This is the first fundamental text to focus specifically on forensic vocational rehabilitation, a field that is forecast to grow rapidly. Forensic vocational rehabilitation consultants evaluate the vocational and rehabilitation needs of individuals in an array of legal settings such as civil litigation, workers’ compensation, Social Security disability, and others. The text is unique in its exploration of the vocational rehabilitation process from a biopsychosocial perspective that views disability as a complex and multidimensional construct. The book comprehensively describes the parameters and theoretical issues of relevance in evaluating and developing opinions in forensically oriented matters. It culls and synthesizes current peer-reviewed literature and research on this private subspecialty practice area of rehabilitation counseling, including theories, models, methods, procedures, and fundamental tenets of the field. Also included is current information about the labor market, life care planning, and professional identity, standards, and ethics.

The text is designed for graduate and postgraduate students in rehabilitation counseling and psychology as well as practicing forensic vocational rehabilitation consultants and professionals moving toward practice in this arena. Chapters are authored by noted scholars or published practitioners in each subject area, and include an introduction to the content area, discussion of key terminology and concepts, and a review of the current and historical literature, with emphasis toward future research needs and evidence-based practice. The book fulfills the requirement by the Commission on Rehabilitation Education (CORE) for training in this subject area at the graduate level for new certification or certification maintenance.

**Key Features:**
- Comprises the only foundational text to focus specifically on forensic vocational rehabilitation
- Synthesizes peer-reviewed research into one authoritative source
- Describes the role, function, and scope of practice of the rehabilitation counselor in private forensic vocational rehabilitation practice
- Fulfills CORE requirements for certification
Foundations of Forensic Vocational Rehabilitation
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Foundations of Forensic Vocational Rehabilitation

Rick H. Robinson, PhD, MBA, LMHC, D/ABVE, CRC, CLCP, CVE, NCC

EDITOR

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This book is dedicated to my dear friend and trusted colleague John Orphanidys who inspired, grounded, and challenged me personally, professionally, and spiritually—John Orphanidys (1952–2013)
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The forensic vocational rehabilitation process can be effectively conceptualized and compared to the process of connecting individual links to build a chain that will ultimately bear the weight of the expert’s vocational opinions and conclusions. A chain is best described as a series of links, connected one after another, to form a flexible yet high-strength apparatus for tying things together, holding things down, and pulling things along. A chain can have many uses and applications, such as a paper chain on an old-fashioned Christmas tree, a plastic chain on a child’s toy, a gold necklace chain entrusted to suspend and display a valuable gem, or heavy steel tie down chains used to secure cargo on the back of a commercial truck. Regardless of the application, each link in the chain contributes to the overall strength and effectiveness of the apparatus as a whole. In other words, the overall strength of the chain in sum is only as strong as its weakest link. This is also the case for forensic vocational rehabilitation consulting.

The vocational rehabilitation process relies upon multiple sources of data to form a chain comprised of multiple links. The links may include various records such as school records, employment records, or financial records. The links may also include medical and psychological input from both treating and/or consulting sources. Each of these data sources is linked together through application of professional and clinical experience, knowledge, and judgment to form a hypothesis that is then further developed, and tested through individualized evaluation.

Individualized evaluation continues to build on to the chain by adding additional links such as psychometric assessment, transferable skills analysis, job analysis, labor market survey, and consideration of various forms of wage and occupational information. Each link that is added to the chain has the potential to weaken or strengthen the chain. We eventually complete our chain by forming our expert opinions and conclusions. In the end, our goal is to build a chain that is characterized by great tensile strength that will support our opinions and conclusions without breaking under significant pressure, stress, or strain.

To continue with my chain analogy, this book is less about how to connect the links in the chain, and more a book that describes the evolution of the chain, and the characteristics of how each individual link in the chain is forged, hardened, and formed into a link. Why is it important to understand how a link is constructed, when the seemingly more important issue is how to connect the links? Would it not make more sense for this book to describe how to use the completed chain? The answer is that while a chain may have a number of uses and applications, inappropriate or misapplication of a single link or the entire chain can cause premature and quite predictable failure. For example, it would make little sense to build a chain with a combination of plastic and steel links to secure the load on a commercial truck—this would most assuredly create a public safety hazard. Likewise, using a chain composed of heavy steel links on a child’s small plastic toy is unnecessary. Understanding the evolution of
the chain, the composition and construction of the individual links, and their proper application, is analogous to understanding the foundational aspects of forensic vocational rehabilitation and its application to the vocational rehabilitation process.

The overarching goal of this textbook is to provide a foundational perspective of the subspecialty area of forensic vocational rehabilitation practice. Forensic vocational rehabilitation involves evaluation, services, and opinion development within the context of civil and administrative law systems. This book was never intended to be a “how to” book, but instead has had the singular vision of synthesizing the foundational literature covering the major topics and areas key to this subspecialty area of vocational rehabilitation practice. The book covers a range of topics related to the published history, theories, models, methods, procedures, and other fundamental tenets related to the field of forensic vocational rehabilitation.

