

Forensic Briefs

Ep 52 Dana Formon - AI, Ethics, and Forensic Practice

Artificial intelligence offers forensic psychologists intriguing new tools—but when does assistance become inappropriate delegation? Dr. Dana Formon examines lower- and higher-risk uses of generative AI, from proofreading and consultation-like applications to report writing, record review, assessment interpretation, and risk calculations. She discusses how psychologists can develop AI competence, evaluate tools, protect confidential information, document AI-assisted work, determine when disclosure is appropriate, and preserve independent professional judgment within a field subject to unusually high legal and ethical scrutiny.

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Dr. Millkey

Welcome to Forensic Briefs, everybody. I am one of your hosts, Alex Millkey.

Dr. Guyton

Hi, everyone! And I am your other host, Michelle Guyton. Today we are talking with Dana Formon, who is both an avid endurance athlete and board certified forensic psychologist. Dana received her doctoral degree from Sam Houston State University in 2019, and completed her pre-doctoral internship at FCC Butner. She then went on to complete postdoctoral fellowship training at the Colorado Department of Human Services, where she worked for one year post licensure, supervising interns and fellows.

Dr. Guyton

She was then employed as an evaluator at Central State Hospital in Virginia before finding her home at Forensic Specialty Group in Marietta, Georgia, where she completes primarily adult and juvenile criminal forensic evaluations of competency, criminal responsibility, risk assessment, and mitigation. Dana is also an instructor at Carroll University in Wisconsin, and remains involved in remote forensic evaluations for the state of Colorado.

Dr. Guyton She is also actively engaged in research on the use of artificial intelligence in psychology. We are delighted to welcome back to Forensic Briefs doctor Dana Formon, who will continue talking to us about AI. So welcome back, Dana.

Dr. Formon Thanks. I'm happy to be here.

Dr. Guyton We are happy to have you back as well. And for this podcast, I'm wondering if you will remind our listeners a little bit about how you got into this field and started developing your interest and expertise.

Dr. Formon You know, it really started with just a random idea. Artificial intelligence was becoming a thing a few years ago, and I was just chatting with some colleagues at a conference, and we all just kind of started spitballing ideas and talking about, well, what do we think about this? What do you think about this? What do we know about this?

Dr. Formon We don't know anything about this. And you know, it just kind of spiraled, I guess, in a good way from there. And so it was really just a single thought in the company of some really amazing colleagues that ended up turning into an interest area that other people also seemed to be interested in.

Dr. Millkey Yeah. I think you've really, you know, you sort of have the benefit of capturing a zeitgeist or at least the zeitgeist of concern, but to drill into what we're talking about a little bit, when you talk about AI use in forensic psychology, what are you talking about? Like what kinds of tools or practices are we actually considering when getting into that?

Dr. Formon Yeah. So one of the caveats I usually give people when I give presentations on this kind of stuff is the - is well, I guess you could call it a caveat, but the definition of AI, like when we say AI like what am I actually talking about? Because there are so many different things that this phrase AI, artificial intelligence, can refer to.

Dr. Formon So really, when I've been thinking about this and presenting about it and writing about it, it's really been generative AI, which is some kind of artificial intelligence platform that exists to generate new content. So it's not just summarizing records, it's not just, you know, engaging in pattern recognition, but really generating new things like ChatGPT or BastianGPT, for example.

Dr. Guyton All right. And so it's generating new stuff. And in the context of forensic psychology, what does that mean?

Dr. Formon Within forensic psychology where we often see generative AI starting to come into our field, would be for things like - report writing is kind of the biggest example of that, which is to say you would be able to, you know, kind of this ideal world dump in your testing data, your notes, with all of your little eccentricities and ways of abbreviating things and half thoughts and all of this kind of stuff and other data, perhaps other records you might have.

Dr. Formon And for an artificial intelligence platform to synthesize all of that, understand what it means, summarize it and generate that voice, that report for you. So you would no longer be having to look at your notes, decipher them, decode them, put things into coherent sentences. But in this ideal world, a platform, an AI platform, would do all of that for you.

