

## *What Is Forensic Counseling?*

Welcome to the world of forensic counseling. Forensics has been around a long time. Other professions, particularly criminal justice, psychology, and psychiatry, have had their fingers in the forensic pie for many years. But counseling is just now recognizing that this area of expertise is a natural fit for professional counselors. Forensics relies on relationship-building, active listening, reflection, confrontation, hypothesis, and deduction. It uses all the skills of a professional counselor and then makes additional demands in the forms of relationships with clients, attorneys, and judges. Forensic counseling covers a broad spectrum: from counseling with juvenile delinquents and prisoners to working with pathologists, forensic examiners, and law enforcement officers. But before narrowing the scope of forensics for the purpose of this book, it is best that we start at the beginning to understand how the field of forensics has evolved into what it means today for professional counselors.

Forensics is the process of relating or dealing with the application of scientific knowledge to legal problems. In other words, forensics uses knowledge (both objective and subjective) to better understand facts and circumstances for the purpose of clarifying legal issues. Forensics uses professional knowledge and expertise to isolate understandable and usable information about a case's issues to help make reasonable recommendations for resolving that case. For the professional counselor, this means using specific expertise, knowledge, and practice to

help others understand pertinent information that can help resolve conflicts; this includes making recommendations that can help attorneys, judges, parents, and children continue their lives in a positive, growth-producing manner.

To better understand forensics, you have to step back in time. In 1248, in China, forensic science was used to identify a sickle and thereby a murderer. But not until the 16th century did European medical practitioners begin systematically gathering information about causes and manners of death. This expanded to identification of poisons in the bodies of homicide victims, then to systematic studies of how different diseases cause specific changes in human organs. These scientific studies allowed the use of forensics in criminal cases to prove (or disprove) guilt. As a case in point, the uses of logic and procedure in a criminal investigation are generally traced back to the case of John Toms, who in 1784 was tried and convicted of murdering Edward Culshaw using a pistol. Culshaw's body was examined and the pistol was removed from the pistol. It was determined that the paper of the pistol was matched perfectly the torn newspaper found in Tom's pocket: evidence gathered through forensic inquiry at its best.

## SCIENTIFIC FORENSICS

Over many years, the use of forensic science in criminal investigation expanded. New forensic scientific methods were introduced and established by British pathologists such as Bernard Spilsbury, Francis Camps, Sydney Smith, and Keith Simpson; in 1909, the first school of forensic science was founded in Great Britain by Rodolphe Reiss. The growth of forensic science continued through publications and methods introduced around the world. An increasing number of forensic scientists became involved in criminal investigations, using formal procedures to provide evidence used in convictions and acquittals.

Numerous national forensic science professional organizations now exist that focus on the use of forensic science in criminal investigations, including the American Academy of Forensic Sciences (1948), the Canadian Society of Forensic Science (1953), the British Academy of Forensic Sciences (1960), and the Australian Academy of Forensic Sciences (1967). The members of these professional organizations publish articles and work professionally in forensic science. With the aid of these professional societies, and through the advances and changes in technologies

and cultures, including mores and societal expectations, the scope of forensic science has continued to expand.

From a scientific standpoint, the field now includes sophisticated methodologies such as DNA evidence, trace evidence, body decomposition, impression evidence (e.g., fingerprints, tire tracks, footwear impressions), controlled substances (both legal and illegal), ballistics, firearm marks, and weapon and tool marks. Databanks available worldwide now allow the comparison of information gathered at various crime scenes, greatly aiding forensic scientists.

Technological progress has required the development of the area of investigation often called *computational forensics*, which includes tracking digital communications and wire transfers as well as developing algorithms and software. Additionally, *digital forensics* is the use of scientific techniques to recover data from electronic and digital media. In addition, modern forensics delves into the investigation of accounting evidence. Even forensic anthropology has been enhanced by new technologies aiding the recovery and identification of bodies and skeletal remains.