The target audience for this book is both current rehabilitation practitioners as well as graduate and postgraduate students in rehabilitation counseling, rehabilitation psychology, economics, and other allied professionals, such as occupational and physical therapy students, seeking a deeper understanding of the foundational aspects of forensic vocational rehabilitation. The scope of the text will provide a window through which the interface between the world of work and a person’s “fit” within that world, from the vocational rehabilitation perspective, may be viewed.

Two key points differentiate this book from other vocational rehabilitation works. First, this book explores the vocational rehabilitation process from a biopsychosocial orientation. That is, I have approached the topic of vocational disability from the point of view that “disability” is a complex and multidimensional construct. The concept of disability results from the interaction between a health condition (body function and structure) and the context in which the person exists (activities and participation). If the interaction results in less than the full range of participation or function, then the person is considered to have a disability. This perspective is different from many vocational rehabilitation books that preceded it, and in particular, forensically oriented books that tend to align exclusively with the medical model of disablement.

The second key point that differentiates this book from other vocational rehabilitation works is the method by which it was developed. Many books rely upon one or two authors’ point(s) of view and interpretation of the professional literature as the organizational structure of the book. On the other hand, many professional journal articles utilize a process of peer review to review a manuscript, and suggest revisions. The peer review process is iterative until the manuscript reaches a point that is acceptable to the author, the peer reviewer, and editor. In this case, the book editor, in concert with a six-member editorial review panel, finalized the book outline and suggested subject matter experts to develop the content of each chapter. In the spirit of the peer review process, each chapter in this book was peer reviewed by at least one member of the editorial review panel, in addition to the book editor. The result is a comprehensive work that honors the value of the peer review process, and provides a multifaceted view of the vocational rehabilitation process.

So why is this text important? To answer this, we need only refer back to my chain analogy. As a forensic vocational consultant (FVC) you will be asked to form expert opinions and conclusions regarding a broad range of vocational rehabilitation issues and topics. Your opinions and conclusions will need to withstand the rigor and close critical examination that is inherent in the forensic vocational rehabilitation area of practice. In essence, we must build a strong length of chain, by connecting links that must ultimately hold strong under critical analysis. This book provides you with the necessary foundational tools to forge, harden, and form a link in your chain.

Rick H. Robinson
There are many people who have played key roles in making this book possible. From the early conceptual stages, when the book was nothing more than a rough outline, members of the editorial review panel were unwavering in their support. A special debt of gratitude is owed to Dr. Mary Barros-Bailey and Dr. Tim Field, who were always willing to review one more chapter, answer one more e-mail, or pitch in wherever additional peer review, commentary, or development support was necessary. Clearly, without the hard work and scholarly commitment of each of the chapter authors, this book would not have been possible. Each of the authors readily recognized the need for this book, joined me in my vision, and singularly contributed to the whole to form a collective body of work that I believe makes complete an area of the vocational rehabilitation literature that was previously unexplored, or at best incomplete. Lastly I would like to acknowledge and thank my editor, Sheri W. Sussman of Springer Publishing Company, for believing in this book and for allowing my vision to be realized.
Foundations of Forensic Vocational Rehabilitation
CHAPTER 1

Introduction to Vocational Rehabilitation

Rick H. Robinson

The purpose of this chapter is to provide an introduction to the vocational rehabilitation process, and to highlight the similarities in how this process serves as the foundation for service delivery in public, private for profit, and community based nonprofit vocational rehabilitation practice settings. Regardless of the vocational rehabilitation counselor’s practice setting, it is this common vocational rehabilitation process that serves as the glue to bond our respective clinical practices. Interestingly, despite this common process, over time, there has evolved a perceived bifurcation in the role and function of rehabilitation counselors practicing in these various settings. This chapter will explore how this perceived bifurcation in role and function, in actuality, is little more than differing points of view toward a common process, that shares common goals, and is carried out by similarly qualified professionals.

What may appear to be two distinctly different groups of vocational counselors traveling two very divergent roads, in actuality, is more like a divided highway running parallel, with both groups moving in the same direction. Each side of this highway may have its own traffic rules and regulations, enforcement, road hazards, and its own unique scenery along the way, but both sides of the road will have started in the same place, and will eventually come to end at the same place. Similarly, the public and private sectors share a common rehabilitation process that moves from case evaluation through termination. This chapter will also introduce how various chapters within this text relate specifically to the forensic aspects of the vocational rehabilitation process.

