Commentary: Forensic Evaluation of Military Personnel

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Forensic psychiatric evaluations of military personnel in civil litigation are reportedly infrequent. One such case involved former prisoners of war after Operation Desert Storm. These evaluations presented many challenges to the evaluators with regard to resources and time limitations. Discussion of these issues is relevant to forensic evaluations generally.

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Domestic and global violence, including terrorism, remains prevalent, sometimes necessitating military action by governments throughout the world. Thus, emotionally traumatic reactions to such violence, whether formulated as a diagnosable disorder such as posttraumatic stress disorder or otherwise, will remain with us. Such prevalence has profound public health, legal, clinical, and financial implications, among others. Forensic mental health practitioners play an important role in the administration of justice, at least in North America, and are thus significantly affected by global violence in their professional lives. Our professional services in this area are likely to continue to be in demand.

In this issue of *The Journal*, Levin et al.[1] present a report of their forensic evaluations of American military personnel (and their families) who were Iraqi prisoners of war in 1991, after their capture during Operation Desert Storm. It is important to note that the evaluations were in the service of civil litigation in a Washington, D.C. federal court in which the plaintiffs claimed psychological damage. Note also that the litigation was brought in 2002, some 11 years after their captivity and torture. The authors indicate that there were no prior civil actions "in which military personnel [had] sought damages for injuries incurred during hostilities as the result of alleged torture while in captivity" (Ref. 1, p 316). Some empirical data regarding posttraumatic stress disorder have been published with regard to veterans of Operation Desert Storm[2] and Iraq and Afghanistan.[3]

The authors were approached by plaintiffs' counsel on short notice to conduct forensic mental health evaluations of 17 military POWs and 37 of their family members. As experienced forensic evaluators, the authors were aware of at least some of the difficulties of undertaking such a project, although neither had experience in evaluating POWs. The two evaluators were told that the assessments should be performed within a limited time, and that only four of the plaintiffs were within a day's drive of either of the experts, who lived in major metropolitan areas on the East coast. The evaluators informed plaintiffs' counsel of the consequent need to conduct most of the evaluations by telephone. The authors were provided with military records of the POWs documenting their physical and psychological status during the first year after repatriation. We are told that four POWs and five family members were interviewed in person, each of the former for a mean of 3.4 hours. There were telephone interviews of 11 POWs that lasted a mean of 1.5 hours. The evaluators conducted interviews of one POW and five family members by e-mail. Because of the change in evaluation format, forensic opinions generated regarding those evaluated by telephone were expressed to a lesser degree of certainty (i.e., highly probable) than the customary reasonable degree of medical certainty.

The tasks and responsibilities of the forensic evaluator in cases of emotional trauma are many.[4–6] Relevant areas of investigation include the specific

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trauma in question (type, severity, onset, course, duration, and triggers), comorbid mental health symptoms and diagnoses (mood disorder, anxiety disorder, and substance abuse), pre-existing psychiatric symptoms and disorders, prior traumatic events, family history of emotional trauma, social and environmental support after the trauma, medical or physical injuries experienced, functional impairment from the emotional trauma (i.e., pre-trauma and posttrauma functioning), underlying personality structure and characteristics that are relevant to symptom reporting (denial, underreporting, and exaggeration), risk and resilience concerns (i.e., symptom triggering and maintenance), response style and credibility assessment, correlation of reported symptoms to a particular stressor or misattribution, significance of litigation context, and treatment planning.

The American Academy of Psychiatry and the Law (AAPL), through its Ethics Guidelines,[7] asks forensic psychiatrists to aspire to excellence in their forensic work. As individual forensic psychiatrists, we strive to achieve the highest quality forensic work product. In this regard, some readers may be concerned that the two evaluators undertook this large-scale, high-profile project with little available time. Resources and time are often a problem for forensic evaluators, and in this case they were both limited. The time and format limitations may have impaired the evaluators' ability to collect relevant, if not essential, data. We might question why the evaluators failed to enlist a team of evaluators throughout the country who would have thus been able to conduct comprehensive, in-person interviews of many or most of the evaluees. A search for evaluators experienced with military trauma could have been considered. It seems that the evaluators were themselves prisoners or captives of the litigation, in which they became involved at the last minute, or at least they acted as such.

It would be a challenge for an in-person or telephone evaluator to collect all relevant data in this situation. It is uncertain whether an adequate evaluation could be performed by telephone in 1.5 hours. The reader is not able to assess the adequacy of the e-mail evaluations from the authors' report. The reader is likely to conclude that the evaluators abandoned their initial plan for comprehensive evaluation of the litigants along the way. Evaluators in such situations are at risk of being overfocused in their assessment, and thus to find what they seek. It is sometimes necessary or appropriate to recuse oneself from participating in a case.

Our AAPL Ethics Guidelines[7] are relevant in this case, and they require that we attempt a personal examination of an evaluee. When such an examination is not feasible, evaluators are obligated to note any resulting limitations to their opinions (Section IV). In the present case, the authors appropriately indicated reservations regarding the certainty of their opinions without a personal examination of the litigants. The accuracy of their forensic opinions may also be questionable.

There are several approaches to conducting emotional trauma evaluations, including document review, structured or unstructured interviews, psychological testing, collateral interviews, trauma-specific objective measures, self-report questionnaires, and symptom checklists with severity ratings.[5,8] Each has its limitations and benefits, and some may be more suitable for certain types of trauma or specific populations.[5] Screening a population for emotional trauma differs from conducting a trauma assessment. In the present study, the evaluators relied on military document review, unstructured interview data, and confirmation of the self-report interview data through collateral contacts who were also litigants. The quality of trauma histories contained in clinical records has been found to be deficient.[9] Given the limited time for conducting the evaluations, use of the other evaluation techniques, predistributed to the evaluees, may have been useful.

Telemedicine and telepsychiatry facilities (telephone and video) are increasingly used in clinical treatment, especially in geographically remote or underserved areas.[10] Teleforensic psychiatry is also utilized in correctional settings for clinical evaluation and treatment of inmates and for conferencing.[11,12] Conducting forensic evaluations at a distance has been the subject of some discussion and research in the literature and deserves far more attention.[13] In this study by Levin *et al.*, forensic evaluations were conducted not only by telephone, but also by e-mail. It is easy to wonder how an adequate evaluation to determine relevant content could have been conducted using either format, especially the latter. E-mail-based forensic assessment has not been empirically studied and is an area ripe for consideration and investigation.

The authors pay appropriate attention to the possibility that their political allegiance and country of

origin biased their forensic evaluation. As Gutheil and Simon[14] remind us, bias is universal and inescapable, whether in or out of the forensic evaluation context. Ongoing self-examination is essential in the conduct of employment in the forensic mental health setting and quality improvement,[15–17] including the initial decision regarding whether to accept a forensic referral. The reader would have appreciated the authors' after-the-fact impressions about what they might have done differently if they had the opportunity to conduct the evaluations again. As well, with regard to the vicarious impact of the trauma on the evaluators, they acknowledged that the limited available time for the evaluations precluded them from "processing the material" pertaining to the POWs captivity and trauma.

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