

# Psychology and Law ● IAAP Division 10

## Newsletter : December 2015

### 1. Greetings from the committee

Dear Division 10 Members,

Welcome to the second newsletter in 2015 of Division 10, Psychology and Law, IAAP. We hope that you have had a productive, fruitful year. This is the final newsletter for 2015. We have also contributed a piece to the IAAP Bulletin, so please keep an eye out for that when the Bulletin is sent out.

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

### 2. Newsletter themes

Our theme for each newsletter is to explore Psychology and Law in a different country. For this newsletter, we are addressing Psychology and Law in South Africa.

#### Forensic Psychology in South Africa

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In this article we offer an overview of forensic psychology, or ‘psychology and law’, in South Africa. We offer a very brief historical overview, outline recent developments in more detail, and indicate what areas are currently being researched in South Africa.

#### *History of registered psychology in South Africa*

The history of regulated psychology in South Africa can be traced back to 1955 when the then South African Medical and Dental Council (currently called the Health Professions Council of South Africa) introduced limited non-compulsory registration of psychologists. Formal registration of psychologists commenced in 1974 with the promulgation of the Medical, Dental, and Supplementary Health Service Professions Act (1974) and the formation of the Professional Board for Psychology.

## *History of forensic psychology in South Africa*

Excellent discussions of the history of forensic psychology in South Africa can be found in Allan & Louw (1995), and Louw & Allan (1996). Although psychology appears to have started as a discipline in South Africa (at least in recognisable form) as early as 1916, it was slow to make an impact in the area of forensic work before the 1970s, probably due to the widely asserted primacy of psychiatry in all matters legal (in fact this was legislated in several Acts of Parliament, including the Criminal Procedure Act of 1977 [Republic of South Africa, 2008]). Psychologists made rare appearances in court as experts from the 1940s onwards, but were often viewed with considerable skepticism: Allan & Louw (1995) put this down to a lack of training and experience in the specific tasks required in expert testimony, and possibly due to poor training in their own discipline in some cases. The situation has changed somewhat since Allan & Louw's article, specifically in the 1998 amendment to legislation that makes it possible for psychologists to offer expert testimony on mental competency. The situation regarding training of psychologists regarding forensic aspects of their work has also improved a bit, especially regarding professional ethics. Whereas surveys in the 1980s showed that very few psychologists took on forensic work, and very few indeed felt capable to do so, it is clear that more are doing this work nowadays in South Africa, and indeed have managed to get the category 'forensic psychologist' recognised in law as a registrable category under the Health Professions Council. It is of course a possibility that the new category will be abused, conferring on the registrant an ersatz accreditation of expertise in a particular field, but this remains to be tested.

The professional designation 'Forensic Psychologist' did not exist as a separate, formal registrable category in South Africa until the 2011 amendment of the Health Professions Act of 1974. Prior to this, clinical psychologists performed psychometric testing as directed by the court, or worked in a forensic setting such as a psychiatric hospital (Louw & Allan, 1998). Thus forensic psychology emerged out of practical necessity in South Africa, rather than as a field of practice informed by previous research and theory. The field is defined in the 2011 'scope of practice' for psychologists, as promulgated in the Government Gazette of the same year. However, even now it is implicit in this document that forensic psychology is a sub-speciality of clinical psychology, thus clinical psychologists may conduct psychological assessments, provide therapeutic interventions, advise on policies, design programmes, train students, and conduct research of a forensic psychology nature. The document also suggests that forensic psychologists may provide expert opinion and evidence,

presumably in court, but our reading of the law in South Africa is that registration in this category would not in itself make a practitioner qualified to give expert evidence. The category as it exists in South Africa does not appear to be as clearly defined as in some other countries. The consequence of how it is defined, though, is that most forensic psychologists in South Africa are clinical psychologists, along with an additional small group that works in what might be called forensic psychology research, or 'psychology and law research'.

It should also be mentioned that due to its policy of 'separate development' (also known as *apartheid*), and the unequal treatment of so-called 'non-white' people - which psychology as a profession was to some extent implicated in itself - South Africa was for many years isolated from the rest of the world, and indeed academically and professionally embargoed. The development of forensic psychology in other parts of the world therefore did not take root in South Africa as quickly and effectively as it might otherwise have.

