor Laws of 1601. One reason they are significant is that they represent a merging of law and social



policy, a codification of society's responses to individuals in distress with an emphasis on government as the entity in charge of those responses. The laws responded to people in poverty, dividing them into three categories: deserving, undeserving, and children (P. J. Day, 2012). The Poor Laws are also significant because they represent the first opportunity for intervention by individuals who would later create the field of social work: advocates for those on the receiving end of the law.

### Exhibit 1.2 Major Events in the History of Forensic Social Work in the United States

General U.S. History	Social Work History
Europeans leave European continent, settle in North America. Enslavement of Africans, Native Americans, and later the Irish begins	1700s—Men on patrol looked for “criminals”; punishment was usually corporal
1766—North American colonies become independent from England, create the United States	1790—Concepts of prisons as being rehabilitative grow; the first prison in the United States opens in Philadelphia: the “Walnut Street Jail” Conceptualizations of corrections develop to include proportionate sentencing and programs encouraging reform
1787—An Age of Rationality spreads through Europe and influences the writers of the U.S. constitution	1800s—Theorists note that determinate sentences undermine efforts at individual reformation
1812–1814—United States and Great Britain at war	1875—The Society for Prevention of Cruelty to Children is created
1845—Portions of Mexico are annexed as Texas, setting off the Mexican–American war from 1846 to 1848	1876—The concept of parole is born; the first parolee is released from the Elmira Reformatory in New York
1861–1865—U.S. Civil War	1879—National Conference of Charities and Corrections is formed
Late 1800s—Varieties of internal combustion engines are perfected, setting the stage in the United States for the Industrial Revolution	1899—Illinois opens the first juvenile court
1920—U.S. women gain the right to vote	1907—The National Council on Crime and Delinquency was formed
1929—U.S. stock market crash sets off the Great Depression	1920—Two thirds of U.S. states institute procedures for probation, a concept originated in Massachusetts
1939–1948—Portions of the world fight in World War II and the development of the Universal Declaration of Human Rights (UDHR)	1921—The American Association of Social Workers is formed
	1925—Forty-six states now have juvenile courts
	1940s—Police social workers return to prominence in forensics
	1948—Postwar ratification of the UDHR

(continued)

### Exhibit 1.2 Major Events in the History of Forensic Social Work in the United States (*continued*)

General U.S. History	Social Work History
1961—Eleanor Roosevelt is appointed chair of President Kennedy’s Commission on the Status of Women; its 1963 report documents discrimination in the workplace	1960s—Federal social policies begin to emphasize social responsibility and deinstitutionalization of prisoners and the mentally ill
	1973—First shelter for female victims of battering opens in Arizona
1960s/1970s—Contemporary rise of mass incarceration; social movements in the United States bring focus on women’s rights, civil rights for African Americans, and gay and lesbian rights	1974—The Juvenile Justice and Delinquency Prevention Act passes; The Child Abuse Prevention and Treatment Act passes
2001—On September 11 the United States is hit by three simultaneous crimes of terrorism	U.S. society sours on rehabilitation and begins to “get tough on crime”
	1984—Victims of Crime Act passes
	2001—On October 26 the U.S. Congress passes the Patriot Act, establishing new executive branch powers for certain crimes
2013—Black Lives Matter (BLM) movement founded with increased social work involvement	2015–2016— <i>Journal of Social Work Education</i> editorial published for the social work profession to embrace its forensic practice roots and leadership in criminal justice reform The science of social work and Grand Challenges in social work gain momentum

Later, early English colonists were influenced by the laws and systems of England. Legally, this meant they also codified responses to the impoverished members of their settlements: individuals were divided up and then either shuffled to almshouses (for those who could not work) or workhouses (for the able bodied). They were reluctant, however, to turn to the government as the appropriate and responsible institution for maintaining law and order (perhaps exhibiting what might now be understood as communal posttraumatic stress disorder from their experiences living under a monarch perceived to be overly rigid and tyrannical). As a result, early police forces were made up of men patrolling neighborhood streets, first at night, and later during the day as well (Blakely & Bumphus, 1999). If a “criminal” were caught, the colonists sought swift punishment, usually of a corporal nature (Poppo & Leighninger, 2014). Concepts of right and wrong—and views of human nature at the time—did not suggest that criminals would benefit from rehabilitation or that their victims needed support and advocacy.

