

Commentary: The Art of Forensic Report Writing

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As forensic psychiatry has matured into a well-recognized subspecialty, considerable agreement about the format and content of reports has emerged. Griffith *et al.* now turn their attention to the art of forensic writing. Their description of the forensic report as “performative narrative” may help to refine professional practice so long as the ethics-related pitfalls are identified and avoided.

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The paper by Griffith, Stankovic, and Baranoski¹ addresses the question of style in forensic report writing. Using the term performative narrative, they describe a process by which the forensic psychiatrist organizes and transforms information obtained during an evaluation into a coherent story that brings characters and events to life while evoking emotions in the reading audience. This process goes beyond a mere recounting of clinical findings. Instead, the forensic psychiatrist creates a written performance in an attempt to tell a compelling story. Some may view their thesis as simply stating the obvious, while others may react with dismay at the thought of a forensic report as anything more than a dispassionate recitation of findings and impressions. Regardless of one’s reaction, their paper explores a relatively underexamined area of forensic practice. A widely shared consensus about the format and general content of a well-written forensic report has contributed to the development of several practice guidelines.^{2–4} Less attention, however, has been paid to narrative style.

As Griffith and colleagues remind us, the report itself is the work product of a forensic evaluation. In other areas of medicine, physicians usually write to document their findings, treatment interventions, and the rationale for what they have done. In con-

trast, forensic practice, in the purest sense, typically does not involve treatment. We write to offer opinions for the consideration of fact-finders and decision-makers. We hope that our words will inform, guide, and ultimately persuade them.

Most forensic psychiatrists are probably acutely cognizant of the audience looking over their shoulders as they write. They hope to convince a judge or jury of the soundness of their conclusions, and they choose words carefully and compose reports in a way that will withstand cross-examination. Even the thought about whether reported findings will please or displease those who retained the psychiatrist’s services is likely to come to mind. These concerns can inspire greater thoughtfulness and competency in report writing, but they can also lead one into a quagmire of obfuscations, distortions, omissions of relevant data, and other ethically suspect practices. The manner in which experts handle these concerns goes to the heart of their effectiveness and ethics.

The quality of our reports is often the most tangible and visible measure of our professionalism. At a basic level, misspellings, typographical errors, and poor grammar suggest carelessness, if not a lack of respect for the reader. Submitting a report that has these faults could be compared with submitting an *amicus* brief that has ketchup stains on it. Other shortcomings, such as unnecessary repetitions, an overly dense writing style, or poorly reasoned opinions, also reflect badly on the writer. A deceptively written report, however, may amount to perjury.

Given the centrality of report writing to forensic practice, discussion and debate about the art of composition, not just its structure, take on great impor-

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tance. There are skills to learn and to teach. There are also pitfalls to avoid.

The term performative writing may cause understandable unease. Performance brings to mind acting, pretense, and even active deception. Egregious examples of dissemblance may be easy to spot and condemn, but even subtle forms of narrative sleight-of-hand may strike some as disturbing, if not unethical. There is a line between persuasive writing and misleading writing that must be identified and not crossed. Griffith and colleagues attempt to illuminate that line and to stay on the righteous side.

Some of their examples, however, involve blatant transgressions that do little to expand their thesis. The psychiatrist who fabricates details in a presentencing report has lied, pure and simple. This is not a matter of texture. Similarly, the case of the defendant who portrays his premeditated aggression as an act of self-defense does little to explore the more nuanced concerns that can arise with the use of labels.

Despite these relatively minor shortcomings, there is much in this article to reflect upon. Can the choice of words, the placement of facts, or “the adroit and exaggerated use of adverbs” (Ref. 1, p 39) become unacceptable distortions of texture? In the hands of an astute writer, these techniques can influence the reader in ways that verge on the subliminal. These subtleties of writing may be viewed as appropriate tools of persuasion, questionable forms of manipulation, or egregious examples of dupery. Nevertheless, the use of such techniques is probably more the rule than the exception, and there is nothing inherently problematic with careful construction of a report. As already noted, this is a talent worth honing and encouraging. When employed in an appropriate manner, these literary skills should enhance effectiveness and professionalism without compromising ethics. As a professional discipline we can discuss and identify acceptable elements of narrative style, as practitioners we can strive to deepen our writing skills, and as mentors we have an obligation to teach both the use and restraints of performative narration.

Although the domain of written content is perhaps more straightforward than that of style, it also needs consideration. The search for narrative cogency may at times warrant the omission of extraneous data that are not essential to the psychiatrist’s formulation, and respect for the person should restrain inclusion of embarrassing data that have minimal relevance to the matter at hand. A potentially

more problematic concern, however, involves the omission of data that undermine the psychiatrist’s formulation. Irrelevant data may serve only to lengthen a report unnecessarily, but data that conflict with the formulation provide full disclosure of the weaknesses, along with strengths, of the formulation. How one goes about presenting that disclosure has implications for persuasiveness, professionalism, and ethics similar to those raised by the texture of writing.