#### *Training to become a forensic psychologist in South Africa*

Since forensic psychology is quite a young speciality, there are very few opportunities to study it at a postgraduate level. In order to become a registrable psychologist in any category, one needs to complete a Master's Degree in Psychology, which is the highest level at which specialisation takes place in South Africa. South African education authorities presently do not recognise doctoral level training in professional psychology. Many South African universities, however, offer Master's degrees in clinical, research, educational, industrial/organisational, and counselling psychology. Both forensic psychology and neuropsychology are pending specialisations, recognised in law, but presently without clear accreditation criteria, and without registered practitioners. Some of the universities in South Africa offer courses and degrees that include a forensic psychology component. For example the University of Cape Town offers a Psychology and Law course at the Honours level, and cognate courses are offered at various universities: Criminology/Criminal Justice at a Postgraduate level, sometimes with a small psychological component (for example, see the Centre of Criminology at the University of Cape Town; Department of Criminology and Criminal Justice at the University of Limpopo; Criminology and Forensic Studies at the University of KwaZulu-Natal; or Department of Criminology, University of the Free State) or a Master of Social Work (Forensic Practice), e.g. at North-West University.

The remaining two ways of becoming involved in forensic psychology include focusing on forensic psychology through research, or gaining practical experience as a

clinical psychologist. The former option is not degree-specific, and this research expertise can be achieved at a Masters or Doctoral level, whereas practical experience could be gained through an internship programme, for example at a prison, a rehabilitation centre or a psychiatric hospital. Since most people calling themselves ‘forensic psychologist’ are registered as clinical psychologists, their specialisation will arise through their research and working experience.

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

In South Africa, most universities offer psychology at a Master’s and PhD level; however, not all of these universities have academic staff who are experts in forensic psychology. If you would like to read about South African universities, then you can view a list of them at this link

<http://www.southafrica.info/about/education/universities.htm#.UMdV-4PqmjQ>.

However, keep in mind that this list is quite comprehensive, and includes traditional, and comprehensive universities, and universities of technology. Comprehensive universities offer academic and vocational degrees and diplomas, whereas universities of technology offer only vocational diplomas and degrees.

The universities with active academic staff members who are listed as forensic psychology experts include:

*University of Cape Town:* Professor Colin Tredoux (all aspects of Psychology and law, but especially eyewitness research, legal decision making, detection of deception); Professor Don Foster (crowd violence, political violence); Terry Dowdall (child custody issues, and alleged sexual abuse)

*University of Free State:* Professor Dap Louw (critical forensic psychology, psychopathy, female offenders and sentencing); Professor Anet Louw (assessment of child sexual abuse, and custody evaluations); Dr Florence Tadi (Forensic Psychology; her subspecialisations are not listed.)

*University of Johannesburg:* Larise du Plessis (Forensic psychology and malingering).

*University of KwaZulu-Natal:* Professor Douglas Wassenaar (Law and psychology; ethics); Professor Steven Collings (child sexual abuse); Bev Killian (validation of child sexual abuse, and custody assessments)

*North-West University*: In Psychology, Associate Professor Esme van Rensburg (Forensic work); In social work, Professor Herman Strydom (Crime), Dr Cornelia Wessels (Forensic social work)

*University of South Africa (UNISA)*: Franco Visser (Serial Violent Crime); Elmarie Visser (child custody evaluation and mediation)

Other notable experts in forensic psychology, who currently reside and work in South Africa, include Dr Louise Olivier, Dr Micki Pistorius, Dr Kobus Coetzee, and Brigadier Dr Gerard Labuschagne.

### **Research in Forensic Psychology in South Africa**

In South Africa, research has been conducted on a variety of topics of forensic psychology:

1. Aspects of eyewitness memory, such as eyewitness identification (Tredoux, Meissner, Malpass, & Zimmerman, 2004), lineup fairness (Tredoux, 1998); detecting deception (Tredoux & Pooley, 2001); and a holistic composite system, ID, which generates synthetic faces and automatic lineup generator and can be used instead of featural-based composite systems (Tredoux, Nunez, Oxtoby & Prag, 2007).
2. Issues surrounding preparing children for court, for example, Müller (2001); Müller (2003), and Hollely, K. (2002).
3. Predicting dangerous behaviour, for example Louw, Strydom, & Esterhuyse (2005); Strydom & Louw (2006); and Zabow & Cohen(1993), and rehabilitation, for example see Hesselink-Louw, Joubert & Maree(2003).
4. Crime, policing (Gulle, Tredoux & Foster, 1998)
5. Custody and placement of children, for example, an analysis of reports used in custody cases (Brandt, Dawes, Africa, & Swartz, 2004), and assessing and determining custody (Cumes & Lambiase, 1987; Lambiase & Cumes, 1987).
6. Credibility assessment, truthfulness, deception (Tredoux & Pooley, 2001; 2005)
7. Psychology in the courts, for example, providing support to complainants with learning disabilities (Dickman & Roux, 2005), and the role of forensic psychologists and the

history of forensic psychology in South Africa (Allan, Louw, & Verschoor, 1995a; Allan, Louw, & Verschoor, 1995b; Allan & Louw, 1995 )

8. Numerous topics in investigative psychology, for example using case linkage to identify serial crimes (Woodhams & Labuschagne, 2012a; Labuschagne, 2006); victimology and serial murders in South Africa (Woodhams & Labuschagne, 2012b; Salfati, Labuschagne, Horning, Sorochinski & De Wet, 2014); and muti murder (Labuschagne, 2004);
9. Some areas of notable research in forensic psychology in South Africa include the role of the Truth and Reconciliation Commission (TRC; set up to hear and consider applications for amnesty upon the dissolution of apartheid) as a therapeutic tool (Kaminer, Stein, Mbanga, & Zungu-Dirwayi, Allan, 2000; Allan & Allan, 2000),
10. Miscellaneous clinical forensic issues cf. Allan (2005), Allan, Roberts, Allan, Pienaar & Stein (2001), Potocnik & Allan (1997).

Lastly, there are two books written by South African experts in this field: *Psychology and Law* (Tredoux, Foster, Allan, Cohen & Wassenaar, 2005), and *Psycholegal Assessment* (Kaliski, S., ed. 2006).

#### *Practice in forensic psychology in South Africa*

As to the question of what forensic psychologists do in practice in South Africa, there is no recent detailed assessment that we are aware of, apart from a survey by Louw and Allan (1998), some years ago. Putting information from that source together with our own observations, the topics that forensic psychologists are most likely to address in their practical work in South Africa, are as follows: assessment of personal injury, especially after accidents involving motor vehicles; assessment of parenting capacity in cases of divorce or marital separation, and where custody of children is contested; mental competence of criminal defendants; and risks posed by inmates of psychiatric hospitals in terms of potentially violent behaviour.

#### *Ethics in forensic psychology in South Africa*

The South African Psychological Association, which was the first national psychological association in the country, published a code of ethics in 1955, which is the year the first psychologists were registered in South Africa. The Professional Board for Psychology (Board) published a very basic set of ethical rules in 1977. Several rival

professional guilds developed codes over the following years of which the code of the South African Institute of Clinical Psychologists (reproduced in Steere & Wassenaar, 1985) was arguably the most popular amongst psychologists. None of the rival guilds that existed in the 1980s and early part of the 1990s had the resources to develop an authoritative code and the Board commenced developing its own code, and this process was well under way when the competing guilds jointly formed the Psychological Society of South Africa (PsySSA) in January 1994 (Wassenaar, 1998). PsySSA instructed its ethics committee, which was chaired by the third author at the time, to develop a code. The ethics committee undertook a comprehensive investigation which included reviewing the ethical codes of professional bodies, but recommended against PsySSA developing its own code for several reasons. First, the committee understood that the Board's code was well-advanced and it was not convinced that it would be in the interest of South African psychology to publish a competing code. Second the committee lacked the financial resources to undertake the draft a report. Third, when the committee approached psychologists with necessary expertise to assist it, it found that most of them were members of the Board and therefore working on its code. During this time the PsySSA ethics committee used the codes of the American Psychological Association, Canadian Psychological Association and South African Institute of Clinical Psychologists for guidance.

The Board's Ethical Code of Professional Conduct eventually became effective on 1 April 2002 after a developmental period of about 10 years and was amended in 2011. PsySSA currently uses the Board's code.