The first institutions associated with crime and punishment were jails, which were simple holding cells for individuals, both children and adults, awaiting trial or punishment.<sup>3</sup> The ensuing political break from England and concomitant development of Enlightenment philosophies, however, popularized a valuing of rationality that in many ways survives today.

<sup>3</sup>This is well before several professions, such as psychology, helped to develop conceptions of childhood and children as developmentally different from adults.

“Rational man” was thought to be changeable if shown the error of his ways; extrapolated to corrections, this gave rise to “proportional” punishments rather than “punitive” ones and engendered early concepts of rehabilitation. After the Revolutionary War, the first prison in the United States—“Walnut Street Jail”—was constructed in Philadelphia in 1790 (Poppo & Leighninger, 2014). Because at that time crime was seen as arising from disorder, prison staff imposed strict discipline, schedules, and order on incarcerated individuals. This philosophy often carried over to almshouses and workhouses, which by definition were not correctional institutions, but whose operation was often indistinguishable from prisons. More opportunities for social work collaborative intervention were thus being created.

## The 1800s

The 19th century saw a vigorous application of new legal and correctional policies. By midcentury, however, many were questioning if the philosophy was effective. If prisoners were sentenced to a fixed length of time, and if they were going to be incarcerated until their sentence was completed, regardless of their behavior, what incentive did they have to participate in the rigors of rehabilitative programs? Thus, the concept of early release as a reward for “good behavior” was created: Persons under incarceration began to be released early through parole. The first such individual was set free from the Elmira Reformatory in New York in 1876.

John Augustus, a wealthy shoe manufacturer in Boston, began social reform in the early 1840s when he started the practice of interviewing adults awaiting incarceration, personally posting their bail, and taking responsibility for their reformation, a pattern that was later instituted by Massachusetts as the process of probation. The practice spread to two thirds of the states by 1920 (Poppo & Leighninger, 2014). Probation extended the concept of rehabilitation: those committing crimes could change their ways, either through discipline and programs in prison that could lead to early release, or through strict supervision and reform that could prevent incarceration completely. Though we cannot claim Augustus was a social worker, his actions foreshadowed those of the pioneers in forensic social work and helped solidify approaches to human nature that emphasized a person’s ability to change and grow. Such views would soon extend to those in other “legal” institutions, such as almshouses and workhouses.

## The 20th Century and the Birth of Social Work

### National Conference of Charities and Corrections

Having declared independence, fought two wars with Britain, another among its own citizens, and experienced many social upheavals, the United States was grappling with a myriad of social issues. It was in this climate that social work as a profession began to develop. The first social work training school opened in 1898. Earlier, in 1879, the National Conference of Charities and Corrections (formerly the Conference of Boards of Public Charities) was created, becoming the National Conference of Social Work in 1917, and joining a collaborative to become the National Association of Social Workers in 1955 (Zenderland, 1998). Trailblazing social workers were concerned with social reform, and law and justice issues were a primary focus (Barker & Branson, 2000; Roberts & Brownell, 1999). The plight of the poor was a major concern of Mary Richmond, a pioneer in social work and the founding mother of casework (Colcard & Mann, 1930). Jane Addams, a Nobel Prize-winning social work pioneer, targeted the systems and policies that affected the poor of her day. Addams was also the founder of settlement houses (P. J. Day, 2012).

### The Creation of Juvenile Courts

A key accomplishment of early social workers was to change the policy regarding young persons charged with criminal offenses (Platt, 1969, 1977). Julia Lathrop, Jane Addams, and Lucy Flower pushed to get children out of penal institutions, where individuals as young as 5 years old were incarcerated with adults. Their efforts led to the birth of the juvenile

justice system in 1899 (Center on Juvenile & Criminal Justice, 1999). The new system saw several innovations. The Juvenile Psychopathic Institute, founded as a result of advocacy by several residents of Hull House, including Florence Kelley, Alice Hamilton, Julia Lathrop, Ellen Gates Starr, Sophonisba Breckinridge, and Grace and Edith Abbott, began to conduct psychosocial assessments of children in the justice system (Open Collections Program, Harvard University Library, n.d.). Again, many collaborators came together—this time to create separate juvenile courts, the first seated in Illinois in 1899. By 1925, 46 states and the District of Columbia had created juvenile courts, where hearings considered delinquency as well as the needs of abused and neglected children. The New York Society for Prevention of Cruelty to Children (NYSPCC), founded in New York in 1875 and modeled after the early Societies for Prevention of Cruelty to Animals, presaged these later juvenile justice reforms (NYSPCC, n.d.).

