The Boundaries of Critiquing a Colleague

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The boundaries of critiquing a colleague's report recently came up in the lead author's work, prompting a challenging consideration as to how to address this subject in forensic psychiatry report writing. When experts disagree, it is often necessary to explain such disagreements in the written report. In some cases, however, such disagreements take on a quality of *ad hominem* attacks, which are both unnecessary and potentially damaging on multiple levels.

Collegiality and respect for mentors are usually instilled in medical school and residency training. In forensic psychiatry fellowship training, ethics principles are further instilled.

In their article on collegiality, Mangiardi and Pelligrino[1] wrote, "The duties of collegiality also include fidelity to the ethics of good scholarship, such as careful observation, acknowledgment of sources, honest reporting of data, etc. They also include ethical obligations to other colleagues who share the same commitments, privileges and obligations" (Ref. 1, p 294).

We share the well-established opinion that the duties of forensic psychiatric evaluators are foundationally those of all physicians. Although the roles of evaluator and treater differ, forensic psychiatrists are obligated by the ethics codes of the American Medical Association. These hold fellow physicians to standards of care and include the ethics of interprofessional relationships.[2] In addressing interprofessional relationships, the Code of Medical Ethics states: "Physicians are expected to uphold professional standards of conduct not only in their relationships with patients, but also in their relationships with other health care professionals."[2]

These ethics prevail even in settings where physicians are not involved in directly providing care for patients. Under the heading of "Professional Working Relationships," the Code of Medical Ethics, Opinion 10.1[3] states, "Whatever roles they may play in the system of health care delivery, when physicians use the knowledge and values they gained through medical training and practice in roles that affect the care and well-being of individual patients or groups of patients, they are functioning within the sphere of their profession." We argue that such values affect subjects of psychiatric reports and testimony because the deportment of forensic psychiatrists can have a salutary or negative affect not only on treating colleagues, but also on consumers of forensic testimony and reports. Decision-making consumers of our work can render monumental (even life or death) consequences for evaluees. So, how we deport ourselves, is a matter not just of etiquette, but ethics.

Dr. Robert Weinstock wrote that the AAPL ethics guidelines,[4] which call for striving for objectivity, are the "floor and not the ceiling of forensic ethics" (Ref. 5, p 368). Striving for objectivity is the challenge despite bias being inevitable. For Weinstock, while the standard should not be unrealistic, it is nonetheless "[un] acceptable for a practitioner to reach a biased, subjective conclusion that would please the

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hiring side without making an effort to strive to reach an objective opinion despite bias" (Ref. 5, pp 368–9).

Resnick and Solomon[6] noted that "the content of the report will also be guided by ethical considerations of objectivity, honesty, and respect for individuals" (Ref. 6, p 412). Under twelve "common pitfalls in report writing," they opined, "Making snide comments about opposing experts or parties" (Ref. 6, p 413) is something to avoid.

Norko and Buchanan[7] explained the structure and importance of the forensic psychiatric report in the legal setting. They summarized: "The forensic report is the most visible sign of the quality of the evaluation and the care and professionalism with which it was conducted" (Ref. 7, p 69).

Griffith and colleagues[8] have conceived of the forensic psychiatry report as a narrative, with the writer of the report bringing characters to life in their own stories. They aver that the report is not just for presenting clinical information but is a "performative" process. They concluded that

> forensic professionals do not stand outside of the narratives they create. The report writers 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 (Ref. 8, p 42).

Allnut and Chaplow[9] explained that the final report "represents the quality of the writer's work" and could also affect "the public's perception of psychiatry" (Ref. 9, p 986). Similarly, Reid concluded his paper on report writing with emphatic advice to forensic experts: "treat every report as a lasting and often public example of your work, expertise, and professionalism" (Ref. 10, p 359).

It is our opinion that there is nothing wrong with addressing and disagreeing with the opinions of an opposing expert, and even doing so in a point-by-point section, separate from one's own opinion. This may also occur via direct testimony, by having it elicited by counsel. That fits our demand for truth-telling. But when an expert verges into making the report personal, this tactic trumpets bad manners, invokes ethics questions, and diminishes that expert in the eyes of decision-makers.

AAPL's ethics tell us to strive for objectivity. An expert whose report or testimony is skewed toward devastating an opposing expert has lost track of that quest for objectivity. Most authorities in effective testimony and opinion writing suggest that appearing to have no stake in the conflict, beyond fidelity to medical science and the truth, is the stuff of stature and persuasion. Dr. Anthony Fauci's ability to eschew the personal and political yet speak to medical truth, even under duress, has been a compelling example.

When a report appears personal, opposing counsel might suggest the emergence of personal conflicts and with that comes the damning suggestion of bias. It is simple to be logical and persuasive in one's critique using a neutral tone. There is even the art of praising one's expert counterpart while respectfully delivering a counter-analysis. That enhances the esteem of the expert offering such respect.

The work that forensic psychiatrists do is challenging and sometimes traumatic. Unfortunately, we all encounter opposing experts who fail to meet the highest standards of our profession or are simply dishonest. Still, it is important to support each other and treat each other with compassion. Chaimowitz and Simpson[11] wrote in their recent editorial that, "we have a clear view of many societal failures, including access to care, discrimination, and the treatment of incarcerated persons. So perhaps the field of psychiatry can become a transformative vehicle. We can be agents for positive change" (Ref. 11, p 160). In our opinion, when truth-telling requires we critique another's work, humility, respect, and fidelity to our profession's standing should mold our words.

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