HISTORICAL EVOLUTION OF VOCATIONAL REHABILITATION

For thousands of years, we have contemplated, and massaged the relationship between a person’s physical and/or emotional status, and the worldview of that person’s usefulness within the community, culture, or civilization in which he/she lives—in particular, the world of work. The Greek philosopher Plato wrote, “To him who has an eye to see, there can be no fairer spectacle than that of a man who combines the possession of moral beauty in his soul with outward beauty of form, corresponding and harmonizing with the former, because the same great pattern enters into both” (Dickinson, 1919, p. 138). To the Greeks, a good and healthy body was a necessary condition for a good and healthy soul.
In the middle ages, religion came to play a major role in “classifying” people within cultures, in particular, the contrasting views between Orthodox Calvinists and the Roman church (Goodey, 2001a). Calvinists believed that “salvation was preordained before birth for a relatively small… number of people and that the rest were damned, for reasons known only to God” (Goodey, 2001a, p. 9). The Roman church on the other hand believed “that everyone can be saved, as long as they have the will to do” (Goodey, 2001a, p. 9). Scholars of the time attempted to reconcile these conflicting beliefs through a compromise position “that everyone is saved not if they have the will, but if they have the capacity: that is, if they have the ability to understand what salvation means” (Goodey, 2001a, p. 9). This position had meaning well beyond operationalizing the notion of salvation in the view of the church. It was during this scholarly debate that we come to see the term “impotentia,” which roughly translates to disability (Goodey, 2001a, p. 9; Goodey, 2011, p. 226). It is here where we begin to see theologians propose that categories of people be excused from work because of a morally neutral “natural disability” (Goodey, 2001b, p. 10), which to this point in time likely referred mainly to developmental disabilities. This changing perspective toward persons with “disabilities” and illness gave stimulus for the proliferation of charitable funds and organizations intended to help the needy, which gave rise to the charitably funded hospitals of the middle ages. These hospitals provided assistance and treatment to persons with infirmities or disabilities, both physical and mental (Stainton, 2001).

By the middle of the 14th century, famine, disease, and the plague in Europe had reduced the population significantly, thus resulting in a labor shortage (Rubin, 1989). With reduced availability of labor, came decreased charitable funding from donors and patrons, and a changing public attitude toward persons with disabilities. Stainton (2001) reported “the attitude towards charity changed in this climate of labour shortages, and hospitals were seen as supporting ‘lazy shirkers’ and helping them to avoid work” (p. 23). In response to the labor shortage, English parliament in 1351, passed the Statute of Labourers which required that any “sound beggar” or able bodied people who give “themselves up to idleness and sins, and, at times, to robbery and other crimes” who “can very well labour” may be compelled “to labour for the necessaries of life” (Henderson, 1896, para. 5). In essence, this royal decree made charity illegal for able-bodied persons (Tuchman, 1979).

As reported by Rubin and Roessler (2008), some of the earliest references to “rehabilitation” occurred during the 16th and 17th centuries. Meier (2010) described the use of an artificial hand in the early 16th century with articulated fingers that could grip a sword like a vise. Obermann (1965) described how a deaf student was taught to “speak, read, write[,] and understand arithmetic” (p. 64) in the 16th century. Also in the 16th and 17th centuries, deaf children began to be taught sign language first in Spain, and then in France (Start American Sign Language, 2013). Despite being 300 or more years in our past, the goal of these early rehabilitation efforts, whether focused on restoring upper extremity function or the education of a deaf child, was likely very similar to the goals we seek to achieve today in vocational rehabilitation.

Chan et al. (1997) defines vocational rehabilitation as

a dynamic process consisting of a series of actions and activities that follow a logical, sequential progression of services related to the total needs of a person with a disability. The process begins with the initial case finding or referral, and ends with the successful placement of the individual in employment. Many activities and developments occur concurrently and in overlapping time frames during this process. (p. 312)

While not explicitly stated by the Chan et al. (1997) definition above, the central focus of vocational rehabilitation is upon return to work and/or employment. This is reiterated by Rubin and Roessler (2008) when they state, “the end goals of the vocational rehabilitation process for people with disabilities are placement in competitive employment, personal satisfaction with the placement, and satisfactory performance on the job” (p. 289). Given the strong focus on these three goals, it makes sense why Cardoso et al. (2007) would opine, “The vocational rehabilitation process…is best regarded as a “pull factor” (i.e., the therapy that
provides meaning, focus, and direction) and, as such, is distinguished from other “push factor” therapies (i.e., those services from which the client will hopefully become independent)” (p. 85). In other words, the vocational rehabilitation process is intended to “pull” the client toward the desired employment outcome by initiating services and interventions that provide direction and focus toward the desired employment goal. The role of the vocational rehabilitation counselor is to serve as a “guide” to help the client reach his/her vocational rehabilitation goals, thus achieving a state of vocational autonomy and self-sufficiency that is unique to the goals of each individual. In a paradigm where the client is “pulled” toward a vocational rehabilitation goal, the inherent right of the client to choose to participate in the intervention is honored. At any point in time, from the initial evaluation through the point of service termination, the client has the right to choose not to participate in the vocational rehabilitation process—or to be pulled no further.