Dr. Guyton So this is doing the heavy lifting for us. I'm sad for any computer that has to try to decipher my notes and weird acronyms that I have throughout a report, and I guess our people doing this do we know are people using AI to write forensic reports?

Dr. Formon So I can't say for certain, but I know that there are and this, you know, really generative AI can kind of intersect with our field in a few other places too. But this is kind of the big one that I feel like, you know, resonates the most. But there are some report writing programs out there that are advertised or geared towards quote unquote, forensic specific report writing. And so there are some programs out there kind of touting themselves as being forensically

appropriate. But of course, whether or not those programs actually are is another question. Maybe for another day.

Dr. Millkey

Right. You know, I mean, you say I'm not sure how much people are using it, but I mean, I think we all know that people are using AI to write reports. I mean, they may only whisper it in the dead of night at conferences after a couple of drinks, but it's for sure happening, and I'm sure that there are risks associated with this.

Dr. Millkey

What are the risks of using AI and forensic practice as opposed to, for example, general psychological practice?

Dr. Formon

Yeah. So I think and to your point, right. I mean, in general psychological practice, we know that AI report writing software is obviously a thing and people are using it. And so I think, you know, you're right to make that next step, take that next step and say, well, people are probably definitely using it probably definitely in forensic psychology as well.

Dr. Formon

I think you're accurate there. But, you know, I think when we think about using AI in our field specifically, the risks do come from the uniqueness of what we do in that the reports that we write, the methodology we have, needs to be grounded in, like evidentiary standards, not just the other clinician down the hall is using it.

Dr. Formon

They think it's really helpful, you know, or the - it's a big thing in school psychology too. So it's not just, you know, a matter of, well, the middle school is using it in the high schools using it. So I'm also an elementary school psychologist. And let me try using it too. But we have a judicial scrutiny that is applied to our work that I think makes it inherently risky.

Dr. Formon

Because when you're wrong or if something is used inaccurately, you could be on the chopping block for that during testimony. And that's never a good feeling. And B, if that is not the case, maybe you don't testify, but there is some kind of AI related inaccuracy in your work that could impact someone's liberty interests, right? Their

freedom. Impact some other judicial outcome that could carry serious consequences.

Dr. Formon

So what I think about using AI in forensic work specifically, it is just the very nature of our work that I think makes it riskier than in other areas of psychology.

Dr. Guyton

That makes sense to me in some ways. When I think about what forensic psychology is and just highlighting these things that you're talking about in terms of the the scrutiny that is applied when you were talking about, you know, being cross-examined about that, I thought - I was thinking about like, oh, if you've done something wrong and you are about to be cross-examined on it, right? How painful that is. And I, I guess I also wonder too, that does the judiciary anticipate that we are using our skills to produce these reports, rather than relying on technology in order to produce a set of opinions that is going to be used in court.

Dr. Guyton

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Dr. Formon

Yeah, and I'm glad you said that too, because you know when I was talking about it. I said, you know, well, that's going to be really painful for us. It's true, you know, and then also, right, if something like this were to happen when you're testifying, think about the ramifications, not just on the defendant but about on this, you know, bigger like credibility issue of experts, of psychologists, of attorneys talking behind the scenes about this one person that they called to be their expert. And now something awful has happened in court. And now that has a lot of ripple effects, too. So I'm glad you mentioned that, because it does, of course, go far beyond just our uncomfortability on the stand, for sure.

Dr. Guyton

Well, that and I mean, I think it gets into some of the ethics, right, of of not harming the people with whom we work and recognizing that

these are vulnerable people these are high stakes situations frequently, whether that's civil or criminal or parenting or, you know, whatever the the capacity is, it's, you know, we are involved in people's lives and, you know, important ways.