These institutional changes were both fueled by and gave birth to new theories of human nature and childhood. Mary Richmond's efforts, first in Baltimore's Charity Organization Society and later as the director of the Russell Sage Foundation, argued for private social work practice, and for creating a system of social work education for "recognizing human differences and adjusting our systems of . . . law, of reformation and of industry to those differences" (quoted in Colcard & Mann, 1930). Jane Addams's efforts called for structuring policies that saw children not as "mini-adults" but as developmentally different, young individuals needing guidance and care, who could not be expected to see the world or make decisions as adults do. Children were thus afforded closed hearings and, eventually, confidentiality of their court records and limitations of the records' availability once the children attained adulthood (Center on Juvenile & Criminal Justice, 1999).<sup>4</sup>

### **Collaborative Reforms in Adult Courts**

At the same time that juvenile courts were being created, U.S. policies regarding the larger criminal justice system were also in flux. With the advent of parole in the mid to late 1800s and the creation of juvenile courts at the end of the century, reformers gained a renewed commitment to rehabilitation, a concept that had found itself on shaky ground prior to these changes. Prisons were renamed "penitentiaries," and their goals included repentance (hence the name) and reform of the individual (Blakely & Bumphus, 1999). These goals fit well with the dual aims of social work: changing social systems and changing the individuals who have strayed from those systems. For the latter, social casework was the proper response and individuals in penitentiaries were appropriate recipients. With the creation of the American Association of Social Workers in 1921 (forerunner to the National Association of Social Workers), casework became the central focus, and services focused on offenders made "correctional treatment specialists" of social workers (Roberts & Brownell, 1999).

### **Social Workers Call for Social Change**

Social work swung back to an emphasis on social change, however, when the Great Depression began in 1929. Providing services for the "new poor" (i.e., individuals in poverty who were formerly working class or middle class) helped social workers realize that policy change was often the proper arena for their profession. Social workers testified before congressional committees calling for policy revisions, and many New Deal programs were influenced by their expertise. As Secretary of Labor, Frances Perkins, who had been trained by Mary Richmond, was instrumental in creating reforms, including regulations ensuring safe conditions for American workers and the design and establishment of Social Security (P. J. Day, 2012; Frances Perkins Center, 2008). Social worker Harry Hopkins, appointed by President Hoover and again by President Roosevelt, oversaw new initiatives in the Works Projects Administration, which focused on youth; these were the forerunners of today's delinquency prevention programs (Roberts & Brownell, 1999).

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<sup>4</sup>Although, see Platt's (1977) seminal work critiquing these reforms as ultimately hurting youth, pathologizing them, and institutionalizing their subservient social position.

In the early 1920s, police social workers were common: They were women who provided social work advocacy as members of groups called Women's Bureaus, which functioned as divisions within local police departments. These positions were cut following the Great Depression, but returned to prominence in the 1940s. At that time, youth gangs were growing in number, and hundreds of child guidance clinics opened that employed social workers as court liaisons. Community-based councils and delinquency prevention programs were created; these focused on supporting and intervening with individuals, including children who had dropped out of school, and members of what the courts labeled "problem families" (Roberts & Brownell, 1999).

### **From World War to Universal Human Rights (1914–1960)**

The profession also continued to develop amidst a world struggling with war, peace, and human rights. At that time, World War I (1914–1918) was quickly followed by the rise of Adolf Hitler and the Nazi regime and Japanese imperialism over which World War II was fought (1939–1945). In fact, for three decades of the 20th century the world was emblazoned with two of the most destructive and widescale wars fought by mankind. The inhumane and cruel treatment inflicted by humans on other humans, particularly during WWII, seemed unfathomable. This treatment included the attempted extermination of Jews and other groups, such as homosexuals and persons with disabilities.

The dropping of the atom bomb on the cities of Nagasaki and Hiroshima in Japan transformed a seemingly harmless mushroom cloud into an unprecedented weapon of mass destruction that could wipe out large cities and its inhabitants in a matter of minutes (Gilbert, 2004; Strachan, 2003). Yet, from the ashes of war, most world citizens and their leaders were ready for a new approach to human rights, where dignity and respect for all humans were honored. World leaders sought a new way to address world problems, which included the establishment of the UN in 1945. With Eleanor Roosevelt at the helm and the UN Commission on Human Rights, the UDHR was crafted and then ratified on December 10, 1948. The initial proclamation in the UDHR preamble continues to resound: "We the peoples of the UN [are] determined to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small" (UN, 1948).