THE VOCATIONAL REHABILITATION PROCESS

In 1960, the Office of Vocational Rehabilitation—a division of the U.S. Department of Health, Education, and Welfare described the vocational rehabilitation process as a “planned orderly sequence of services related to the total needs of the handicapped individual. It is a process built around the problems of a handicapped individual and the attempts of the vocational rehabilitation counselor to help solve these problems and thus to bring about the vocational adjustment of the handicapped person” (McGowan, 1960, p. 41). The Office of Vocational Rehabilitation detailed six basic and underlying principles that guide the vocational rehabilitation process that included:

1. Action must be based upon adequate diagnostic information and accurate and realistic interpretation of the information that is secured;
2. Each rehabilitation client must be served on the basis of a sound plan;
3. Guidance and counseling of clients and close supervision of all services are essential at each step of the process;
4. Each service must be thoroughly rendered and followed-up;
5. The cooperation and involvement of the client and all others concerned with his/her rehabilitation is necessary and must be secured before adequate rehabilitation can be accomplished; and
6. Adequate records must be kept (McGowan, 1960, p. 41).

According to McGowan (1960), “the unique characteristic which distinguishes and differentiates the vocational rehabilitation process from all other types of counseling is its insistence upon the realistic and permanent vocational adjustment of the handicapped individual as its primary objective” (p. 41). This professional orientation toward maximizing vocational and personal potential was reiterated in 1980, when Wright published the seminal text titled Total Rehabilitation. Wright (1980) highlighted the aspirational goal of vocational rehabilitation by assisting individuals to achieve the highest possible level of functioning in personal, social, and—most importantly—the vocational role.

In their text Foundations of the Vocational Rehabilitation Process, Rubin and Roessler (2008) described the vocational rehabilitation process as involving four sequential phases that include (a) evaluation, (b) planning, (c) treatment, and (d) termination. Embedded within this process is the expectation that a client will develop positive work habits; develop an adequate vocational self-concept; increase competency in new and existing work skills; and develop a sense of civic and social responsibility (Jacobs & Hay, 2012). Each of these areas is discussed in turn.

Evaluation Phase

The vocational rehabilitation process begins with the evaluation phase. Rubin and Roessler (2008) described a four-step evaluation process that involves an (a) intake interview; (b) general medical examination; (c) medical specialist examination/psychological evaluation; and
(d) a vocational evaluation. Given this process, Rubin and Roessler (2008) point out that “the client’s functional capacity is determined by information obtained directly from the client as well as from observation by others. The primary source of information from the individual with a disability is the rehabilitation counseling interview” (p. 293).

**Initial Interview**

The initial interview is generally considered one of the most important aspects of the evaluation phase (Rubin & Roessler, 2008). It is here where the vocational counselor begins to collect data related to client-focused factors that influence all remaining aspects of the vocational rehabilitation process. However, when a vocational counselor first meets a client, as in any other counseling setting, there are several areas that need to be proactive addressed. First, the counselor needs to fully disclose the role and function he/she will serve in assisting the client. Not only is the counselor obligated to engage in full disclosure for ethical and legal reasons, but full disclosure also allows the client to be fully informed about the qualifications of the provider (Gill, 1982), and to ultimately make the decision as to whether to participate in any one or more specific vocational rehabilitation services or interventions, thus reinforcing the vocational rehabilitation “pull factor” discussed earlier in this chapter. Second, the counselor must convey that the vocational rehabilitation process is multifaceted and may involve a number of different professionals. Third, the counselor has an obligation to describe the limits of professional confidentiality. While confidentiality issues may vary slightly from state to state, generally speaking, the veil of professional confidentiality may be pierced in situations where a client has signed a release of information document allowing information to be shared. In situations where the counselor believes the client is going to harm or endanger himself/herself, children, or the elderly, the counselor has a legal responsibility to notify the appropriate individuals and/or authorities. In certain circumstances a court may issue a subpoena that orders certain information or records be released from the file. Lastly, if the client is a minor, or otherwise has a legally appointed guardian, then the information from the counseling file may be available to the legal guardian or advocate.

The exact nature and scope of the vocational rehabilitation initial interview will vary from client to client. Rubin and Roessler (2008) describe five areas of exploration to be discussed during the initial interview that includes physical factors, educational vocational factors, psychosocial factors, economic factors, and personal vocational choice considerations. Because of the personal nature of the interview and information being gathered, it is crucial at this juncture that the counselor employ his/her interviewing skills in such a fashion that the client perceives the counselor as being genuinely interested in his/her “life story;” as being a professionally competent vocational rehabilitation counselor; and as being respectful and nonjudgmental of his/her past and present circumstances. Because of the broad scope of information to be collected in the initial interview, a systematic approach is suggested (Rubin & Roessler, 2008), that will allow the counselor to fully explore areas of inquiry, yet not be so structured and impersonal so as to be viewed as intrusive. Such intrusiveness, or what Rubin & Roessler (2008) referred to as being a “grand inquisitor” (p. 295), should be avoided, as such intrusiveness is likely to negatively impact the ability of the counselor to establish and maintain appropriate rapport. Many times, information that is viewed as being intrusive by a client can still be obtained simply by explaining why the information is important to the evaluation, and subsequent vocational rehabilitation planning and delivery.