Dr. Guyton

And so it strikes me when you think about what you're saying, not just a discomfort for us, which obviously is acute and painful, but also for thinking about the impact that it has on the other people involved.

Dr. Millkey

The analogy springs immediately to mind for me is so my wife is a middle school science teacher, and she had a student who was not performing totally up to par and then turned in a paper that was like graduate level. And she said, "Look, kid who shall remain nameless on this podcast. Can you just tell me anything about the carbon cycle at all?"

Dr. Millkey

And then they couldn't. But I just imagine, you know, if you're outsourcing your thinking to this program, that is I mean, from what I understand, often kind of a black box, I mean, something that even the people who create this can't say how it comes up with these things. I mean, we need to be transparent. We need to be objective.

Dr. Millkey

We're outsourcing our judgment. And now I'm just preaching. But what I'm saying is, I see the risk that you're talking about, and I would prefer not to see that happen to me or to anybody in my field. It's a real risk.

Dr. Formon

Yeah. And I, I like that you mentioned the student example too, because the one thing I tell my students and that I would tell other clinicians too, is that AI use from a low risk perspective, can really be beneficial. Like I think it could really help with things like preparing cross-examination questions. Or if you want to ask Bastian or ChatGPT, how do I explain abstract reasoning in a way that, like somebody with a high school diploma could understand or lower than that. Great low risk situation.

Dr. Formon And so what I tell people is that AI can really be helpful, but you need to make sure that you are at the end of the road with what you can come up with yourself or do yourself first. And then if you have trouble understanding something or explaining something, then sure, go ahead and see what AI might be able to help you with there.

Dr. Formon But yeah, to make sure that we don't start getting into the habit of relinquishing our own abilities or losing some of those abilities. Make sure that you have done all that you can first.

Dr. Millkey Right. Well, so those are some low - so it sounds like restating for the sake of clarity, you know, some of the low risk uses are things like how do I phrase this? You know, this feels a little - I feel like I'm getting a little lost in the words here. How can I get out of this thicket I've made?

Dr. Millkey Those are sounds like sort of low risk scenarios, sort of like consultants wording kinds of things. And I guess we've alluded to it, but I want to make it explicit. What are the high risk scenarios with AI use?

Dr. Formon Yeah, I mean, right now, based on what we know and don't know about the accuracy and effectiveness of how AI is interacting with our field at this point in time, I don't think report writing is a safe space for AI use right now. Particularly if a clinician is looking to dump things into a report writing platform and not review it themselves.

Dr. Formon I think any reliance on AI without your own personal clinical review is automatically high risk. There should never just be this delegation of a task, specifically a generative task like report writing without oversight. And then, you know, related to that, I don't think we've got any information at this point in time that would give us confidence in using AI to do things like interpret assessments.

Dr. Formon We are certainly not there yet. Scoring tests, making risk calculus or, you know, anything like risk assessment. I think originally people

were really hoping that AI would help us there, thinking that, well, computers aren't biased the same way humans are. So maybe this is our golden ticket to good risk assessment. And spoiler alert it's not, it has not quite born out that way.

Dr. Formon

So I think really anything in terms of the real kernels that make us clinicians, the interpretation, the synthesis, the conclusions, and the communication are the places right now where AI use could be higher or just high risk.

Dr. Millkey

Let me ask one specific question because I identify this as the top of the slippery slope, because it is like an area that I feel like maybe AI could do this for me, but I feel - I bridle against it. And I think I'm sure that this is like an entry point into problems. Record review. Do you feel this is a high risk or low risk AI activity?

Dr. Formon

Yeah. So the way I think about record review and the way one of my colleagues, Ben Silber, has talked about record review has and I think this is a great blanket statement for a lot of AI uses - don't use it for something that you don't have time to double check yourself, at least at this point in time.

Dr. Formon

I'm not aware of any record review program that is specifically geared towards forensic psychology, and I think the reason that's important is because the information that a forensic psychologist might take from medical records or mental health records and find to be important could be totally different from what a medical professional might find relevant and meaningful, because we are relying on AI to determine what we think is relevant.