The UDHR authors crafted the declaration to be a relatively short, inspirational, and energizing document usable by common people. The UDHR consists of 30 articles that are often described by three generations of rights. The first generation of rights (Articles 2–21) are referred to as negative rights, both civil and political. These are generally rights to standards of good behavior by governments or protection of the rule of law including the right to life; to freedom from torture; to own property; and to limiting where government may intrude. The second generation of rights (Articles 22–27) are often referred to as positive rights, which are economic, social, and cultural rights. These rights include the right to social security, the right to work, and the right to freely participate in cultural life. Third generation rights (Articles 28–30) are collective or solidarity rights, such as everyone is entitled to a social and international order (UN, 1948; Wronka, 2008).

The philosophy and actions of human rights are consistent with social work, especially forensic social work aims. Respect for human rights is becoming a universal principle associated with good government practice. According to Wronka (2008), "at the heart of social work, human rights are a set of guiding principles that are interdependent and have implications for macro, mezzo, and micro policy and practice."

### **Government Policy Includes Forensic Social Work**

As great social change unfolded in the United States over the coming decades, changes in policies and approaches to criminal justice also evolved. Within the context of a new emphasis on reform and social responsibility (Center on Juvenile and Criminal Justice, 2017), Presidents Kennedy and Johnson expanded federal policy and funding aimed at preventing or addressing juvenile delinquency. The prototype initiative was the New York City Mobilization for Youth. Created by a federal grant to the Columbia University School

of Social Work, it laid the groundwork for a multitude of similar programs to follow (Center on Juvenile and Criminal Justice, 2017). Forensic social workers also increased their role in juvenile and adult probation services. The executive director of the National Council on Crime and Delinquency was social worker Milton Rector, who felt that probation officers should hold master of social work degrees. At the same time, federal dollars were allocated for correctional treatment programs for adults, pretrial diversion programs, and 262 youth service bureaus. During this decade, social workers worked in police departments, psychiatric settings, juvenile justice programs, and at probation offices (Haynes, 1998; Roberts & Brownell, 1999).

In the early 1970s, Massachusetts social worker Jerome Miller created the soon-copied policy of moving youth in juvenile justice systems from institutions to smaller, community-based group homes. In 1974, the passage of the federal Juvenile Justice and Delinquency Prevention Act intensified the focus on deinstitutionalization (Nelson, 1984). At the same time, forensic social workers and child welfare reformers collaborated to highlight the incidence of child maltreatment and to create programmatic responses, first at the state and later at the federal level. This led to the passage of the Child Abuse Prevention and Treatment Act (1974), which appropriated funds for child abuse assessment and treatment teams, which were usually led by medical social workers (P. J. Day, 2012).

In 1973, the first shelter for women battered by their husbands opened in Arizona; later in the decade, shelters for female victims and services for male perpetrators of family violence began to proliferate. Thus, the focus on social responsibility that grew in the 1960s in the United States led to the institutionalization of certain initial reforms in the rights of women and children at the federal level. These initiatives brought a renewed focus on victims' needs and rights to the forensic social work arena.

### **A Shift From Social Reform to Individual Responsibility**

Corrections policies began to focus on "get tough on crime" initiatives in the 1980s. Prison populations grew rapidly, and program dollars were stretched thin. Many correctional administrators spent the majority of their budgets on maintaining order and security in their institutions, leaving little funding for services. Feminists brought the impact of crime on survivors of domestic violence and rape to the national spotlight, highlighted by the landmark Victims of Crime Act (1984). The American public was not convinced that prisons were meeting the goal of reforming individuals and debated what to do in response to violent crime. Some have called what followed a "rage to punish," as harsher sentences and mandatory sentencing laws proliferated (Haney & Zimbardo, 1998). Though treatment services for perpetrators of domestic violence continued to be available, they were in outpatient settings, and the correctional goal of rehabilitation for incarcerated persons began to wane (Haney & Zimbardo, 1998).

The United States was struggling to determine a philosophy for correctional work (Gebelein, 2000). Was it truly "correctional"? Or was the point of prison systems to protect the public from the violent offenders locked inside? Was it to deter those who might otherwise commit violent crime? Was the point of prison simply for members of society to feel better because the "bad guys" were punished?

