

Conceptualizing the Forensic Psychiatry Report as Performative Narrative

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Forensic psychiatry has evolved into a recognized specialty. Two core competencies, often overlooked but commonplace in forensic psychiatry, are the constructing of forensic reports and the presenting of oral testimony. This article concerns the written forensic report and conceptualizes it as performative writing. We first review the development of the forensic report's structure over the past 30 years or so and then apply constructs from other disciplines as we propose a process for creating narrative forensic reports. Such writing is grounded in the discipline of psychiatry, relies on ethics-based principles of respect for persons and truth-telling, and uses language to tell a story that persuades the legal audience. We examine the impact of voice, pitfalls to avoid, and the concepts of witnessing and labeling, as we describe the process of formulating the narrative through the voice of the forensic expert.

J Am Acad Psychiatry Law 38:32–42, 2010

...what everybody wants in life: to control the narrative. . .the efforts people make to gerrymander the story to suit their interests. . . (Ref. 1, p 64).—Louis Menand

In recent years, the specialized discipline of forensic psychiatry has undergone substantial change. Where once upon a time psychiatrists who practiced in this field were being challenged to articulate what constituted their work, there is no question now that the subspecialty presently has a place as a specialized form of psychiatric practice. Forensic psychiatry specialists at this time are expected to have studied for a year in a didactic fellowship program and to have passed a certification examination after having completed the subspecialty training. Furthermore, the plethora of academic journals in the area and the

demand for forensic psychiatry expertise from courts, lawyers, ethics committees, prison administrations, and other entities have helped solidify the identity of the forensic subspecialist.

It is our contention that with the evolution of forensic psychiatry into a form of specialized practice, two key practice elements have emerged as arenas of activity that demand core competency. The first is the writing of forensic psychiatry reports; the other is the oral presentation of written findings in an adversarial context that is witnessed, for example, in a courtroom. Both forms of presentation demand the ability to present ideas in a forum that anticipates critical analysis, disagreement, and even verbal confrontation or cross-examination. Under such scrutiny, both forms of presentation should be seen therefore as acts of performance, requiring a degree of artistry and cogent argumentation.²

The mastery of written performance is fundamental to forensic psychiatry for several reasons. The written report is the practice-product of forensic psychiatry. While in other medical specialties the written record often documents the product (the surgery, the treatment, the assessment for treatment), in fo-

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Disclosures of financial or other potential conflicts of interest: None.

rensic psychiatry the written record itself is the product. It represents the assessment, formulation, and opinions that the expert was contracted to provide. Therefore, mastery at generating that product is required. In addition, the written document (alone or in combination with testimony) may in some cases have substantial influence on the outcome of the legal conflict.³

The forensic psychiatrist writes for others, for those outside the profession. Legal professionals may not share the education, language, or professional mission of medicine. Therefore, the forensic psychiatrist has the burden of crafting a document that can be understood by the culture of the law—and to some extent the public. Forensic psychiatrists must do more than record facts accurately, conduct comprehensive assessments, and apply the science and art of the specialty. They must write to protect against the corruption of translation, unintended bias of language, and unhelpful ambiguity. O'Grady⁴ suggested that the report writer must translate from psychiatry into law such that the court can understand psychiatric findings in its own terms.

We believe that the written report has unfortunately taken on the air of a simplistic enterprise or a commonplace activity. In other words, the written report is thought to represent the mundane activity of a psychiatrist, who after having clinically examined someone, proceeds simply to create a written record of the relevant findings. We contend that such an approach is misleading, as it is not an accurate characterization of the forensic narrative. In forensic reports, writers must organize information pulled from clinical examinations, interviews, laboratory tests, and documents and rework them into a coherent narrative that will be used for some legal purpose. It is this act of remaking and of transformation, also described by Peterson and Langellier⁵ as making a to-do about a story, that is seen as performative. As a result, the written psychiatric forensic report is a study in narrative complexity. We argue that it is now time to recognize that writers of forensic reports position themselves, as noted by Peterson and Langellier,⁵ as characters in their own stories. This positioning occurs as the authors transform the information into a narrative, making the events and the actors come to life and evoking emotions in the reports' audiences or readers. In this way, the authors enter their own narrative and give their stories this performative dimension. What they do is therefore

more than just represent clinical information, thereby making the process performative.

In this article, we will restrict ourselves to performative writing and revisit our argument that "writing with clarity, precision, and artistry should be a core competency in forensic psychiatry" (Ref. 2, p 27). We shall focus on the written forensic psychiatry report, an act of writing that is common in forensic psychiatry work. We intend first to review several basic models that have been advanced as methodological frameworks for creating a written forensic psychiatry report. These frameworks have established over time a number of rules that give the forensic report a certain structural orderliness. (These structures represent the anatomy of the report. However, the structure of a report alone is insufficient for delineating what is necessary to create a persuasive and relevant product in forensic work.) We shall then point out how understanding mechanisms taken from other disciplines (such as use of language and testimony, in addition to concepts of voice, portraiture, narrative ethics, and rhetoric) is now essential to the task of creating the written report in forensic psychiatry and grasping its inherent performative dimensions.

