

Commentary: Do Forensic Psychiatrists' Practice Patterns Differ Based on Their Gender?

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Does gender affect the practice pattern of forensic psychiatrists? Though the exact nature of practice differences between male and female forensic psychiatrists is difficult to identify and even more difficult to quantify, Price *et al.*¹ make a solid start toward answering the question. They define basic parameters of forensic psychiatric practice and compare these parameters between men and women. Most prominent in the findings of Price *et al.* is that the women surveyed were almost twice as likely to believe that gender is a factor in the selection of a forensic psychiatric expert than were the men (80% versus 41%). The female psychiatrists' belief that gender affects the legal process, at least in the selection of an expert witness, is consistent with the literature review by Price *et al.* of professional women within the court system. The literature on gender fairness within court systems documents that female lawyers and judges more frequently report gender bias as being directed toward women than toward their male colleagues. Though the process of choosing a female psychiatrist instead of a male is not a negative bias, it indicates a gender-based difference in practice more frequently reported by female than male forensic psychiatrists. Regarding this issue, the female psychiatrists surveyed by Price *et al.* acknowledged both having experienced selection bias based on gender and having the belief that gender is a factor in the selection of a forensic expert.

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The literature review presented by Price *et al.* on professional women within the court system documents that women report experiencing gender-biased treatment and perceive a difference in how they are treated as professionals. The literature concerning expert witnesses and gender is mixed with regard to the influence of gender on a jury's perception of an expert witness's credibility. Echoing the description of Price *et al.* of studies that raise concerns about whether female experts are viewed as credible are the results of the Minnesota Supreme Court Task Force for Gender Fairness in the Courts.² This latter study was conducted from 1986 to 1987 with extensive questionnaires sent to attorneys, judges, and court administrative personnel and through public hearings, with response rates at 83.5 percent and 93 percent for all registered Minnesota attorneys and judges, respectively. In this study, results comparable with those of Price *et al.* showed that most of the female attorneys surveyed had encountered gender-based differential treatment. Some examples given by female attorneys included derogatory comments that were considered gender based, different forms of address compared with male attorneys, inquiries about professional identity (i.e., "Are you an attorney?"), and inappropriate comments about their dress and physical characteristics including comments about their breasts. Female judges reported subtle experiences that left them with the perception of not being taken seriously by their male judicial colleagues. The Minnesota Task Force report included multiple accounts of gender bias against female judges and attorneys, as witnessed and reported by men. More germane to the review

by Price *et al.* was Minnesota's survey question asking whether attorneys believed that judges assign more credibility to male expert witnesses than to female expert witnesses. In the Minnesota study, 55 percent of female attorneys and 13 percent of male attorneys said that they believed judges found males to be more credible as expert witnesses.

The consistent finding from the literature review of Price *et al.* and from the Minnesota Task Force is that women perceive a gender bias within the court system. Though the perception of bias is not necessarily the same as experiencing bias, there is an inevitable overlap between whether a woman perceives that she is treated differently and her actual experience of being treated differently. That is, a person who has already experienced gender-biased attitudes will then report that women in general are treated differently.

Somewhat more problematic in studies of gender bias are misperceptions. In several of the examples raised by the Minnesota attorneys, it may be possible that other reasons existed for the treatment that they experienced, apart from or in combination with their gender. For example, the notion that women attorneys perceived their gender as the basis for their being addressed differently from a male counterpart may not be accurate. Other factors such as their professional demeanor and practice pattern may affect the behavior that others direct toward them. However, with so many women reporting gender-biased perceptions and treatment, it is possible that gender is the identifiable issue. In these examples, female attorneys would have to portray the consummate professional to neutralize some but probably not all gender bias. It is somewhat disturbing that the female attorneys perceive the expert witness's gender as affecting the judge's opinion about her credibility. These attorneys are reporting their perceptions. Is it possible that they are exhibiting gender bias in their perception that female expert witnesses are viewed as less credible by the judge?

Price *et al.* directed their survey questions to both the perception and the actual experience of whether gender affects the selection of an expert witness. They discussed other aspects of forensic psychiatry that are likely to show gender differences that were not addressed in their survey, including more specific forms of sexual bias, such as incivility, disrespectful con-

duct, and inappropriate behavior of a sexual nature. Some issues not mentioned by them, best labeled "hassle factors," also deserve exploration to assess whether women experience these factors differently from men within their practice. Some hassle factors might include subtle disrespect toward the expert, such as not providing needed information to formulate an opinion, unrealistic last-minute time demands, and requests to produce more primary work product (notes, for example). A survey of this detail would be complicated because it is almost impossible to separate biased perception when interpreting experiences to gauge accurately which behavioral interactions are actually due to one's gender. It would be best to separate the actual from the perceived, but this is sometimes impossible when posing questions about the subtle nuances related to how one perceives the way one is treated. Nonetheless, it would be informative to attempt to answer questions regarding even the perception that male and female experts are treated differently when it comes to hassle factors. Of course, similarly situated experts of opposite genders would provide an ideal comparison, but these types of situations are rare. It is likely that, with the increasing prevalence of women in the fields of medicine and law, frankly inappropriate behavior will continue to fade while more subtle differential treatment may remain.