Texture, cogency, and labeling are some of the components through which a writer finds what Griffith and colleagues describe as voice. Training and experience allow the psychiatrist to synthesize an evaluation into a coherent narrative. We are told that “the psychiatrist writes to explain a complex life” (Ref. 1, p 38) and that this “narrative humanizes the examinee without regard for which side of the legal case requested the examination” (Ref. 1, p 38). These statements do raise a question, however, about the purpose of the exercise. All lives are complex, and explanation is not necessarily excuse. In criminal responsibility cases, for example, the outcome should not hinge on the defendant’s access to an expert with the time and narrative skill to weave a tale of layered complexity that only distracts the fact-finder from the core issue. Although this does not appear to be the intent behind the exhortation to humanize and explain, these features of report-writing and testimony are also worthy of further discussion.

Along with weaving a compelling story from the available data in the psychiatrist’s own voice, the forensic expert is urged also to allow individuals who have been interviewed to speak with their own voices. Perhaps this is the forensic equivalent of clinical empathy. Therapists strive for insightful awareness of the feelings, needs, and sufferings of their clients. In a similar fashion, forensic empathy strives for an awareness of the perspectives and experiences of interviewees. Without such awareness, it is difficult to see how those individuals can be given true voice in the resulting report.

Giving voice, of course, does not imply a naïve acceptance of the accuracy, let alone veracity, of all that we hear. In the absence of forensic empathy and the resultant voice provided to interviewees, however, how can we hope to understand and explain the effect of a mental illness, such as a psychotic disorder, on an individual’s behavior or how a competent person’s unique background and experiences may lead him to make otherwise unexpected choices?

There are also times when the evaluator must rely on the voices of others. Consider, for example, the case of a defendant who in the midst of substance withdrawal and extreme stress soon after his arrest hears the audible voice of God offering him redemption. To the dismay of his court-appointed attorney, the defendant's belief that he has received divine forgiveness for his criminal behavior is influencing his choices about defense strategy. The attorney requests a competence-to-stand-trial evaluation. In conducting the evaluation, the psychiatrist learns that the defendant comes from a religious and cultural background in which such experiences and their religious interpretations are commonplace.

The forensic psychiatrist, who is not an expert in comparative religion, cultural anthropology, or related fields, concludes that the defendant does not have symptoms consistent with a mental illness. In attempting to explain this conclusion, compare the difference between a statement by the psychiatrist that "the defendant's experience is consistent with his religious beliefs and cultural background" versus the statement, "according to the defendant, his minister, and his friends and family members, his experience is consistent with their religious beliefs, cultural background, and own experiences." The former statement is spoken solely in the voice of the psychiatrist and opens the door to a potentially withering cross-examination on the psychiatrist's lack of expertise in religious and cultural studies, while the latter statement relies on the voices of the defendant and multiple other parties to rule out psychosis in a sound clinical fashion.

At one point, Griffith *et al.* contend that a forensic psychiatrist must use cultural and sociological constructs, as well as psychiatric and psychological constructs, to explain a defendant's criminal behavior. Elsewhere in their paper, they touch on the emotional significance of nonpsychiatric factors, such as race in a custody dispute between an interracial couple, and they comment on ways in which the cultural experiences of the psychiatrist and of the audience may inappropriately distort the construction and the interpretation of the narrative. They are correct, of course, that cultural background can color percep-

tions, influence emotions, and fuel motivations. In addition, recognizing and avoiding their own culture-bound biases are important tasks for forensic psychiatrists. We enter a thorny thicket, however, when we attempt to use cultural, sociological, and other nonpsychiatric constructs to explain criminal behavior, or to explain other areas of a person's functioning. As I describe in the competency case in the preceding paragraph, there are times when these factors provide a context relevant to understanding a person's psychological or psychiatric condition, but we should tread cautiously lest we go too far astray from our professional roots and expertise.

A 12th-century German proverb says, "whose bread I eat, his song I sing." There is truth and caution here for forensic psychiatry. Our labors as forensic psychiatrists do put food on the table, and the observation that success in forensic psychiatry is often proportionate to the ability to put on a performance is hard to dispute. This acknowledgment is certainly not a shameful one with respect to performance qualities such as clarity and coherence. It also is no shame to embrace qualities such as persuasiveness and the ability to weave a compelling story that grabs and holds the interest of the reader. In fact, we should take pride in developing our skills as effective communicators. The fact that these skills can be put to use in deceptive or dishonest ways does not negate their relevance to ethical forensic practice. Instead, the potential for misuse of such skills only increases the need to discuss, identify, and teach the elements of appropriate performance. We can sing with grace so long as the verses remain true and pure.

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