We emphasize once again that the importance of these dimensions is best understood when the task of producing a written report is conceptualized as an effort at performative writing. Consequently, while forensic psychiatrists must appreciate the need for structured order in the report, it is essential that the writers grasp the task of reworking their findings into a narrative, into a story. Once more, we restate the point that it is this act of creating the narrative or story that renders the work performative and inherently more complicated than merely recounting the findings elicited at psychiatric examinations.

Basic Model of Report Writing: Structured Order

In 1986, Hoffman⁶ published an article in which he advanced a basic structure for preparing a written report about a forensic psychiatry consultation. It was what he called "one scheme for organizing an assessment and the content of a written report" (Ref. 6, p 165). Hoffman concentrated on a personal injury case. He emphasized that in preparation for writing the medical-legal report, the psychiatrist should carry out a comprehensive and detailed psychiatric history and examination. However, he also

noted that the psychiatrist should take note of a variety of factors that influenced outcome following personal injury. These included biological factors; psychological factors; stressors such as unemployment, family discord, and financial problems; social supports; litigation proceedings; and others. Hoffman recommended use of the following headings in the written report: Identifying Data; Sources of Information; History of the Accident; Post-Accident Course (Medical-Surgical Course and Functional Assessment); Past History (Legal, Medical, and Psychiatric); Family Medical and Psychiatric History; Personal History and Life Events; Mental Status; Independent Information from Reliable Others; Summary and Formulation; and Prognosis.

Hoffman mentioned other forensic psychiatry principles that should be considered in carrying out an evaluation. For example, he reminded us that in performing these examinations, we should take stock of specific questions raised by legal counsel. He talked of problems in maintaining the confidentiality of the examination results. He discussed determining credibility and malingering, employing psychological testing and other laboratory procedures, and using diagnostic categories. Hoffman also briefly described the necessity of avoiding “highly technical language and jargon” (Ref. 6, p 166) that would not be understood by a nonmedical audience. He recommended that the psychiatric consultant’s writing be “clear, comprehensive, relevant, and concise” (Ref. 6, p 166). Finally he noted that there is general agreement among psychiatrists that such reports should be written in as objective, unbiased, and scientific a manner as possible.⁶

In summary then, we believe that Hoffman advanced a theory of forensic psychiatry report writing that encompassed a number of basic principles. The report should be structured and based on the performance of a comprehensive psychiatric history and examination. It should utilize the technical knowledge and experience of the physician writer. The writing should be lucid and based on scientific argumentation, to the extent that scientific principles exist and are relevant.

In 2002, a Task Force of the American Academy of Psychiatry and the Law (AAPL) published a practice guideline⁷ that outlined one format for the writing of a forensic report dealing with insanity defense evaluations. That format, borrowed from Noffsinger and Resnick,⁸ included the following headings: Iden-

tifying Information; Source of Referral; Referral Issue; Sources of Information; Statement of Non-confidentiality; Family History; Past Personal History; Educational History; Employment History; Religious History; Military History; Sexual, Marital, and Relationship History; Medical History; Drugs and Alcohol History; Legal History; Past Psychiatric History; Prior Relationship of the Defendant to the Victim; State’s Version of the Current Offense; Defendant’s Version of the Offense; Mental Status Examination; Relevant Physical Examination, Imaging Studies, and Laboratory Tests; Summary of Psychological Testing; Competency Assessment (if relevant); Psychiatric Diagnosis; and Opinion.

While the model presented by Hoffman⁶ specifically focused on the civil arena of the law (it addressed a personal injury case) and the AAPL Task Force addressed an evaluation in the criminal context, it is still instructive to compare them. Such a comparison shows, once one considers the headings and other relevant explanatory text, that both models include topics specific to the legal context of the psychiatric examination. For example, the Hoffman model includes a section titled “History of the Accident,” that refers to the accident that was the basis of the personal injury and litigation. On the other hand, the AAPL/Resnick Model used the “State’s Version of the Offense” and “Defendant’s Version of the Offense” because they were focused on the criminal charge that was confronting the defendant. The Hoffman Model also includes a section entitled “Post-accident Course” that would be logically important to follow, as the plaintiff’s pre-incident status and post-incident status are essential in explicating the effect of the accident on the individual’s functioning and adjustment. In contrast, the criminal context is centered on the index offense and all that led up to it. Similarly, the Prognosis section in the Hoffman model is important as lawyers go about calculating the worth of particular injuries in the determination of the fiscal reimbursement of damages. This concern is of no relevance in the criminal context.

