

Ordering Evaluations

Distinctions between Therapeutic
and Forensic Assessment

Scope

- Forensic evaluations address specific legal questions/issues. Treatment needs of individuals are less central or crucial.
- Therapeutic or clinical assessment is more broad. Diagnosis, personality functioning and treatment targets are assessed, to assist behavioral change or to fully inform the clinician.

• Melton, G.B., J. Petrila, N.G. Poythress & C. Slobogin,
Psychological Evaluations for the Courts, 2007

Purpose

- Forensic evaluations contribute to evidence.
- Forensic evaluations are constructed to answer psycholegal questions, i.e., best interests of children.
- Clinical evaluations address therapeutic goals and answer questions of diagnosis as these affect goals and therapeutic relationships.

Perspective

- Forensic evaluations address the “truth” of specific matters, are more objective, less concerned with a specific individual’s perspective.
- Clinical therapeutic evaluations are primarily concerned with an individual’s perspective.
- Accuracy important in both but purpose, use and outcome are different.

Perspective continued

- Sources of information different:
 - Clinical therapeutic:
 - Information primarily from the individual.
 - Other sources of information interesting but not primary.
 - Other sources of information not crucial to diagnosis or treatment goals.

Perspective continued

Sources of information:

- Forensic:
 - Multiple sources of information critical to obtaining objectivity and completeness.
 - All sources of information valuable and primary.
 - Conclusions reached by the congruency of all sources of information.

Perspective continued

- Outcomes and intent different
 - Clinical therapeutic: establishing a relationship for future therapeutic work is critical to success of treatment that follows.

 - Forensic: relationships less important because evaluation is for legal outcomes and purposes, not for future success in treatment.

Autonomy and Voluntariness

- No choice for the litigating individual regarding participation in the forensic evaluation.
- The therapy client has ultimate choice.
- Therapy client seeks help.
- Forensic litigant seeks outcome.
- These differences affect honesty and truthfulness, cooperation, and full engagement in the evaluation process.

Threats to Validity

- Less operative in clinical settings where clinician and client work toward a common goal, generally with participation of third parties who want to assist.
- Forensic evaluations and settings are dominated by threats to validity, some originating in the litigant, some in the attorney(s), and some in the third party information. Information from all sources monitored to some degree.

Relationship Dynamics

- Clinical therapeutic: caring, trust and empathy: critical to establishing and reinforcing relationships
- Forensic: detachment, probing and some confrontation. No relationship following the evaluation. Greater scrutiny of examiners requires greater attention to ethical matters such as confidentiality and conflict of interest.

Pace and Setting

- Clinical therapeutic: diagnoses can be revised indefinitely over time
- Forensic: deadlines from court schedules, limitations of multiple access to criminal defendants, finality of legal decision making

Optimizing outcomes from evaluation

Getting what you want or need for informed decision making

**Referral Questions:
critical to informed, useful
outcomes**

- What are referral questions?
 - What is needed to assist decision-making
 - How detailed an assessment is necessary
 - Legal questions and relevance to legal issues
 - What will be done with information

Referral Questions

- Reasons for referral
 - Intellectual evaluation
 - Differential diagnosis
 - Assessment of nature and extent of brain damage
 - Recommendations for vocational counseling
 - Treatment modality most suited to client
 - Reasons for difficulties in interpersonal relations

Types of evaluations

- Child focused
- Parenting capacity
- Mental status
- Child custody
- Personality
- Intellectual disability
- Neuropsychological
- Treatment recommendations

Child focused evaluations

- Intellectual: general disability? gifted?
- Learning disabled: specific disability?
- Personality: strengths and limitations, coping styles and capacities, stress management, “thinker” or “doer,” evaluation of thinking, management and control of emotions
- Behavioral: observation of behavior? assessment of specific behaviors?

Parenting Evaluations

- Parenting capacity
- Personality assessment
- Mental status: diagnosable condition? condition treatable? likely outcomes for treatment? prediction of treatment length? expectations for treatment progress and course?
- Family assessment of specific topics, e.g. children who resist visitation

Neuropsychological: Domains of Cognitive Functioning

- Attention
- Language
- Memory
- Spatial
- Executive
- Note: generally looking at brain impairment

Treatment Recommendations

- Treatment: psychotherapy, speech therapy, occupational therapy, medication, mediation
- Placement: special education, nursing home, 24/7 observation, joint custody, inpatient care
- Additional evaluation: re-evaluation, physical exam, drug and alcohol screen

Treatment recommendations continued

- Alteration in environment: medication alarm, internal/external reminders, coaches
- Self-help: books, films, courses, support groups, computer guided
- Miscellaneous: revoke driver's license, wear Medialert bracelet, probation, homework

Ethical considerations

- Qualifications of the evaluator to provide a specific kind of evaluation
- Avoiding dual roles, confused roles or conflict of interest
- Confidentiality and informed consent
- Clarity regarding fees

The report: what should it look like?

- Neither too short nor too long
- No jargon or over reliance on technical terms
- Legal issues/purposes/questions included and answered or addressed
- Reasons for referral stated clearly

Report Details

- Procedures – followed and clearly explained
- All sources of information included
- Test results: organized information that is synthesized
- Analysis follows logically from above
- Conclusions easily understood, elaborated, and relevant to referral questions and legal needs

The report

Can the trier of fact follow what the examiner did and why:
transparency

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