Faith in the possibility of rehabilitation was dealt a severe blow with the publication—and some would say the misinterpretation—of Robert Martinson's evaluation of reform programs, "What Works?" Martinson was one of three researchers, the last to join the project; he published the results early and without his colleagues, stating that little proof exists to suggest that rehabilitative programs are successful (Martinson, 1974; Wilks, 2004). When the full article was published, the conclusions were not as dramatic, suggesting that some efforts were effective under some conditions with some subsets of incarcerated persons (Lipton, Martinson, & Wilks, 1975). However, it was the first article to make such a claim and its strong questioning of the efficacy of rehabilitation had an impact.

In this climate, forensic social work opportunities shifted from prison-based rehabilitation to community-based victim/witness assistance programs, where it is estimated that

approximately one third of the staff are social workers (Barker & Branson, 2000; Roberts & Brownell, 1999). Community-based corrections initiatives, such as halfway programs and community courts, also turned to social workers for expertise. In the mid 1980s, federal monies were appropriated for the RESTTA initiative: Restitution Education, Specialized Training, and Technical Assistance. This program of the federal Office of Juvenile Justice and Delinquency Prevention (OJJDP) offered local probation departments and courts the resources to hold juvenile offenders accountable, either through monetary compensation, community service, or direct victim services (Roberts & Brownell, 1999). Currently such programs can be found in OJJDP Juvenile Accountability Block Grants. Related to these approaches are the youth-focused “boot camp” or “tough love” projects that seek accountability by mandating early intervention for high-risk young offenders. The success of these programs is unclear, and some high-profile failures have affected their support.<sup>5</sup>

## Social Work Post 9-11

The horrific crimes that occurred in the United States on September 11, 2001, and the myriad of local, state, and federal law and justice policies that have followed, are creating a new chapter in forensic policy and changing social workers’ roles. President George W. Bush’s “War on Terror” led to many new laws, perhaps most significant of which was the Patriot Act: Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism, passed on October 26, 2001, and revised and reauthorized in March 2006. The Act heightened the role of governmental intervention to anticipate and prevent specific crimes and alters the protections provided for those accused. Although much of the Act focuses on international security concerns, domestic policies have shifted in its wake, affecting immigrants and those seeking refuge or asylum. In this unfolding arena, forensic social workers again face a continuum of tasks and challenges, from individual casework and intervention to policy advocacy and social change.

## Forensic Social Work and Human Rights

For 21st-century practice, forensic social workers can choose to play an instrumental leadership role in advancing human rights forward in our country and abroad. So where do we go from here? A good place to start is with the essential document, the UDHR (UN, 1948). Ratified by the UN in 1948, it continues to project a life-affirming message to citizens of the world and is a universally accepted legal mandate by most world governments to fulfill human rights.

Eleanor Roosevelt’s hope that the UDHR would become the International Magna Carta for all nations appears to have come to fruition. Following the UDHR, additional international human rights agreements (e.g., covenants and treaties) were adopted by many countries. In 1976, these documents included the International Covenant on Civil and Political Rights. Today the UDHR, along with these covenants, comprise the International Bill of Rights (Wronka, 2012). Despite progress in human rights over the past 50 years, 21st-century practitioners still have remaining gaps to fill. First of all, the United States continues to lag behind in support for human rights. Since the signing of the UDHR, the United States has signed and ratified major parts of the International Covenant on Civil and Political Rights (1966), which recognizes civil and political human rights (e.g., the right to life and liberty and rights to freedom of expression). Additionally, President Carter in 1978 signed the International Covenant on Economic, Social and Cultural Rights (1966) that recognizes economic, social, and cultural rights (e.g., the rights to food, clothing, housing, and health care). However, as of 2010, the United States has made some strides, such as the election of the first African American president and a bill proposing universal health care for all Americans; the U.S. government has not yet ratified this covenant (Wronka, 2008; 2012).