The titles of specific sections reflect the purpose of evaluation and the legal situation that gave rise to the forensic psychiatry referral. Despite the different titles, these sections refer to the context of the specific situation of legal interest: an accident that resulted in a civil suit and the behavior that resulted in arrest. Where the two models differ in structure is in the

temporal emphasis of detail, function, and behavior. The Hoffman model details the post-accident course and opines about the prognosis because the legal interest is the consequence of the accident in terms of post-incident events and an opinion about a future trajectory: what will happen. In the criminal context, the psychiatric report emphasizes the time leading up to and including the crime from the perspective of the defendant (Defendant's Version of the Offense) and the police (State's Version of the Offense) and offers an opinion about a past state of mind: what happened and why. Although these topic headings differ, both models recognize that the report is bound to the legal context. In the other areas, the two models are fundamentally similar and rely on comparable bases of knowledge, experience, objectivity, and scientific rigor.

Silva and colleagues³ have presented one of the most recent versions of the written report, utilizing the following headings: Introduction (includes identification of the examinee, person requesting the evaluation, and purpose of the evaluation); Sources of Information (documents reviewed and persons interviewed); Confidentiality (nature of confidentiality as explained to examinee); Data Surrounding the Events in Question (versions from examinee and from others); Relevant History (to include developmental, medical, legal, and psychiatric histories and family history); Mental Status Examination; Summary of Special Studies (psychological testing; neuroimaging reports, neurologic examinations); Diagnostic Section (to include consideration of malingering); and Forensic Formulation (should be linked to the specific legal questions posed at the outset of the report and clearly buttressed by the data provided in the report).

Both the older and more recent report models we have described set out how the writer has done the work, presenting the information gathered, and articulating the reasoning process that led to the formulation and opinion.

Taking the preceding discussion into consideration, the acceptable structure and content of a forensic psychiatry report have gradually taken form over the past 35 years. This is not to suggest that everyone is now agreed that there should be only one way of preparing such reports. Although a structure emerged that could be said to characterize a good written forensic report, there are still a number of elements that evoke considerable disagreement. The

review by Wettstein⁹ of standards applicable to written reports suggested that some of the areas of discord include: whether ultimate-issue opinions are important, and the significance of psychological testing. Specifically for trial competency reports, there is still disagreement over whether the defendant's description of the alleged offense should be included. In the survey reported by Borum and Grisso¹⁰ in 1996, some of these differences also emerged. These authors noted that among their respondents they found no consensus on whether a report should offer an opinion that a defendant's diagnosis met legal criteria for "mental disease or defect" as applied to the question of criminal responsibility. On the other hand, these same authors did highlight their findings that a consensus has evolved among forensic mental health professionals concerning many essential types of content in criminal responsibility reports.

Despite areas of conflict, enough of a consensus has now developed that the variant from the basic report structure can be recognized and distinguished from a format that represents a clear outlier. Furthermore, recent practice guidelines issued by AAPL have delineated quite lucidly the form and content of reports that address specialized questions in forensic psychiatry.^{7,11,12} These guidelines recommend use of a report structure that resembles what has been presented so far in this article.

As a general matter, therefore, we suggest that the structure of the forensic report has evolved into a form that encompasses three sections: the Introduction, Presentation of Data, and Discussion/Conclusion. If we follow, for example, the format of Silva and colleagues,³ the Introduction comprises: the person requesting the evaluation, the purpose of the evaluation, identification of the examinee, the nature of confidentiality as explained to the examinee, and the documents reviewed and persons interviewed. The Presentation of Data is a compilation of information gleaned from documents, interviews, clinical examinations, laboratory tests, medical records, and everything else used to reach opinions in the report. The Discussion/Conclusion section reviews all the preceding information and leads the reader to an appreciation of how the author of the report reaches a formulation, diagnosis, and answers to questions initially raised in the Introduction.

The first two sections of the report require little explication: the Introduction is a written account of the contractual arrangement of the expert's relation-

ship to the referring agent and to the examinee. The Presentation of Data is an account of the data gathered. Since the data are similar to those collected in clinical evaluations, writing this section of the report is in part a familiar exercise. However, there are aspects of the forensic report that make the presentation of data a more complex enterprise than the writing of the usual clinical reports. For example, consideration has to be given to the following: the nonclinical readers will be unfamiliar with clinical jargon; there is the potential for release of the report into the public domain, including the press; and personal information about other persons related to the examinee may be visible to public eyes.

