

# Distractions in Forensic Evaluations

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Although test manuals and professional guidelines universally specify that forensic assessments should take place in quiet, private, and distraction-free environments, such absences of distractions are rare in jail and prison settings. In this article, four aspects of this problem are examined. First, compelling examples of noise and distractions are described to give a sense of the nature of the problem. Second, the portions of guidelines from the American Academy of Psychiatry and the Law and the American Psychological Association regarding distractions are presented, along with associated excerpts from test manuals and books. Third, related research findings about the effects of distractions are explored. Finally, overall perspectives of the problem are presented, with special attention given to methods of reporting and managing distractions, examinee habituation, examiner distraction, and ways of conceptualizing evaluation tasks in high-distraction environments.

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The purpose of this article is to explore the distractions that occur in jail-based forensic assessments and how to report and manage such distractions. First, we present three examples of distractions in jail forensic assessments. Next, we examine the possible effects of distractions on the requirements for valid administration in the assessment manuals and the guidelines for psychiatric and psychological forensic interviews. Then, in this context we review the literature on the influence of distracting stimuli on human performance in a variety of settings. Finally, we present methods that examiners may employ to address how the potential distractions might influence results. These methods are presented within an overall perspective about forensic assessments in milieus in which interpersonal and environmental distractions occur.

## Examples of Distractions

While the forensic examination was underway, two prisoners in the jail were punching and biting each other in the adjoining corridor as other prisoners gathered around and cheered them on. Four guards pushed the prisoner-observers away, the guards themselves yelling at the fighting prisoners to

break it up while applying handcuffs. The examination was taking place in a glass-enclosed interview room on one of the upper floors of a metropolitan jail. The distance between the room and the fight was perhaps five feet. In the middle of a timed subtest for intelligence, the examinee looked with interest at the fight. The examiner had moments of concern, then fascination, and, finally, the quickly discarded thought that perhaps he should intervene. The subtest was stopped at the 120-second mark as mandated by the test manual.

In another jail, four interview rooms are potentially available, with attorneys, paralegals, various professionals, teachers, ministers, and forensic examiners often queued up for a room. One small room is relatively private. Another is a large classroom in which a table at the front is used for interviewing. In the remaining two rooms, the sound echoes so loudly off the walls that it can be difficult to understand everything an examinee says, and vice versa. In one evaluation, one examiner vocalized loudly to illustrate how the echoes were so intrusive that they made it difficult to hear what was being said. Nevertheless, the examination proceeded, and the examiner's assistant joined to ensure that the examinee's statements were accurately understood.

In a third jail, talking and yelling by inmates and staff, as well as shouted orders by officers, passed through the walls of the interview room as if the walls were made of paper. The examinee's eyes repeatedly darted toward the door from which the sounds came. At times, songs of sadness and loss by a prisoner

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drifted through the corridor and for a few minutes seemed to fill the room.

These instances are not isolated. The long list of other observed distractions included announcements of meal times, notifications that the interview room will no longer be available, flimsy or unsteady chairs used by examiner and examinee alike because of tight jail budgets, required use of shackles and handcuffs on the examinee, and an assessment mandated to be conducted through a thick metal grill in which the examinee and examiner had limited eye contact.

### Guidelines and Manuals

The American Academy of Psychiatry and the Law (AAPL) has issued guidelines for forensic practice.<sup>1</sup> Although this document addresses the assessment milieu in different sections, the most salient statement is found in the section of Assessments of Persons With Intellectual Disability. The AAPL guideline states, "Identify an appropriate location for the assessment in a safe setting that is both quiet and private" (Ref. 1, p S37). Although other sections also address the need for a setting suitable for examinations, there is no discussion on how to deal with distractions during the evaluation.

The American Psychological Association's (APA) Specialty Guidelines for Forensic Psychology present suggestions for the practice of forensic assessments.<sup>2</sup> Although there are guidelines in place for various practices in forensic psychology, the section labeled Assessment includes relevant guidelines for forensic assessment of competencies. In section 10.04, Consideration of Assessment Settings, it is recommended that forensic evaluators conduct evaluations in environments that "provide adequate comfort, safety, and privacy" to ensure validity of assessments (Ref. 2, p 10). Again, this guideline lacks suggestions for handling distractions in the environment during the evaluation.

Test manuals are typically specific about the testing environment. The manual for the Wechsler Adult Intelligence Scale, Fourth Edition (WAIS-IV) describes recommendations to provide an ideal physical testing environment, including administering the test in a well-lit and quiet room.<sup>3</sup> The testing environment also should be free of distractions and interruptions, such as being free from noise in the surrounding areas, to ensure the examinee's attention is focused on the test. The manual goes on to note that any distractions from the physical environment,

including sights and sounds, should be minimized.<sup>3</sup> The WAIS-IV manual specifically suggests utilizing an office or clinical treatment room as an ideal physical setting to administer the test. Similar to the AAPL and APA guidelines, the WAIS-IV manual affords suggestions for an ideal physical environment, but it does not provide recommendations for handling interruptions during the test.