**Medical and Psychological Evaluation**

In the vocational rehabilitation process, medical and psychological input provides vital data for vocational rehabilitation evaluation and planning. Medical and psychological experts provide information related to functional capacity, diagnosis, readiness for work, long-term prognosis, and the need for and effects of medication (Power, 2006). Even a basic understanding...
of these issues can assist the vocational rehabilitation counselor in formulating a vocational rehabilitation plan that is both realistic and supported by documentation in the case file.

In many cases, records may already exist addressing the medical information described above, but in other cases, such records may not exist. A client may not have sufficient financial resources to gain access to medical evaluation and treatment services. In cases where such medical input does not exist, the vocational rehabilitation counselor should refer the client to an appropriate medical provider to obtain such input. For example, the vocational rehabilitation counselor may require information on a client’s hypertensive status or diabetes, and in such cases, may request input from the client’s primary care physician (PCP). In other cases, the client may not have a PCP, and so the counselor may need to refer the client to an agency contracted medical provider for such input. Still in other cases, the counselor may require input on highly specialized questions requiring the input of medical specialists. For example, the counselor may need to obtain medical input for a client who is describing symptoms of carpel tunnel syndrome, and may refer the client to a neurologist to obtain such input. The neurologist may complete a nerve conduction study or electromyogram to evaluate these symptoms. Assuming a positive diagnosis for carpel tunnel syndrome, the counselor may then require a surgical opinion from an orthopedic specialist to determine if surgery may ameliorate or resolve the symptoms sufficiently to allow the client to return to work.

Psychological evaluation, while not necessary in every case, is essential in certain cases such as mental retardation, learning disabilities, mental health and emotional impairments, and autism spectrum disorders, to name but a few. In these cases, psychological evaluation can provide the necessary data for formally “diagnosing” psychologically based conditions.

**Vocational Evaluation**

Farnsworth et al. (2005) opined that the process of vocational evaluation draws upon clinical skills from the fields of psychology, counseling, and education. Specific skills involved in vocational evaluation include file review, diagnostic interviewing, psychometric testing, clinical observation, data interpretation, and career counseling (Farnsworth et al., 2005).

Following completion of the vocational evaluation, the evaluator should prepare a comprehensive report that outlines the findings, the conclusions, and makes clear and unambiguous recommendations relevant to the development of a vocational rehabilitation plan (Caston & Watson, 1990; Rubin & Roessler, 2008). In a review of 47 vocational evaluation plans written for persons undergoing vocational evaluation services, only 28% (13 reports) were found to include a specific job recommendation (Caston & Watson, 1990). Rubin & Roessler (2008) provided a general outline of topics that minimally should be included in a vocational evaluation report:

1. A brief discussion of the reason for referral;
2. Background information;
3. Impairment related information;
4. Transferable skills analysis;
5. Behavioral observations as they relate to vocational functioning;
6. Results of psychometric tests and work samples;
7. Assessment of activities of daily living and social functioning; and
8. Specific recommendations for the vocational rehabilitation plan that includes specific vocational options to consider.

Beyond addressing the issues described above, the quality of the report, in terms of providing sufficient detail and specificity, is also important. In a 1991 study by Crimando and Bordieri, a factor analysis was completed that identified five factors that influenced the perceived quality of a vocational evaluation report. These five factors included the utility of the report; specificity of the report; style and readability of the report; jargon and grammar used in the report; and the length of the report.
Planning Phase

The rehabilitation-planning phase commences after the vocational rehabilitation counselor has collected necessary and sufficient data in the evaluation phase to move forward with plan development. To begin the planning phase, the vocational rehabilitation counselor will "generate preliminary predictions regarding both appropriate vocational objectives for their clients and the rehabilitation services necessary for attainment of those objectives" (Rubin & Roessler, 2008, p. 339). In essence, the counselor formulates one or more vocational hypotheses related to the suitability of the clients chosen vocational goal, or potential alternative goals that may be more suitable.

Utilizing published vocational guidance resources, the composite of data gathered during the evaluation phase, and the vocational rehabilitation counselor’s vocational hypotheses, the client is then engaged in a process of vocational exploration, to "explore" various vocational options. The vocational exploration process enables the client to be fully engaged in the vocational planning process and allows for the selection of more fully informed vocational choices (Kosciulek, 2004). While vocational rehabilitation counseling is best characterized as client centered, it is also recognized that successful vocational rehabilitation depends in large part, upon the client’s outlook with respect to his/her desire to work; a realistic assessment by the client of his/her physical and mental ability and residual capacity; and the client’s level of optimism toward his/her future (Goldberg, 1992).

Treatment Phase

The treatment phase represents the translation of the vocational rehabilitation plan into the delivery of services. It is in the treatment phase where the vocational rehabilitation plan is implemented and managed to completion. Services provided in the treatment phase are intended to “pull” the client toward the ultimate goal of vocational placement and employment. Services can range from medical restoration interventions intended to “restore” physical and mental function, to vocational training and education, to direct job placement services intended to provide the link between job search efforts, and successful job placement.