The third section, the Discussion/Conclusion, is unique to the forensic report and involves the weaving of information into a structure that is scientifically sound, truthful, respectful to person, and understandable to the law. After pulling together all information, the author must then restructure it into a narrative that produces a story for the reader to mull over. It is then that the construction of narrative begins, as we shall next explain.

The Construction of the Forensic Narrative

Over a period of several years, we have engaged in numerous discussions with colleagues about the nature of report writing in the subspecialty of forensic psychiatry. We have wedded these discussions to explorations of relevant literature and have ultimately come to recognize that in most of the report writing done in the criminal and civil contexts, the authors construct narratives about people and their actions. While it is true that the authors (psychiatrists and other mental health professionals) are called on to answer questions posed by the law, the answers still turn on the explication of individuals' thinking and their behavior, on the creation of stories about how individuals came to carry out their actions. So, knowledge of purpose directs the narrative.

In the context of a criminal trial, the state promotes the perspective of the event, an isolated moment in time; it focuses the story about the crime on the action and its results: the carnage and suffering created by the defendant. The victim is evidence of the crime. Across the aisle, the defense produces a different perspective, placing the moment of the crime into the context of a life, emphasizing where indicated the complicated interplay between the vic-

tim and the actor, sharing the responsibility and the suffering, and producing a more nuanced explanation of the crime and its context. The forensic psychiatrist operates from yet a third perspective: one of explicating, for the purpose of answering a legal question, the course by which the person arrived in the legal predicament. This third perspective may or may not be compatible with the other perspectives.

Assuming that the sides refrain from manufacturing evidence, each perspective may have its own validity. For the state, the defendant is the crime; for the defense, the defendant is an unfortunate player caught in difficult circumstances; for the forensic psychiatrist, the task is to explain the event within the context of a person's life using psychiatric, psychological, cultural, and sociological constructs to find meaning. Ultimately that meaning must resonate as "truthful" to all of the players in the legal drama: the defense, the prosecution, the court, professional colleagues, the jury, and the defendant himself.

As we continue our focus on the criminal context, we maintain that the prosecution and the defense tend to suggest perspectives that are sometimes too simplistic. Borrowing language from Felman and Laub,¹³ we believe that the forensic psychiatrist must offer "new articulations of perspective" by more richly contextualizing the incident that has placed the defendant in court, by creating multilayered visions of what has led to the incident in question. In this way, there is a yielding of "new avenues of insight" that borrow from a number of different realities: political, historical, biological, biographical, and cultural, among others (Ref. 13, p xv).

Once the narrator has set out clearly in the report's introduction what the purpose of the narrative will be, the sources from which information has been pulled, and the person who has been examined, the narrator presents the data in the second major section of the report. It is in trying to make sense of the information and framing it with an eye on the purpose and objectives of the report that narrators first confront the concept of voice as articulated and defined by Lawrence-Lightfoot and Davis.¹⁴ If we continue our emphasis on a report that addresses a problem in the criminal context, it is evident that narrators will have to contend with the natural task of setting out the narratives of the criminal event through the eyes of prosecutor, defense attorney, eye witnesses to the event, and perhaps even third parties

who have an interest in how the criminal case is resolved.

Narrators must let these voices speak clearly and unambiguously. Indeed, it is in listening attentively to these voices that narrators are then able to find their own voices to describe what the principal themes of the narratives will be. We acknowledge the presence of myriad voices contributing data to the construction of the story about what transpired at the event. This highlights our recognition that the voices may all, to some extent, be seeking attention and to have their versions of events prioritized over other versions. Everyone generally wants to be heard and to be taken seriously. Historically, individuals belonging to certain groups have believed that they have not been taken seriously in certain contexts. For example, women and minority ethnic/racial groups have complained of lacking voice in legal disputes. This has led to their making efforts to seize voice in an attempt to be heard more effectively.

Forensic psychiatrists thus learn how to synthesize a narrative portrait to be expressed in their own voices in the reports. As Lawrence-Lightfoot and Davis¹⁴ describe it, the narrator brings experience and professional training to the work of creating the story and eventually acquires the technique of synthesizing competing voices that will lead to the final narrative. This story will emerge in its full form as the narrative progresses to the Discussion section. Of course, on occasion, the narrator may fail to find a competent or effective voice in this process and may give up the task or carry it off poorly. Yet again, he may discover that those who have hired him and are paying his fee find his version of the final narrative to be unacceptable, as it does nothing to advance their interests in the legal context.

We believe it legitimate to ask what the concept of voice adds to the notion that we should take all relevant data into account and try to understand the motivations of the sources of the information. The notion of voice animates the idea that the sources of the information may be seeking to project certain themes for consideration by the narrator. The voice concept also reminds us that in the culture, some voices may naturally be accorded primacy over others, just as members of some groups may lack voice and representation in the culture and legal process. Finally, the idea of voice emphasizes that the narrator must be conscious of possessing voice and must be

aware that the utilization of voice contributes to the creation of the performative written narrative.