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<sup>5</sup>For a famous example, consider the case of 14-year-old Martin Anderson, who died in custody in a “boot camp” in Florida in 2006. Retrieved from [www.MartinLeeAnderson.com](http://www.MartinLeeAnderson.com)

The United States has ratified only a small number of other human rights international documents and lags far behind many other nations in their legal commitment to human rights. The few documents ratified by the United States include the Convention on the Prevention and Punishment of the Crime of Genocide (1948), International Convention on the Elimination of Racial Discrimination (1965), and the Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment (1984). Other important international treaties and documents remain unsigned or unratified by the United States. For example, the United States and Somalia are the only world nations who have not as yet ratified the Convention on the Rights of the Child (1989). The United States also has not ratified the Convention to Eliminate Discrimination against Women (1979), which guarantees the equality of women to men, although U.S. grassroots support for it is growing (Wronka, 2012). Forensic social workers have practice specialty areas where they can concentrate their individual and collective efforts toward advancing human rights. These areas include practice and systems reform in juvenile justice, criminal justice, health care, immigration, mental health, victims' rights, and civil rights for racial-ethnic and homosexual minorities. For example, forensic social workers whose efforts are focused on juvenile and criminal justice human rights reform can advocate for the rights of offenders of all ages detained in penal institutions, the rights of minorities disproportionately involved in the criminal justice system, the rights of criminal offenders to rehabilitation and training, the rights of children born to women prisoners, the rights of juvenile prisoners, the rights of political prisoners, the rights of probationers, and the rights of those sentenced to capital punishment. There also is the potential to greatly improve the dehumanizing aspects of prison, including improving prison conditions themselves, and improving community conditions, such as living in poverty and crime-ridden neighborhoods, that place people at risk of engaging in criminal offenses (UN, 1994; Wronka, 2008).

Some relevant UN documents with direct implications for 21st-century forensic social work for juvenile and criminal justice reform (listed in chronological order) include the UDHR (1948); the Standard Minimum Rules for the Treatment of Prisoners (1955); the International Covenants on Economic, Social, and Cultural Rights (1966); the Convention Against Torture and Other Cruel, Inhumane, or Degrading Treatment or Punishment (1984); the safeguards guaranteeing protection of the rights of those facing the death penalty (1984); the UN Standard Minimum Rules for the Administration of Juvenile Justice (1985); the Basic Principles on the Independence of the Judiciary (1985); and the Convention of the Rights of the Child (1989). Forensic social workers can familiarize themselves with the documents and the UN committees designated to address the issues that are most relevant to their practice issue and/or population (UN, 1994). Forensic social workers as collaborators for human rights also can engage in targeted intervention strategies. The UN (1994) has 10 recommended intervention strategies to help advance human rights that forensic social workers can adapt. These intervention strategies are (a) working with local, regional, and national organizations to promote, develop, and implement needed changes in policy, planning, and programming on human rights issues; (b) recognizing and adapting existing services to maximize effectiveness; (c) developing and involving appropriate and qualified leaders from the community to identify, plan, and implement needed services and advocacy efforts; (d) developing self-capacities of those disadvantaged in their human rights; (e) organizing previously unorganized disadvantaged groups for self-help; (f) forming alliances with like-minded social and political movements; (g) developing mechanisms to enhance local and global awareness, including the use of mass media; (h) fundraising for the cause; (i) assessing the impact of actions undertaken in collaboration with persons and groups affected and associated groups and organizations; (j) documenting and disseminating information on human rights abuses; and (k) promoting legislation that benefits disadvantaged groups. If forensic social workers individually and collectively engage in one or more of these strategies in their local communities, these incremental efforts can make a significant difference as evidenced in the history of forensic social work reviewed.



## Black Lives Matter (BLM) Movement

BLM is a global social and protest movement that emerged in 2012 largely as a social media campaign in response to the shooting death of Trayvon Martin in Florida. It campaigns against violence and systematic racism targeting Black people. Issues of concern to the movement include racial profiling, police brutality, and racial inequality, especially disproportionate justice involvement of Black people in the criminal justice (E. Day, 2015). Michelle Alexander's (2011) *The New Jim Crow* has been influential to social work and related causes to address and understand mass incarceration of African Americans. Social work has been advocating for a response to these issues including in the field's major education journals (e.g., Robbins, Vaughan-Eden, & Maschi, 2015). For more information about the Black Lives Matter movement, see <http://blacklivesmatter.com>.

## Conclusion

Over 100 years ago, social workers understood that government, as author and institutor of policy, can and should be an arena for reform. Their efforts in the justice system set a high standard for forensic social workers of today. Our forebearers saw that advocating for their "clients" meant advocating for systemic reform, as they collaborated to apply a two-pronged approach to social welfare: individual and social change. This bifurcation of social action weaves throughout the history of forensic social work. In today's sociolegal environment, the duality becomes a continuum of options for intervention, as social workers offer an integrated approach for clients across diverse settings.