Once planned interventions have been completed, the client will often move into direct job placement services. The literature supporting direct job placement models and methods is abundant and beyond the scope of this chapter. Clearly, the area of job placement and employment acquisition is constantly evolving. In the last 20 years, we have seen profound changes in how people look for work, apply for work, and obtain work. In today’s environment of online job applications, social media, and instant information, it sometimes appears that the process of direct job placement today has nothing in common with the direct job placement process of 20 years ago. In 1994, nearly two decades ago, Bissonnette published the book Beyond Traditional Job Development. While this text obviously does not account for the impact of technological advances over the past 20 years, Bissonnette offers several “realities shaping our work” (p. 1) that ring as true today (if not more so) in our highly technical culture, as they did 20 years ago:

Reality #1: These are tough economic times.
Reality #2: As a natural extension of recessionary times, there are fewer jobs advertised than there are job seekers.
Reality #3: There is tremendous competition for the jobs that are available.
Reality #4: Businesses are requiring more qualifications than the people we serve typically have.
Reality #5: We are in the midst of a job market revolution.
Reality #6: The individuals we represent face situations or barriers that make it more difficult for them to compete with other job seekers.
Reality #7: Not all of the individuals we serve want to work, and of those who do, not all have the family, friends or personal network to support that desire. (Bissonnette, 1994, p. 1).

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1. INTRODUCTION TO VOCATIONAL REHABILITATION

Despite the obvious challenges, a well researched, documented, and empirically supported vocational rehabilitation plan, will improve the probability of successfully obtaining competitive work, which is often the principle outcome measure of the process.

**Termination Phase**

Termination of a case occurs when a case is closed or transferred. A case may be closed for any number of reasons, favorable and unfavorable to the rehabilitation agency. A case may be closed because the client has reached a successful employment outcome; the client is found to be ineligible for services; or, services are discontinued following implementation of the rehabilitation plan.

**Efficacy of Vocational Rehabilitation**

It is well recognized that work is a primary consideration in maintaining one’s physical and mental well being for people with and without disabilities (Chan, Leahy, & Saunders, 2005). Multiple studies have reported that when compared to employed persons, the unemployed tend to have higher rates of mental health related impairments such as anxiety and depression (Bruffaerts, Sabbe, & Demyttenaere, 2004; Dooley, Catalano, & Wilson, 1994; Dooley, Fielding, & Levi, 1996; Lennon, 1999; Linn, Sandifer, & Stein, 1985; Oquendo et al., 2013); increased rates of alcohol abuse and dependence (Dooley, Catalano, & Hough, 1992; Popovici & French, 2013); experience lower levels of life satisfaction (Carlier et al., 2013; Kasl, Rodriguez, & Lasch, 1998); lower levels of self-esteem (Fawber, & Wachter, 1987; Schuring, Mackenbach, Voorham, & Burdorf, 2011; Van Dongen, 1996); and an increased risk of and rate of suicide (Garcy & Vagero, 2013; Milner, Page, & LaMontagne, 2013).

Pruett et al. (2008) completed a systematic review of the literature to evaluate the efficacy of vocational rehabilitation as an intervention and found a paucity of such literature. Further, the return on investment varies widely from a high ratio of 18 to 1, to a low ratio of 3 to 1 (Pruett et al., 2008). Pruett et al. (2008) found “some empirical evidence to support the efficacy, clinical utility, and cost effectiveness of vocational rehabilitation in returning people with chronic illnesses or disabilities to competitive employment” (p. 61). Dutta et al. (2008) also found that vocational rehabilitation services are associated with increased employment outcomes for persons with sensory, physical, and mental impairments.

A major confounding issue in evaluating the effectiveness of vocational rehabilitation services, which has little to do with the quality or type of the vocational rehabilitation intervention, is systems of financial compensation that reside outside of the vocational rehabilitation delivery systems. Examples include disability-related compensation benefits offered through workers’ compensation programs, Social Security Disability Insurance (SSDI), or veteran’s compensation benefits related to service connected impairments. Drew et al. (2001) found that “disability compensation programs discourage full participation in vocational rehabilitation and result in poorer rehabilitation outcomes” (para. 1). More importantly, the Drew et al. (2001) study found that disability compensation programs that include disincentives to earn income are associated with lower vocational rehabilitation participation rates. For subjects receiving disability compensation benefits, average earnings equaled only 67% of disabled persons that were not receiving such compensation benefits, and had 41% fewer placements into competitive employment (Drew et al., 2001). Similar results were found by Dutta et al. (2008) who also found that vocational rehabilitation participants who were receiving cash or medical benefits experienced lower rates of employment compared to those who did not receive such benefits. Dutta et al. (2008) reported “One of the major barriers to gainful employment for persons with severe disabilities is weighing the financial benefits of paid work against the real possibility of losing disability-related benefits” (p. 332).
The natural extension of the vocational rehabilitation process as described in the professional literature, and in abbreviated form, in this chapter, is into the area of forensic vocational rehabilitation. Most vocational rehabilitation counselors are professionally certified as Rehabilitation Counselors by the Commission on Rehabilitation Counselor Certification (CRCC). The Code of Professional Ethics for Rehabilitation Counselors (COE) defines forensic services as "the application of professional knowledge and the use of scientific, technical, or other specialized knowledge for the resolution of legal or administrative issues, proceedings, or decisions" (Commission on Rehabilitation Counselor Certification, 2010, p. 36). To date, there has been no textbook exclusively dedicated to exploring the historical foundations and literature related to the area of forensic vocational rehabilitation consultation—this is the focus of the balance of this textbook.