Language and Narrative

Resnick¹⁵ has made a sustained contribution to the artistry of forensic report writing over several years and he has done so through his teaching at the Forensic Psychiatry Review Course offered each year at the Annual Meeting of the American Academy of Psychiatry and the Law (AAPL). He has consistently pointed out that other elements besides the report structure and content need attention and has argued that bad grammar and typographical errors diminish the effectiveness of the report. He has also pointed out that employing words such as “suspect,” “possibly,” and “supposedly” weaken the report. Resnick ultimately offers four principles of good writing: clarity, simplicity, brevity, and humanity. The last principle makes clear that the use of quotations animates the writing, makes the subject of the narrative appear human, and facilitates the author’s attempt to speak directly to the reader. These ideas offered by Resnick begin to suggest that the writing of a report requires sophisticated judgment and reflection and that the writing process requires formalized consideration of how one uses words in the creation of the report. Consequently, even in setting out the Introduction, the author must be judicious in the selection of vocabulary.

Resnick’s approach in his lectures is amply supported by the writings of Gerald Lebovits, who writes a regular column in the *New York State Bar Association Journal* entitled “The Legal Writer” (see, for example, the columns of January, February, March/April, and May of 2008). In those particular columns, Lebovits addresses problems of grammar and punctuation usage, mistakes made in texts that weaken their effectiveness and appeal. Examples he explicated were run-on sentences; use of incorrect idioms such as “abide from a ruling” instead of “abide by a ruling”; incorrect use of question marks and parentheses; and incorrect use of commas, such as placing one before a verb. In his column of September 2008, Lebovits, a judge of the New York City Civil Court, addresses the theme of “writing the facts” in a legal brief and in an objective memorandum.¹⁶ He makes a distinction between the two forms of writing. He explains that the facts in the brief should be emphasized at times and deemphasized at others in order for the writer to persuasively

present his perspective. But the objective memorandum demands neutrality in the presentation of facts. It is here that, without using narrative terminology, Lebovits begins to lead his readers to the task of creating the story and to the business of performative writing. In that particularly engaging commentary, he noted that fact sections in briefs and commentaries should be written well so as to communicate the client's humanity, a point that we have noted earlier was supported by Resnick.¹⁵ Lebovits¹⁶ recommended that attorneys humanize their clients in legal writing. As a telling example, he reminded us of how the parties were presented in the case of Paula Jones against Bill Clinton. Ms. Jones's attorneys presented her as a lowly paid government employee, while Clinton's lawyers made clear that he was the President of the United States. In applying these principles to the task of forensic report writing, the forensic psychiatrist is urged to think of ways to make his subjects appear as functional human beings.

However, the forensic psychiatrist's narrative is different from that of the attorney who humanizes or dehumanizes the client to persuade the audience to accept a simplified account of complex circumstances. Within the adversarial context of American justice, the humanization of the client—whether the perpetrator, victim, plaintiff, or defendant—serves the legal purpose of winning the dispute. In contrast, the psychiatrist's narrative humanizes the examinee without regard for which side of the legal case requested the examination; the psychiatrist writes to explain a complex life. Consequently, in a drug case, the psychiatrist does not choose to describe his or her subject as a victim of drug addiction or one who engages in the purposeful abuse of substances based on the legal side that hired him, but rather on the circumstances that account for the person's use of drugs, the extent of the addiction, and other psychiatric and psychological factors.

As he explicated how to present a summary of facts in a brief or memorandum, Lebovits emphasized that the best way to be persuasive was to engage in storytelling, which clearly indicated his recognition that narrative is an important reference point for him as he conceptualizes how to present legal writing persuasively. He continued to make several other important points, noting that "all legally significant facts, even those unfavorable to the client, must be stated in the brief" (Ref. 16, p 66). However, he noted that the position at which particular facts are placed in a

brief or memorandum influences their impact on the reader, as what is read last will be remembered most readily. Lebovits¹⁷ later emphasized that one's choice of words, like paragraph and sentence structure, influences how a reader will interpret, analyze, and understand what one has written.

While speaking about employing language and images in oral performance, Scheub¹⁸ made several points that are usefully considered in the conceptualization of performative writing. First was the notion that language is a cultural material to be thought of in much the same way as we consider a painter's use of color or a musician's use of notes. Consequently, written narrative is comparable with other esthetic forms of making stories. Second, in telling a story, the narrator is engaged in using words to arrange images and patterns that are understood by the reader because they represent cultural statements embodied in the culture of narrator and reader. These images, if presented esthetically enough by the writer, can have an impact that is seen, heard, and even felt. Scheub's ideas make sense when seen in the light of the contributions of Blanchard.¹⁹ The latter pointed out that in the construction of narrative, we use language as a system of verbal signs, while at the same time relying on their metaphorical coherence, what they stand for in the cultural context. The narrative therefore operates on these two different axes to ring a bell in the mind of the reader and to draw him into the performative dimension of the text. These contributions by Scheub and Blanchard serve to remind the report writer that forensic narratives may evoke images and pictures of the actors and actions in the stories. We believe that once again this way of thinking about the report will be especially helpful to trainees learning to write reports.