Perhaps Eleanor Roosevelt (1958), in her speech to the UN Commission on Human Rights at the UN in New York on March 27, 1958, suggests where and how we might approach our next steps. She eloquently responded to her own question:

Where, after all, do universal human rights begin? In small places, close to home—so close and so small that they cannot be seen on any maps of the world. Yet they are the world of the individual person; the neighborhood he lives in; the school or college he attends; the factory, farm, or office where he works. Such are the places where every man, woman, and child seeks equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere. Without concerted citizen action to uphold them close to home, we shall look in vain for progress in the larger world. (Roosevelt, 1958)

Eleanor Roosevelt's words are just as applicable today as they were about a half century ago. We have the opportunity to revel in past achievements and take the lessons learned forward to shape best practices for the 21st century. Forensic social work history suggests that the most effective efforts were when individual and social level action converged. In the 21st century, advancing the mission of forensic social work involves equipping practitioners with a collective vision as well as the knowledge and skills to effectively navigate the legal system. The potential for the next century of forensic social workers is one of high anticipation. Our collective efforts of today will soon become tomorrow's newest history chapter. And together we can make it a most memorable one.

## CHAPTER EXERCISES

### Human Rights Framework

Protects Civil, Political, Economic, Social, and Cultural Rights

*Basic Principles*

Universality

Participation  
Accountability  
Transparency  
Nondiscrimination

### **Human Rights and Social Justice as Ethical Issues in Social Work**

International Federation of Social Work

#### **Principles**

Human Rights and Human Dignity

Social Justice

<http://ifsw.org/policies/statement-of-ethical-principles>

National Association of Social Work *Code of Ethics*

[www.socialworkers.org/pubs/code/code.asp](http://www.socialworkers.org/pubs/code/code.asp)

#### **Cultural Humility**

[www.youtube.com/watch?v=SaSHLbS1V4w](http://www.youtube.com/watch?v=SaSHLbS1V4w)

### **Additional Resources**

Convention on Elimination of All Forms of Discrimination Against Women: [www.ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx](http://www.ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx)

Convention on the Rights of Persons With Disabilities: [www.ohchr.org/EN/HRBodies/CRPD/Pages/ConventionRightsPersonsWithDisabilities.aspx](http://www.ohchr.org/EN/HRBodies/CRPD/Pages/ConventionRightsPersonsWithDisabilities.aspx)

Core International Human Rights Instruments: [www.ohchr.org/EN/ProfessionalInterest/Pages/CoreInstruments.aspx](http://www.ohchr.org/EN/ProfessionalInterest/Pages/CoreInstruments.aspx)

Examples of United Nations Covenants, Conventions, Standards, Other: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/UniversalHumanRightsInstruments.aspx>

Handbook on Prisoners With Special Needs: [www.unodc.org/documents/justice-and-prison-reform/Prisoners-with-special-needs.pdf](http://www.unodc.org/documents/justice-and-prison-reform/Prisoners-with-special-needs.pdf)

Human Rights Instruments Library: [www.ohchr.org/EN/ProfessionalInterest/Pages/UniversalHumanRightsInstruments.aspx](http://www.ohchr.org/EN/ProfessionalInterest/Pages/UniversalHumanRightsInstruments.aspx)

Office of the High Commissioner of Human Rights: [www.ohchr.org/EN/Pages/WelcomePage.aspx](http://www.ohchr.org/EN/Pages/WelcomePage.aspx)

Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: [www.ohchr.org/EN/ProfessionalInterest/Pages/OPCAT.aspx](http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPCAT.aspx)

Standard Minimum Rules for the Treatment of Prisoners: [www.ohchr.org/EN/ProfessionalInterest/Pages/TreatmentOfPrisoners.aspx](http://www.ohchr.org/EN/ProfessionalInterest/Pages/TreatmentOfPrisoners.aspx)

United Nations Principles for Older Persons: [www.ohchr.org/EN/ProfessionalInterest/Pages/OlderPersons.aspx](http://www.ohchr.org/EN/ProfessionalInterest/Pages/OlderPersons.aspx)

United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: [www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx](http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx)

Universal Declaration of Human Rights: [www.un.org/en/documents/udhr](http://www.un.org/en/documents/udhr)

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