Dr. Formon

That makes me feel all kinds of ways, and I would hope it would make other people feel all kinds of ways to. I know some colleagues who are working with record review AI platforms, and they're also going back through themselves to see what kinds of things are being caught, what kinds of things are being missed. So it's - they're kind of using AI to do some record review, but it's mostly kind of an internal self-study kind of a thing.

Dr. Formon

But that could be a really great place for growth, for sure. So I would say, you know, if you are considering using AI for something like record review, provided of course, it's a HIPAA compliant platform that's, you know, the requirement there. That, you know, enter those records, see what happens. But you have to make sure to also review those records yourself.

Dr. Guyton

I wonder if the timing of that makes any difference, right, of like writing your review and then submitting the records to the platform and seeing what the differences are, right? In terms of what you picked out as being important and or versus not important. I know sometimes when I have to argue to get a hold of records in a case, right, somebody might say, well, that's it's medical records, it's not relevant.

Dr. Guyton

And I might say, well, certainly there are a number of irrelevant things for me in there, but then there are nuggets in different places, right? That might be really useful in terms of a person's mental status or depressive symptoms or things like that. And I just, I wonder because it is a black box, right. What is it picking up on versus what it isn't picking up on that you would be - that you would know to be looking for in those records. So yeah. Do we know anything about how they - about how those work or what they're looking for, or is it just the magic black box of AI that's doing it?

Dr. Formon

Yeah, it's - I think at this point in time it's a little bit of the latter. The magic black box. I know different algorithms will summarize things in different ways, and the intricacies of that far outstrip what I'm cognitively capable of understanding and communicating.

Dr. Formon

But yeah, it depends on the platform. And I would also venture a guess that it may also be one of those things that remains a black box for like proprietary, you know, trade secret reasons. Because we do we do have some news articles and some data on programs that weren't necessarily for record review, but AI programs that served other functions that have tried to be cross-examined in court.

Dr. Formon And the AI companies have said, "No, no, we're not disclosing our algorithms or our processes for secondary review because these are our trade secrets and you can't have them." And courts have been divided on whether or not to allow that to happen. So right now, it kind of remains a mystery as to how some of those programs work and what they look for.

Dr. Guyton Got it. Well, I'm going to just venture out and say that I am not competent in the use of AI and really any platform or way. But what does it mean, I guess, for forensic psychologist to be competent or become more competent in the use of AI?

Dr. Formon So how do I see competence in something like this? As an assessment psychologist, I really - I love using assessment analogies. And so when I think about being competent in a new area, I think about reading the manual right when you would normally read a test manual and find some journal articles and practice a little bit to be competent in giving a specific psychological test?

Dr. Formon I think so too, being competent in the use of AI or AI tools would be similar. Of course, the caveat there being there is no manual. You know that you can easily turn to, but you know, it really just has to do with getting down into the information that we do have and that we do know to understand the capabilities of the tool or tools that you are hoping to use, their limitations, and then knowing when it is and isn't appropriate to use them.

Dr. Formon Just the same way you would make those same kinds of decisions, giving us like a test to somebody who may be a non-English speaker or have something else that might impact whether or not you would give something.

Dr. Guyton You have been listening to our conversation with Dr. Dana Formon about the rapidly evolving use of AI in forensic psychological practice. There is still a lot more to come in this episode. Dana examines how AI can produce convincing but incorrect information,

what psychologists need to understand about the tools they use, and an intriguing way AI might start to serve as a kind of thought partner without becoming the decision maker. If you would like to hear the rest, visit us at forensicbriefs.com. A 99 dollar annual membership gives you our entire library and more than 50 full length conversations, every new full episode, and full access to the Forensic Briefs app which includes bonus episodes and downloads for listening anywhere. Your subscription does a lot more than unlock the podcast, though. It also helps us cover the ongoing costs of producing and maintaining Forensic Briefs.