The list of forensic specialties goes on and on and continues to expand as different needs arise in the criminal world of investigation. Some of the more interesting subspecialties include forensic botany (the study of plant life), forensic dactyloscopy (the study of fingerprints), forensic entomology (the study of insects around or in bodies to determine time of death or movement of the body), forensic limnology (the study of evidence collected around fresh water sources), forensic odontology (the study of teeth), and forensic psychiatry (the study of criminology and human behavior). And many more subspecialties exist, all of them making for good books, television shows, and movies. Forensic science has certainly been instrumental in providing evidence in criminal cases—but it is also fodder for great entertainment.

Popular culture has embraced the field of forensics and all the suspense it can provide. Sherlock Holmes, Sir Arthur Conan Doyle's famous fictional private detective, relied heavily on forensic science in his investigations. Agatha Christie's Hercule Poirot and Miss Marple were also users—and where would Dick Tracy be without it? Perry Mason brought the world of forensic science into the living rooms of millions of people through that television series; indeed, entire television series are predicated on forensic investigation. Consider *Quincy, M.E.*, the entire premise of which was police work and the world of forensic medicine. And today a wide range of television series

have forensic investigation at their core: *CSI*, *The Mentalist*, *Elementary*, *Law and Order*, *Body of Proof*—the list goes on. Forensic science has also spawned nonfiction shows, such as *Forensic Files*, that introduce the public to the world of forensic investigation. Movies have also gotten into the act, with productions that include *Sherlock Holmes*, *Broken City*, and the *Die Hard* movies.

All these opportunities to watch actors use forensic science to solve crimes, however, have misled the public into believing that nearly all cases can be solved using forensics and (worse) that forensic science is always correct. In reality, forensic science cannot always solve crimes, cannot always provide the crucial information in under an hour, and simply is not always correct. It is important to remember this core admission, because that simple concept earned a Supreme Court ruling: Any forensic investigator must be able to testify in court and be cross-examined in court about his or her conclusions. The *Melendez–Diaz* Supreme Court ruling pointed out that a document is not susceptible to cross-examination: Only the author of the report can be cross-examined. Accordingly, no report can be allowed to speak for itself: Its preparer must be brought before the bench on request. This recent decision affects the conclusions developed by many types of forensics workers who prepare reports to assist the court. We now move from the more scientific investigations of forensics to the area of forensics that employs mental health professionals, including psychiatrists, psychologists, social workers, and professional counselors.

## FORENSICS USED BY MENTAL HEALTH PROVIDERS

As has happened in the past, psychiatry and psychology have taken the lead in the field of forensics. Counseling, again echoing history, is slow to start but fast in catching up. The value of scientific forensic to criminal investigations made the field increasingly crucial for evidence conclusions and criminal convictions. And from the valuation of scientific forensics arose the belief that an intersection between psychology and the justice system could also be beneficial to the compiling of evidence and to understanding the criminal mind. Forensic psychology's roots involve understanding criminal law and interpreting evidence to help judges, attorneys, and other legal professionals comprehend otherwise misunderstood or nonunderstandable information. The forensic psychologist's work involves testifying in court to reformulate

psychological findings in the legal language of the court, making evidence of a psychological nature understandable and useful to court personnel.

The work of a forensic psychiatrist or psychologist runs more along the lines of assessing mental competency for an insanity plea, evaluating for malingering and competency, predicting future rehabilitation or recidivism, assessing personal injury, interpreting standardized assessment instruments, and conducting personality assessment. More recently, such work has also included evaluating child custody cases. It is the job of the forensic psychiatrist or psychologist to reword psychological data using legal terminology to help the court better understand the accused. For example, if the forensic psychologist is appointed by the court to assess the defendant's mind at the time of the crime, then the forensic psychologist is, in legal terms, being asked to assess whether the defendant, if he or she is found guilty, should be held criminally responsible for the crime owing to his or her degree of sanity at the time. In other words, the forensic psychologist is being asked by the court to act on obtained psychological data using his or her professional expertise to make a judgment. This judgment will help the court find a defendant competent to stand trial (or otherwise) and inform a verdict regarding whether a defendant who has been found guilty is criminally sane and was responsible for the crime.