The Personality Assessment Inventory (PAI) encourages similar positive testing environments, recommending that the testing situation "be free from distractions such as noise and pedestrian traffic" (Ref. 4, p 17). The otherwise comprehensive *Essentials of PAI Assessment* book<sup>4</sup> does not provide suggestions as to how to avoid or decrease noise and manage the distractions. The Minnesota Multiphasic Personality Inventory-2 (MMPI-2) guidelines<sup>5</sup> encourage a "quiet, comfortable place" for test administration (Ref. 5, p 16). Jail settings are continuously characterized by noise and pedestrian traffic, making it difficult to keep the testing environment free from these distractions.

### Research Literature on Distractions

Although there is minimal research regarding how noise and other distracting stimuli affect performance in clinical and forensic evaluations, previous research has studied how distractions can influence performance in other contexts. In a seminal study, Mowesian and Heyer<sup>6</sup> studied how music (e.g., rock, folk, symphonic, and operatic) affected tenth-grade test takers' scores on various measures, including the Basic Skills in Arithmetic Test, Differential Aptitude Test, Language Usage-Spelling Test, and Self-Concept of Ability Scale. The authors reported no significant differences on any of the measures between the ideal testing environment condition and the four music conditions.<sup>6</sup> The authors concluded that because noise in the form of music is a common aspect of everyday life, music might not be a novel noise for test takers and therefore not distracting in a testing environment. Subsequent research has replicated this finding and has reported that examinee factors such as neuroticism and introversion intensified the effects of distracting noise.<sup>7,8</sup>

In an investigation of distraction with special attention to forensic contexts, Williams and colleagues<sup>9</sup> studied self-reported symptoms in a self-attention condition and a distraction condition. Individuals in the self-attention condition were instructed to pay attention to their physical and psy-

chological symptoms while taking a questionnaire. Participants in the distraction condition were instructed to tally the number of questionnaire items related to either physical or emotional symptoms. The participants in the self-attention condition reported more physical and emotional distress compared with those in the distraction condition.<sup>9</sup> Participants in the self-attention condition reported more negative affect such as depression and anxiety compared with participants in the distraction condition. Because some forensic evaluations of competency by psychologists include self-report measures, the results of this study indicated that forensic psychologists might need to proceed with caution when interpreting self-report measures in their forensic evaluation, because what the evaluatees are focusing on (e.g., self or distractions) may impact what they report.

Dupuis and colleagues<sup>10</sup> studied the effect of background noise on the Montreal Cognitive Assessment (MoCA) in 20 younger adults with clinically normal hearing and 40 older adults with clinically normal hearing and with hearing loss. Both younger and older adults listened to low and high background noise through headphones while completing the MoCA. Compared with younger adults, both normal hearing and hearing-loss older adults had poorer MoCA scores.<sup>10</sup> Additionally, all 60 participants in this study, regardless of age, produced poorer scores on the MoCA when they listened to high background noise compared with when all participants listened to low background noise. The researchers concluded that background noise should be considered when interpreting the results of cognitive tests, particularly for older adults, and that noise in the testing environment appears to reduce scores on cognitive measures.<sup>10</sup>

Similarly, Weakley and Schmitter-Edgecombe<sup>11</sup> studied the effects of interruptions on daily tasks (e.g., making a glass of lemonade) for individuals with mild cognitive impairment and cognitively healthy older adults. When compared with cognitively healthy older adults, individuals with mild cognitive impairment took longer to complete everyday tasks and made more errors when faced with interruptions.<sup>11</sup> The authors concluded that when individuals with mild cognitive impairment experience interruptions, cognition is impacted, which subsequently impairs the performance on tasks.

One study that focused on juvenile forensic mental health assessments was conducted by Cook and colleagues.<sup>12</sup> They reported that careless and random responding to standard tests went undetected 25 percent of the time.<sup>12</sup> The authors noted that, among other factors, environmental distractions contribute to such careless and random responding.

### Pathways to Addressing Distractions

The single preferred pathway, of course, is to arrange for a nondistracting environment. The first author (S.B.) has often requested that the courts permit the evaluation to take place in a jury room in a courthouse adjoining the jail. A correctional officer is typically stationed outside the jury room, ready to escort the examinee back to the jail after the examination. In one jurisdiction, the judges usually approve this request during non-jury weeks. In another jurisdiction, the judges only occasionally approve this request, and in others, such requests are never granted. Retaining counsel is typically willing to submit such requests to the court, sometimes accompanied by a letter from the examiner describing the need for a quiet environment to administer valid interviews and tests.