Of course, it is a serious error for forensic psychiatrists to believe that they alone are engaged in this narrative process, bent on drawing the audience into grasping the story that the storytellers are presenting to their readers and audience, and using language persuasively. Forensic psychiatrists are regularly engaged in an adversarial legal process, and others are therefore in the marketplace attempting to sell their own narratives, their own versions of what has occurred in the criminal, civil, or administrative context. As a result, others are also looking to construct their stories with an eye on persuading the audience.

Hudgins²⁰ articulated one of the most intriguing warnings about the traps that await us as we utilize

language in the construction of a narrative. In reflecting on his views, we think it useful to reemphasize the conceptualization of a forensic report as the construction of a work of art, as the act of writing the report requires the translating of actual events onto the page. And while it is possible to characterize this art form as a kind of visual art, let us for the moment think of it as a literary activity. This facilitates our understanding of what Hudgins had to say. In the act of writing the forensic report, the forensic specialist transcribes actuality onto the page, even as he is urged, or tempted if you prefer, to recreate the actuality selectively and imaginatively. However, Hudgins argued that for these two activities to go to bed together, they could “enjoy their uneasy congress only by lying to each other” (Ref. 20, p 542). Hudgins then outlined several forms of lies, a few of which deserve mention here.

The lie of narrative cogency was defined by Hudgins as “clearing out the narrative underbrush, so the story. . . can be more easily seen and appreciated” (Ref. 20, p 542). We know how easy it is to use this lie in the forensic context when we grow tired of trying to have the subject clarify for us the exact names and locations of the 10 elementary schools he attended during his formative years. It’s just easier to condense the schools into one or two and have the story proceed. Such clearing of the underbrush is likely to be inconsequential to the overall narrative when the subject went on to achieve an advanced degree at an Ivy League college and the early education contributed nothing of relevance to the event of interest that occurred when the man was 50 years of age. However, taking shortcuts on details related to the dynamics of the event in question can result in a biased narrative that, although more neatly packaged in prose, will fall short of accurate reporting. Consider for example, a subject who attended 10 different elementary schools, including parochial schools, as a consequence of misbehavior, and who later is arrested for arson of a church. The early school experience in this case may indeed not be clutter, but the first seeds of the evolving life.

However, sometimes the forensic psychiatrist chooses to clear out the underbrush for the ethics-related imperative of respecting the person. Including in the report pejorative or embarrassing information that is irrelevant to the legal issue may demonstrate a completeness of interview, but it does so at the cost of the client’s dignity. Let us consider

the example of a woman in her 50s who is charged with embezzlement of funds to pay off gambling debts incurred by her ailing husband. The psychiatrist would have to weigh very carefully whether the benefit of including in the report her having an abortion at the age of 19 when she first entered college, a deed that she has never divulged to her strict Catholic family, outweighs the impact that information will have on her, her family, and her trust in psychiatry. The cost-benefit analysis will necessarily be different for a woman with the same history who has been arrested for killing her newborn.

At other times, the psychiatrist is asked to omit information. When an attorney asks to have information omitted, the psychiatrist must critically analyze the basis of the request. We believe that the most ethical and productive framework for deciding is the extent to which the data in question are essential or even supportive of the formulation. That is, does the forensic psychiatrist depend on that information as a critical piece of the narrative?

There are no easy solutions, and experts will have different recommendations. However, what is clear is that the inclusion or exclusion of data in the forensic report is neither a facile decision nor one without significant consequences. What we recommend without hesitation is critical consideration, consultation with colleagues, and repeated conferences with the attorney.

Hudgins also introduces the lie of texture, one easily understood by forensic psychiatrists. He noted that “the accumulation of precise and telling details is what makes the story, scene, image, line vivid in the reader’s imagination” (Ref. 20, p 544). It is not surprising then that forensic psychiatrists may find it seductively tempting to invent details to make their stories more believable or more relevant to the general direction of the narrative they are already committed to producing. We emphasize that it is obviously unethical to utilize details in a story that are false. But we caution that storytellers may enhance true details by the adroit and exaggerated use of adverbs in the presentation of the details.