There has been little focus placed on the forensic subspecialty area of rehabilitation counseling practice in the mainstream literature. Many graduate-level text books provide only a cursory overview of the forensic area of practice, and some avoid the use of the term forensic altogether, deferring instead to other terminology such as private sector or proprietary, sometimes ignoring the fact that clinical services are also delivered in the private sector, not just forensic services. While all forensic services are normally provided within the private sector, not all private sector rehabilitation services are oriented toward forensic services. This lack of emphasis and understanding of forensic vocational rehabilitation practice is easily understood within the context of the current funding mechanisms for student scholarships, which require postgraduate employment in the public sector, and a lack of public funding to university-based researchers related to forensic vocational rehabilitation issues. As noted by Shahnasarian (2008), unlike other professional disciplines within the behavioral and social sciences, most of the published literature related to forensic vocational rehabilitation has not been introduced through academia, but instead by private practitioners. For this reason, the forensic vocational rehabilitation literature base tends to be very focused on this narrow area of practice. The importance of including forensic research as a core element in research agendas related to vocational rehabilitation and rehabilitation counseling is crucial, as the lack of such inclusion will certainly widen the research chasm that exists between the various vocational rehabilitation practice settings. Shahnasarian (2008) provides excellent insight into this issue with the following commentary:

A profession’s literature offers a forum for education, stimulation, and exchange of ideas. It also provides the bedrock for professional practice standards. It is the grist that coalesces educators, researchers, and practitioners, as well as a fountain of inspiration for advancing and refining theories and practice applications. A profession impoverished in its literature risks stagnation and fragmentation…(p. 40).

The reality is that many forensic practitioners have their roots within the public rehabilitation sector, not the forensic sector. For far too long, an imagined schism has existed that has led to a divide between academia and public sector vocational rehabilitation counselors, and vocational rehabilitation counselors practicing in private and forensic settings. The reality is that none can exist without the other. Without graduate programs in rehabilitation counseling, or similarly allied programs, neither the private nor public sectors would be able to meet the demand for new counselors. Without public sector rehabilitation programs, thousands of persons with physical and cognitive impairments would not have access to rehabilitation programs and services. Without private sector forensic vocational consultants (FVC), thousands of cases that statutorily require vocational expert input, would be adjudicated without the benefit of vocational rehabilitation experts who possess scientific, technical, or other specialized knowledge related to vocational rehabilitation assessment, analysis, and service delivery.
1. INTRODUCTION TO VOCATIONAL REHABILITATION

Vocational Rehabilitation Process Applied to Forensic Vocational Consultation

It is not too great a leap to apply the vocational rehabilitation process described earlier in this chapter, to the evaluation of individuals within forensic settings. In fact, Owings et al. (2007) and Owings (2009) opined that it is the vocational rehabilitation process and evaluation framework that has given way to the vocational rehabilitation counselor’s contemporary role as the generally accepted expert in earning capacity assessment and forensic vocational rehabilitation evaluation. However, to get to this point of general acceptance of the vocational rehabilitation process in forensic matters, we have traveled a very long road. Chapter 2 of this text describes how the need for forensic experts has become laced into the fabric of the American judicial system over the past 200 years, with rapid growth in forensic vocational rehabilitation services beginning in the early to mid-20th century. Increased injury litigation stemming from the American industrial revolution and passage of social insurance legislation, such as the Social Security Act and subsequent amendments to the Social Security Act in 1956, further cemented the need for forensic vocational rehabilitation consultants.

In the forensic setting, there is most often two adversarial parties with each party representing evidence that is most favorable to their respective case—the plaintiff/claimant/applicant (the person filing a claim of damages) and the defendant (the person against which the claim of damages is charged). Lay people might expect retained experts for each party to view the case with favor from the perspective of the party retaining the expert’s services. While undoubtedly this occurs, I would argue it is the exception rather than the rule, particularly for Forensic Vocational Consultants (FVCs) holding professional credentials and certifications that professionally bind them to the highest standards of ethical conduct and practice as discussed in Chapter 22 of this text. In fact, unlike public sector rehabilitation counselors, or nonforensic private sector counselors, FVCs are bound by evidence based standards to arrive at opinions that are more probable than not, and that are supported by evidence versus experience and ipse dixit opinions alone. These issues are discussed in greater detail in Chapters 10 and 13 of this text.