Forensic psychologists and psychiatrists also provide sentencing recommendations to the court. They can give treatment recommendations, explain mitigating factors, assess future risk, and predict positive or negative outcomes, in addition to providing other information requested by the judge. Additionally, outside the courtroom, forensic psychologists facilitate training opportunities for attorneys and law enforcement. This training often gives attorneys and law enforcement officers guidelines to help them better judge defendants' degree of sanity as well as their motivation. Such training can also include sessions explaining how to converse and question in such ways as to acquire more accurate information. Additionally, forensic psychologists or psychiatrists often help assess prospective recruits into police academies and provide services to employed law enforcement personnel. They may also supply criminal profiles, help with jury selection, and provide other appropriate information assisting lawyers, judges, and law enforcement officers.

Thus, the scope of forensics has expanded from determining which sickle was used to kill the victim to using psychological data to make

recommendations to the court regarding criminal responsibility. And forensic psychiatrists and psychologists have opened up yet another area of forensics to the expertise of their specific professions, this time dealing with the family law court to provide insight into custody evaluation, mediation, guardianship, adoption, and case management.

## **FORENSICS AND THE PROFESSIONAL COUNSELOR**

Professional counselors have realized that they, too, have training and abilities allowing them to make psychological data understandable from legal and lay standpoints. They can also assess for mental competency and evaluate for malingering and competency to stand trial. Professional counselors can interpret standardized assessment instruments and make personality assessments. They can predict future recidivism and provide sentencing recommendations. Certainly they can provide child custody evaluations. Additionally, professional counselors can supply the training and evaluations needed by law enforcement officers and the court. They can help lawyers, judges, law enforcement officers, jurors, and all others involved in such cases understand psychological jargon from both legal and everyday perspectives. And they can teach other professionals how to learn and use better communications skills to acquire information useful for their specific needs.

## **TRAINING REQUIREMENTS**

But psychiatrists, psychologists, clinical social workers, and professional counselors need additional training to provide all these forensic services. Ethically, none of these professions allows practice beyond a practitioner's established scope of competency. Just because you are a licensed psychiatrist, psychologist, clinical social worker, or counselor does not mean you can start practicing in forensics without further training, supervision, and experience. But once having acquired such additional training under appropriate supervision, professional counselors, because of their prior training and the philosophical foundations of the counseling profession, may be more particularly useful to courts than even other mental health professions are able to be—though surely practitioners of other mental health professions might disagree. However, professionals of every mental health profession agree on the

importance of increasing training opportunities for their licensed providers. For these licensed professionals to begin providing forensic services to the courts, appropriate educational opportunities must arise at the grassroots level.

This text is one educational opportunity in a rather narrow area of forensics. The history of forensics is interesting, but the real work begins when a licensed professional starts the journey to actually providing service to a court. This book is narrow in its scope, focusing primarily on the forensic area of child custody evaluations; other texts spotlight mental competency, profiling, personality assessments, and still more services often provided by mental health professionals to the courts. This volume will take you on a journey toward becoming a custody evaluator. It will discuss the basics of the evaluation process; the things mental health professionals should focus on; methods to differentiate between reality and fantasy in this new world; and ways to provide recommendations that are meaningful and helpful to courts, parents, and children. This book is intended primarily for licensed professional counselors (LPCs; referred to as “counselors” hereafter) but can easily be understood and applied by practitioners in any of the other mental health professions.

So welcome to the interesting and challenging world of working in the family law system. Providing custody evaluations is challenging but can also be interesting, sometimes even entertaining. It is good work—different from therapy, but often just as rewarding. Let’s get started!