Let us contemplate the example of a forensic presentence report describing a woman who lost her husband after a protracted illness but continued illegally to collect his pension. The psychiatrist built the narrative on the woman’s dependence and depression after her husband’s death, embellishing the details of the woman’s attention to her dying husband

and her attendance at his bedside, since the woman gave little information about that time. The prosecuting attorney, however, used records from the hospice where her husband stayed before his death. The records showed that the wife never visited him and did not attend his funeral. The psychiatrist's report was discredited, although the formulation of the woman's crippling depression was actually supported by her absence; the lie of texture, however, altered the context and undermined the opinion.

The lie of emotional evasion is worth mention, as we know it appears in forensic reports quite regularly. It is what Hudgins called the "sin of omission" (Ref. 20, p 545). Subjects engage in this maneuver as they talk about their lives and try to sidestep areas that cause them emotional difficulty. But we recognize these omissions in the report, for example, of a forensic specialist writing about a custody fight between a black husband and a white wife over their child. We have seen such a report in which there was no mention at all about the obvious implications of race in the marital struggle. Any reader must ask how such an omission could occur.

One more of Hudgins' examples deserves mention because of its seriousness. He called it the lie of the recreated self, which, we remind ourselves, he was applying to autobiographical writing. It is readily comprehensible that writers would, in writing about themselves, be willing to shade facts, circumstances, and actions to make themselves look good. We think it important to note that writers of forensic reports may, in the constructing of narratives about their subjects, be tempted to fall into a similar trap, as they seek language and mechanisms that will help the cases of their subjects. After all, some narrators may conclude that the recreating of their subjects is but a step toward the persuasive construction of the story, using the advice proffered by Lebovits.^{16,17}

From the moment that forensic psychiatrists take up pens or computers to tell the stories of people they have recently examined, they have decided to become engaged in the enterprise of employing language in the service of narrative. This decision is best taken consciously, as the forensic psychiatrists must understand that they are embarking on projects that require them to be persuasive in the storytelling. Recounting narrative with little consideration for the impact on its audience is hardly justifiable. Indeed, performative writing requires regard for the audience. A key aspect of all performance is the interac-

tion between the narrator and the reader. The written forensic report is produced with the goal of engaging the audience in the story and convincing them of its merits. At least it seems unlikely to us that anyone would want to pay an expert for producing a report that on its face is not expected to persuade even the most positively predisposed and partisan reader.

That is why it is useful to keep in mind the reminder by Hollander²¹ of the classic elements of rhetoric: ethos (the writer's status and social position—his authority, so to speak); pathos (style used in communicating the information); and logos (logic and consistency of the argument itself). These elements of rhetoric help narrators focus on ways they can employ language persuasively. They invoke their professional authority as they make their claims in the reports and justify what they have said. They rely on pathos through their choice of words, repetition of language, and juxtaposition of themes and ideas. And of course they know that their reports must be internally consistent, as what they write must withstand scrutiny and criticism.

Labeling in Narrative

Forensic psychiatrists interested in creating narrative must constantly be aware of certain problems: language may be insufficient for the task; memories of those recounting stories may be fallible; eyewitness accounts may not be accurate or may be false; and sometimes those who tell stories do so as revolutionary acts carried out in the name of some collectivity.²² This latter point is often overlooked in establishing narratives in forensic psychiatry. It is as though the motivations of witnesses and of the storytellers should take a back seat in the creation of narratives. But from our experiences in the clinical psychiatric context, we know that motivation is a complex catalyst in moving individuals to supply testimony to narrators of stories.

Candilis²³ has pointed out the practical futility of seeking an answer to the dilemma of searching for truth and objectivity as we create forensic reports. He has discussed this problem in his review of the place of ethics-based considerations in the construction of forensic narratives. He has indeed made clear that looking for truth and objectivity is a dominant ethic in the work of forensic psychiatrists. But in a later publication,²⁴ he and his colleagues demonstrated how truth and objectivity can be tainted by the per-

spective and cultural experience of narrators (and we add, of witnesses too). As a result, it may simply be practical to agree that the best we can do is to strive for objectivity. However, we think the main point here is that forensic psychiatrists ought to be made aware of the complexity of constructing narrative. Forensic psychiatrist-narrators must understand that seeking objectivity is no simple matter, and they must be tenacious in their efforts.

Grunebaum-Ralph²⁵ has used South Africa's Truth and Reconciliation Commission (TRC) to highlight how witnessing in this context has "put into sharp relief the conflicting interests of individuals who have testified" (Ref. 25, p 198). Besides this idea of opposing testimonies, she introduced another significant concept and labeled the testimonies delivered in front of the TRC as narratives of sacrifice, liberation, triumph, and redemption. But these different narratives ultimately lost their individuality and were transformed from individual stories into a collective, thereby becoming a consensual public history, an event taken over and owned by the broader society.