Recall that the vocational rehabilitation process as proposed by Rubin and Roessler (2008) involves four sequential phases—(a) evaluation, (b) planning, (c) treatment, and (d) termination. Because of the adversarial nature of forensic vocational rehabilitation consultation, and the introduction of advocates or attorneys into the vocational rehabilitation process, in many cases, the FVC is not permitted as a matter of law or by the opposing advocate or attorney, to follow a case from the initial evaluation phase through to termination. In forensic settings (with the exception of Social Security Disability which is nonadversarial) the FVC is most likely to be involved in the evaluation and planning phases. However, under certain circumstances, the FVC may also be requested to provide additional services related to interventions and restoration in the treatment phase, and ultimately job placement, and termination. The precise role an FVC will serve in a particular case will depend upon the circumstances of the litigation, referral questions, and the dynamics of the parties involved in the litigation, which usually, and minimally, include the evaluatee, the defendant(s), their respective advocates or attorneys, and a trier of fact.

Forensic Evaluation Phase

In the evaluation phase, the data needs are precisely the same as discussed previously in a nonforensic case. The initial interview is an essential element in the data collection process and is a principle source of data in most published forensic vocational and rehabilitation assessment models. Chapter 3 of this text includes a discussion of the 20 published vocational and rehabilitation assessment models and methods that have been introduced into the forensic vocational rehabilitation literature over the past 30 years.

There are two significant differences in completing evaluations in forensic vocational settings versus in other settings. First, in the vocational rehabilitation process described previously, upon receipt of a medical release from the client, the vocational rehabilitation counselor could freely contact treating and consulting medical and psychological sources to develop
the medical and psychological aspects of the case. In the forensic setting, the parties involved in the matter may not always have unobstructed access to treating and consulting medical sources. In the forensic setting, medical opinions related to an evaluee’s functional capacity, diagnosis, readiness for work, long-term prognosis, and other medical issues such as medication side effects, generally need to be obtained through a comprehensive review of existing medical records, or other sources such as deposition testimony. The evaluation of medical evidence in the forensic vocational evaluation setting is discussed in detail in Chapter 4 of this text.

The second significant difference is that in a forensic setting, there is no “client.” In a white paper published in 2009, which was later accepted and ratified by the American Board of Vocational Experts, the Commission on Rehabilitation Counselor Certification, and the International Association of Rehabilitation Professionals, it was proposed that the term “evaluee,” who by definition is the subject of the objective and unbiased forensic evaluation, be used in instead of the term “client” (Barros-Bailey et al., 2009).

As in the evaluation phase discussed previously, in the forensic setting, FVCs routinely conduct psychometric assessment, but arguably to more exacting standards than in other evaluation settings. The FVC’s methods of evaluation, test selection, proper use, measurement error, and other similar psychometric properties are often the focus of expert testimony and are subject to the evidentiary admission standards of the court. Accordingly, there is a heightened need for ensuring instruments administered within a forensic evaluation meet exacting psychometric properties that allow for formulation of opinions related to the reliability, validity, and the degree of error in the measurement—none of which are usually securitized in nonforensic settings. Issues related to psychometric measurement and interpretation in forensic vocational consultation are discussed in Chapter 5 of this text.

Other functions that are routinely used in the forensic setting to arrive at opinions that are more probable than not, and that also parallel nonforensic applications include such tools as the transferable skills analysis (Chapter 6), job analysis (Chapter 7), labor market survey (Chapter 8), interpretation of occupational and labor market information (Chapter 9), and a review of the peer reviewed research literature (Chapter 12).

**Forensic Planning Phase**

Just as in a nonforensic case, the evaluation phase should result in sufficient data to develop a vocational and rehabilitation plan. In the forensic setting, this may include not only a vocational rehabilitation plan that specifically addresses vocational need, and recommends services to achieve the recommendations, but it may also include development of a life care plan (Chapter 19). The most significant difference in the forensic setting is that data must be interpreted and the case conceptualized with an eye toward meeting the evidentiary standards for the jurisdiction in which the case is being heard, so that opinions may be offered within a reasonable degree of vocational certainty. To meet this standard, the FVC must rely not only on his/her clinical skills derived through formal training and education, but also upon triangulation of multiple data sources that are interpreted and synthesized through application of the FVC’s experience and clinical judgment (Chapter 11).

**SUMMARY AND CONCLUSIONS**

In this chapter, I have discussed similarities in the vocational rehabilitation process between public, private for profit, and community based nonprofit vocational rehabilitation practice settings. I have attempted to highlight how the various chapters of the text link directly to the vocational rehabilitation process, and to illustrate how there are more similarities, than differences between these two groups of vocational rehabilitation consultants.

The balance of this text can best be conceptualized as a walk through the vocational rehabilitation process from the forensic vocational rehabilitation perspective. The reader will begin the walk with an in-depth discussion of the history of forensic vocational consultation, and then will move through a series of chapters describing the various analyses important

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in conducting a forensic vocational evaluation. The reader will then move into a series of contextual chapters that describe aspects of the American legal system, case conceptualization, special topics, and the various venues or settings in which forensic vocational consultation occurs. The text concludes with an in-depth analysis of the issues related to professional identity, professional standards, and ethical issues related to forensic vocational rehabilitation practice. Enjoy your walk!

REFERENCES


