



# Neurocriminology and Free Will

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## Abstract

Many authors deny the existence of free will based on scientific experiments that were done in the past. As a result of these experiences, these authors claim that there is no free will; therefore, criminals are not responsible for their crimes. In this paper, these claims, experiments, and results will be discussed and analyzed. The outcome of this paper will test what these authors claim about free will. Is it really what scientists and philosophers concluded that there is no free will?

**Keywords:** Neurocriminology; Free Will; Crimes; Criminal Justice; Neuroimaging

## Introduction

Free will is defined by the Cambridge Dictionary (2024) [1], as “the ability to decide what to do independently of any outside influence.” No one lives in any environment without having any influence, except being in a vacuum (absence of everything). Merriam-Webster Dictionary (2024) [2], defines free will as “voluntary choice or decision.” The American Psychological Association (2024) [3], defines free will as “the power or ability of a human being for self-direction.”

It is clear that the previous three definitions are contradictory to a certain degree, so let’s see what free will really means in scientific and philosophical terms. The Cambridge Dictionary makes the same mistake that some authors think that free will means that there is no influence (i.e. absence of influence).

## Discussion

Sam Harris (2012) [4], is one of the authors who questions the existence of free will based on his claim that free will is based on two assumptions: 1) each person would behave differently than what that person did in the past, and 2) we are conscious of our thoughts and actions in the

present. These two assumptions are wrong, and Sam Harris is strawmaning the position of people who are certain of free will. Then he claims that: 1) we are witnesses to our consciousness; and 2) we own our consciousness. Both statements are contradictory, like you can’t have your cake and eat it at the same time. Free will, according to Sam Harris, requires: 1) consciousness; 2) intention; and 3) awareness. Then he accused compatibilists of trying to make sense of determinism and free will, and he indicated that we do not have free will because we have rival brain hemispheres. There is a rule in behavioral science called 10% + 90% = 100%, which means it depends mainly on how you act under certain circumstances. If you are in a situation where you have no option, like you are in a room that you did not choose to be in and you have to pick one door out of three, you choose one of the doors. You had the freedom of reaction even in compulsory situations. The rival brain outweighs the possibility of choosing the best reaction in a certain situation, which does not contradict free will. David Eagleman (2013) [5], in his book *Incognito*, he spoke about the rivalry brain as two conflicting selves that lead to decision-making maturity. Then Sam Harris claims that we have 90% microbes in humans' guts, which makes us behave like them, and then we lose our sense of agency. These microbes are part of us, and if they are happy, we are happy. We can undergo treatment with



oral microbiota therapy (feces pills to treat the abdominal bacteria). Does that mean we will regain our sense of agency? Then he claims brain tumors make someone act differently, which was discussed in a previous paper, and the exception is not the rule (Alahmari, 2024) [6]. Other medical conditions were discussed (Alahmari, 2024) [7].

Why do all tumor patients not become pedophiles? Sam Harris stands on the side that holds criminals away from punishment in order to protect the society, not for another reason. But he ignores the retribution of the relatives and the punishment (eye for an eye) to get even with the victim. Alfred R. Mele (2013) [8], summarized the issue in his book titled "A Dialogue on Free Will and Science." Arguments based on Libet's experiment goes like this:

- Participants in fMRI or brain electrode experiments did not take conscious decisions;
- Therefore, people do not make conscious decisions;
- Only action results from having free will when they are conscious decisions;
- The result is there is no free will.

All these experiments—the Libet Experiment (Libet, 1985) [9], the Libet Veto Experiment (Libet, 2004) [10], fMRI (Soon et al., 2008) [11], and depth electrodes (Fried et al., 2011)—[12], are faulty experiments with wrong methodologies and wrong inferences from the results. It will take a book to write down every technical aspect of the issues in these experiments, but let's take the Libet experiment for example and discuss it.

The participants have to think they want to move their hands, then they have to look at the clock and see what time it is. It is known that there is a visual delay of two seconds for humans to perceive a visual signal. Add to that the time spent by the participants looking at the clock and thinking about it, which will take time for sure. Add all that up, and you have no signal delay; therefore, nothing is affecting our free will. Scientific America wrote a lengthy response in which they highlighted Libet experiment issues (Nahmias, 2015) [13].

So if these arguments are built on these experiments, which have been proven to be faulty, the conclusion that humans do not have free will is rejected for building on a wrong premise.

In India, a famous case in 2008 of an MBA student Aditi Sharma who killed her fiancé with her new boyfriend (State of Maharashtra v. Sharma) (Alahmari, 2021) [14,15]. Aditi was scanned using EEG machine and was proven guilty using the polygraph method. The polygraph is not accurate test to find who is guilty or not. Many passed the test by undergoing an extensive training. Even when the subject is injected with truth drugs (i.e. truth serum) like: ethanol, scopolamine,

sodium thiopental, amobarbital, 3-quinuclidinyl benzilate, midazolam, and flunitrazepam made the subjects tell much truth as much falsehood [16].

Let's add three secular scientists opinions who do not believe in free will. It is important to note that there are two types of free will: 1) Moderate free will and 2) Ambitious free will. Alfred R. Mele accepts moderate free will and questions ambitious free will. Montague (2008), Cashmore (2010), and Gazzaniga (2011) [17], reject free will because they set high standards for free will. Gazzaniga added that his rejection of free will does not prevent the legal accountability of criminals. What these authors describe is the ambitious free will, or maybe even worse, a magical metaphysical thing. As a result, they reject the concept of free will. All prominent philosophers demand accountability of criminals and stopping crimes. When philosophers and scientists debate, mostly they debate the ambitious free will, not the moderate free will (i.e. which allows for accountability for committing crimes).

Alfred R. Mele (2013) [8], used three examples to show that there are factors that affect free will, and people do not pay attention to these factors. He cited the Stanford experiment (Zimbardo et al., 1971) [18], the Milgram experiments (A-Voice Feedback, B-Proximity, and C-Touch-Proximity)(Milgram, 1963; Milgram, 1974) [19,20], and the observer effect from the Darley and Latane experiment after Kitty Junfeaz's stabbing incident in New York (Darley & Latané, 1968) [21]. As well, situationism, automaticity, and awareness play a role in our free will. These three experiments highlight: 1) obedience to authority and role authorities; 2) situationism or automaticity; and 3) the observer effect on free will. When people speak about free will, they have to define it because everyone uses the term "free will" to describe different things.

## Conclusion

Sam Harris and other liberal authors think that the free will that is being debated is the moderate free will, which allows legal accountability, but in fact, all the philosophers and scientists what they are debating is the ambitious free will. Therefore, stating that criminals are innocent is a false dichotomy and a category mistake by these authors.

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