Several South African psychologists have produced publications on legal and ethical issues that regulate the behaviour of South African psychologist starting with, to the best of the authors' knowledge, Steere and Wassenaar's (1985) *Ethical principle for clinical psychologists*. Allan published *The law for psychotherapists and counsellors* in 1997 and *An international perspective of law and ethics in psychology* in 2008. The third edition of the latter book is due for publication in early in 2016. Allan (2001) also reviewed the fundamental ethical principles that underlie the practice of psychiatrist and psychologists in a chapter a psychiatry handbook. Louw and Allan (1997) developed guidelines for psychologists who render psycholegal services and Wassenaar (1998) reviewed the history of ethical codes in South Africa. Research publications based on empirical researched mostly focussed on the ethical issues that lead to misconduct by South African psychologists (see, e.g., Nortje & Hoffmann, 2015; Slack & Wassenaar, 1999).

The training of ethics forms an integral part of the course work and practical training of the Master's course in Clinical Psychology at universities. Individual universities decide the content and the methods of teaching and testing students' ethical knowledge. The member of the Board who attend the final oral examination of students, however, serve as a moderator of students' knowledge and skills, including their ability to identify and solve ethical problems

The situation changed in the late 1990s when the Health Professions Act (1974) was amended. First, applicants can only apply for registration as psychologists if they passed an examination set by the Professional Board for Psychology in addition to completing a recognised Master's degree in Psychology and an appropriate practicum at a recognised training institution. The examination includes questions on ethics, human rights and law and therefore universities must ensure that students receive a good grounding about these topics. Second, all registered psychologists must do continuing professional development over a two year cycle and this includes training in ethics, human rights and law.

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### **3. Upcoming conferences**

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

The annual conference for the American Psychology-Law Society will be hosted in Atlanta, United States of America, from 10 - 12 March 2016. Abstract submissions are closed, but it is still possible to register for the conference. Please find more information here: <http://www.apadivisions.org/division-41/news-events/annual-conference.aspx?apaSessionKey=BNF1mdf1vPHj2W1djBA1RPKp>

#### **3.2 International Congress of Psychology (ICP)**

The 31st International Congress of Psychology will be hosted in Yokohama, Japan, 24-29 July 2016. The theme for the congress is Diversity in Harmony: Insights from Psychology. Abstracts will be accepted until January 15, 2016 (24:00, Japan Standard Time). More information can be found at the website: <http://www.icp2016.jp/>

Please do let us know if you will be presenting at ICP, as we would like to motivate for a venue and day dedicated to the Psychology and Law stream.

### **3.3 European Association of Psychology and Law (EAPL)**

EAPL 2016 ANNUAL CONFERENCE "NEW CHALLENGES IN PSYCHOLOGY AND LAW: SCIENCE INTO PRACTICE"

The University Toulouse-Jean Jaurès is hosting the 26th Annual Conference of the European Association of Psychology and Law (EAPL), which will be held in Toulouse, France, 5-8 July 2016. With a theme of "New Challenges in Psychology and Law: Science into Practice", the conference will support exchanges between researchers and practitioners working at the interface of Psychology and Law disciplines. The scientific program will thus address the key issues that arise from forensic and criminological psychology, such as eyewitness testimony, investigative interviews, lie detection and credibility assessment, risk and dangerousness assessment, recidivism, treatment of offenders and victims, etc. Researchers and practitioners, from Europe and other parts of the World, are also invited to share their recent scientific work and field experiences about new challenges that our society faces, such as human trafficking and other issues of migration, terrorism, and cybercrime. Abstracts for this conference will be due December 15th, 2015 through the official conference website (<http://eapl2016.sciencesconf.org/?lang=en>). Acceptable formats for submissions will include posters, oral presentations, symposia, and group discussions. All submissions will be peer-reviewed before an acceptance letter will be sent out to applicants.

Au plaisir de vous retrouver à Toulouse!

Fanny Verkampt

On behalf of the Organizing Committee and EAPL

For more information about the European Association of Psychology and Law, please visit the website here: <https://eapl.eu/>

#### **4. Miscellaneous**

If you have any information, news, or conferences that you would like to advertise in the newsletter, then please send it to Alicia Nortje (Alicia.nortje@gmail.com). The next newsletter will be sent within the first quarter of next year – until then, enjoy the festive season.