We believe that authors of forensic reports should familiarize themselves thoroughly with these two mechanisms. Labeling a story in the written context allows readers to turn what they have seen into a dramatic story so that the narrative loses its abstractness. Once the abstractness is lost, the attentive readers have no choice but to take part in the narrative and, in the language of Blanchard,¹⁹ to take sides. The labeling of the story can take place either overtly or by the more subtle use of repetition through the judicious placement of paragraphs or words, especially in the Discussion section of the forensic report.

However, we emphasize that it is easy to misunderstand this business of labeling. We are not referring here to the loose employment of one or two words to describe an event or the complicated behavior of an individual. Instead, we are talking about the process of finding a way to describe the central theme of a story in words that evoke a common cultural understanding or experience in the audience. Simplistic labels, like headlines, provoke and invite projection regardless of the facts. The forensic psychiatrist must be careful to avoid this temptation. In a recent situation, for example, the defendant was attempting to persuade the expert that he wanted his narrative to be labeled as a self-defense story. However, the expert reviewed information produced by

the police indicating that the defendant had entered the house stealthily and wearing a mask. Obviously, the totality of the information suggested that the simplistic label offered by the defendant was inappropriate and incompatible with the accumulated evidence.

No doubt, those who gave testimony to the TRC in South Africa made use of a number of different labels. However, the TRC then proceeded to transform the individual stories into a collective one so that the political objective could be achieved of creating a new nation that was healed and in the process of formulating another beginning, what Grunebaum-Ralph called "framing the testimonial space" (Ref. 25, p 201). These two narrative mechanisms, labeling and transforming the story into a collective one that attracts the audience into taking a position and participating in the narrative, are commonplace while at the same time carrying the potential for misuse.

Grunebaum-Ralph, in her discussion of the TRC, referred to the murders of two youths as narratives about "the murder of childhood and youth in South Africa of those who were not racially classified as white" (Ref. 25, p 206). She took the killings of two individuals and attached a label to the acts that gave them meaning with a broader scope and malignant intent that almost automatically attracted the attention of her readers and galvanized them into the decision to take sides. In this way, the audience was urged into a mindset that provoked participation.

Just as we emphasized caution in making use of the labeling mechanism, we do the same in our discussion of the mechanism that leads to the transformation of the narrative into a collective one that evokes resonance in the audience with an easily understood culture-bound experience. A ready example of the need for caution is in the case of the psychiatrist who is asked to evaluate a woman who has killed all four of her young children. We all know the culture-bound maxim that we have heard expressed in these cases, by experts and nonexperts alike. It is that such women must have been out of their minds at the time they carried out the acts. Recognizing that the general society has already labeled such behavior as the product of a disordered mind can seduce the psychiatrist into creating a story that falls in line with the expectation of the audience.

There are two potential pitfalls facing the forensic psychiatrist in this situation. First, the psychiatrist may recognize that the broad collective audience has

already framed the testimonial space. So he then sets out to construct the narrative, while taking advantage of the fact that the audience has announced its commitment to a one-sided story. But to do so without attending to the evidence accumulated in that specific case would not be based on objectivity and truth-telling. Furthermore, the societal collective view may in some cases simply be wrong.

The second pitfall is for the forensic psychiatrist to challenge the collective societal voice, with no regard for the evidence in the case, so as to make a political statement of sorts. This too would lack objectivity. Of course, the important task is to recognize when we are disposed to engage in such conduct and to work at avoiding it.

Conclusion

We have taken the position in this article that the preparation of written reports should constitute an element of core competency in the discipline of forensic psychiatry. We have tried to demonstrate that the exercise of writing such reports has long gone unexamined by forensic psychiatrists, as they have looked to medicine in developing their core areas of expertise. Hence, the clinical examination of forensic subjects and the organization of the clinical data have been matters that deserved the attention of the forensic professionals. However, in looking to the developments taking place in other disciplines, it is now clear that the business of preparing written forensic reports and telling stories to explain their findings have become complicated exercises.

This is particularly evident, as other disciplines have demonstrated that forensic professionals do not stand outside of the narratives they create. They are participants in the process, bearing witness themselves, and doing their best to persuade readers that the principal story they are in the process of recounting makes good sense and reflects sound training and acquired professional experience. Furthermore, they wish to make clear that they have listened attentively to the different voices trying to be heard; they have worked hard to concentrate on being objective in parsing all the information they have collected; and they have leavened all their processes with substantial amounts of ethics-based thinking. We hope we have demonstrated that all this to-do makes the process of framing the narrative performative and therefore inherently complex. However, we are convinced that comprehension of the work we do allows us to avoid pitfalls

just as it facilitates our efforts to write better while remaining within the necessary boundaries of ethics.

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