In prison settings, such requests are less likely to be approved. Attorneys have requested that forensic mental health examinations take place in administrative conference rooms. If the request is seen as an adversarial attack on the prison system, it may be refused. Some experienced attorneys have good rapport with prison administrators, however, and requests submitted in a respectful manner are occasionally granted.

An important pathway to addressing distractions is to acknowledge the distractions during the evaluation. The background noise may already be catching the examinee and examiner's attention; therefore, the examiners may decide to explicitly discuss the noises they hear outside the testing room. For example, the examiners may ask the examinees if they find the noise distracting. If so, the evaluator may benefit from encouraging the examinee to acknowledge the noise, to discuss it, and then let it go.

### Examinee Awareness and Habituation

In most jails, the evaluations are monitored by ceiling cameras, and it is not unusual to have two-way speaker phones in the examination room. Some

examinees are acutely self-conscious of the visual and auditory monitoring, looking every so often at the cameras, and a few examinees have commented that the officers can listen to everything being said.

Many persons referred for forensic assessments have been incarcerated for a considerable amount of time. Individuals charged with capital murder may have been incarcerated for two to six years before a forensic mental health examination is conducted, and it has been reported that such defendants may wait up to 10 years before trial.<sup>13</sup> For some of these examinees, the seemingly intrusive noises and various interruptions are part of their ordinary and daily routine. Most prisoners have habituated to the potentially distracting circumstances. At the same time, some individuals never fully adapt. They report that the lack of privacy, the loud talking and yelling, the clanging of gates shutting, and the singing are unwelcome and distracting every day. One element of the task of the examiner is to inquire about how sensitive and responsive the examinee is to such stimuli. Although examiners usually do not have control over the distractions, at the least they can seek out information about how the examinee is responding.

### Examiner Distractions

Although examinee distractions during forensic evaluations are common, examiner distractions are a related salient topic. For novice or occasional forensic evaluators, the distractions, noise, and lack of privacy may not be a part of their everyday life the way it is for examinees residing in jails or prisons. Thus, some forensic examiners will find themselves distracted by the stimuli outside of the examination room. One implication of examiner distraction appears in the instance of forensic psychology assessments when there is a transient deviation from standardized procedures required to assess ability on a measure. Careful evaluators reflect on how much the physical environment has affected their task. Assessors do the best they can within the constraints of the milieu. Standardization, including the assessment of the environment, is a meaningful component of evaluations to ensure that the outcome is a reasonable measure of examinees' true abilities and functioning. Another consideration is the nature of the forensic examination. In the case of most forensic psychiatrists and some forensic psychologists, the examination proceeds in the form of an interview. In contrast to the structure of tests and timed tasks in many

forensic psychology evaluations, the interview-based assessments are likely to have a higher threshold before distractions are a significant problem.

The noise holding the forensic psychological examiner's attention may affect the interview and testing results. For example, a meta-analysis by Styck and Walsh<sup>14</sup> on examiner errors on the Wechsler Scales of Intelligence revealed that, "on average, 73.1 percent of protocols contained errors that changed the Full Scale Intelligence Quotient score, and examiner errors resulted in changes to the Verbal Comprehension Index, Perceptual Reasoning Index, Working Memory Index, and Processing Speed Index on 15.8 percent to 77.3 percent of protocols" (Ref. 14, p 13). Although examiner errors may occur for a variety of reasons, novice forensic evaluators conducting evaluations in jails or prisons may be distracted by stimuli within the physical environment, leading to examiner errors in assessment.

### Conclusions

It is puzzling that such an important issue as distractions in forensic examinations has drawn so little professional and research attention. It may be time for guidelines and test manuals to offer procedures for effective evaluations in noisy, intrusive, uncomfortable, and difficult environments in addition to describing desirable settings. This article has begun to explore some of the essential concerns related to both examinee and examiner distractions. Some of the elements of distractions are beyond the control of both parties because they are pervasive in correctional interviewing or testing environments. Jails and prisons predictably struggle with financial constraints, and thus quiet, private interview rooms for mental health professionals and attorneys alike are far from the top of their priorities.

The challenge for forensic mental health examiners is maintaining valid assessments when both the examiner and the examinee have become distracted. For example, in settings that permit videotaping, recording of the forensic assessments can allow examiners to review the nature of the distractions and to make a more considered judgment about the effects of such distractions.

There are no simple solutions to the issue of distraction in forensic mental health evaluations. Forensic mental health examiners should specify the extent to which distracting elements were present, however,

and, if present, what cautions apply for the interpretation of assessment results.

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