Price and colleagues found that female experts perform fewer categories of evaluations than men. Is this measured difference in practice patterns the tip of the iceberg with regard to more subtle inner experiences of female forensic psychiatrists? Is this due to a difference in whether and how women seek novel professional experiences? The 2003 article by Strasburger *et al.*³ on stress and the forensic psychiatrist attempted to assess and describe sources of stress within forensic psychiatric practice. This pilot study was accomplished with a mailed questionnaire of 90 questions about stressful experiences for the forensic psychiatrist. Though the response rate to this questionnaire was low (20.1%), the authors were able to demonstrate that gender was one of two background variables that significantly predicted how stressed the respondent was: being male meant experiencing less stress, and longer years in practice predicted lower stress. In this study, women tended to be earlier in their careers, and this too may have increased their experience of stress. Strasburger *et al.* concluded that

further inquiry regarding the experience of stress on women practicing forensic psychiatry was warranted. They asked, "Do women working in a previously male-dominated field have a special vulnerability? Is the buffeting of the adversary system more severe for women than for men?" (Ref. 3, p 15). Stress was demonstrated in this survey as being associated with novelty within the field. One could hypothesize that women perform fewer types of evaluations to control the novelty factor.

Another explanation of why women perform fewer categories of evaluations. The women who completed the survey by Price *et al.* may have less interest in certain evaluations and more opportunity for other evaluations. With a broader survey of a more heterogeneous group of female forensic psychiatrists, this difference in forensic practice patterns is likely to be less. For example, the authors' finding that women performed less criminal work may have been because the sample respondents were senior women with established practice patterns outside the criminal realm. With the recent influx of female forensic psychiatrists, the number of those participating in criminal cases is likely to increase. However, another gender-based difference may also account for the difference in number of categories of cases between male and female forensic psychiatrists. The perception of threats to personal safety could contribute to the difference found within the study. It is at least possible that concerns for personal safety explain why fewer women reported participating in criminal work and in a decreased variety of cases, such as civil commitment. For example, states that civilly commit sex offenders require mental health opinions concerning the respondent's dangerousness and propensity to reoffend.⁴ A female psychiatrist may be concerned that if she testifies in favor of commitment, opining that the respondent is dangerous, and the respondent is not committed, there is a potential threat to her safety. This added potential stress may affect whether a female psychiatrist would choose to participate in such an evaluation. For those women working within institutions where these types of evaluations are required, there is the potential for increased occupational stress.

Stress extends into the forensic psychiatrist's personal life as professional and personal duties interact. Literature concerning women in business demonstrates that female professionals, even midway through their careers, face challenges particular to

their gender, such as that of balancing family and career.⁵ Observations concerning businesswomen may also be made about female forensic psychiatrists. Female experts may actually trade forensic and family commitments differently from their male counterparts, thus influencing their patterns of practice.

In 1996, Kearney *et al.*⁶ conducted a pilot study exploring balancing of conflicting family and forensic commitments by forensic psychiatrists. They drew on consumer preference theory and behavioral economics to devise an instrument to elicit choices between upholding family and professional commitments. It would be informative if this study were expanded to explore gender differences between experts. A major study design problem would probably remain because women and men fulfill different specific family roles. A study of this type should present gender-neutral family commitments to avoid bias from the outset. It would be interesting to apply the hypothetical dilemmas presented by Kearney *et al.* to assess trading patterns between experts of different genders regarding family versus forensic commitments. Information concerning any measurable differences between experts of different genders and their trading patterns between family and forensics would shed light on many aspects of the practice differences and possibly on the more subtle inner experiences of female forensic psychiatrists.

Most forensic psychiatrists are aware that gender matters and that it affects some aspects of the practice of forensic psychiatry. Price *et al.*¹ documented that female forensic experts experience this difference when selected for cases. They helped explain how jurors may be influenced by the expert's gender in their decision-making and rendered a historic view of women within the court system and a detailed review of gender task force results that indicate that gender biases are perceived and experienced, though probably in decreasing frequency. Their article and survey initiates an exploration and opens a dialogue about a subject that is likely to change contemporaneously with continued study. Even before one study is complete, changes in society and within the profession will probably affect the practice patterns being studied. As demonstrated in the review of the literature by Price *et al.*, it is clear that many biases can lessen as more women enter legal and medical arenas. As these differences are pinpointed and measured, a greater understanding can be reached of the unique contribution that gender adds to the practice and the field

of forensic psychiatry. That is, there are probably aspects of both genders that contribute to the actual practice of forensic psychiatry in ways we may now attempt to understand.

It is to be hoped that an increasing understanding of gender-related problems will contribute toward a greater understanding of the practice of forensic psychiatry. Now, with more women within the field, we can continue to explore the effect of gender, both on our own practices and within the field itself. Gender does affect interactions between people, and though its effect is subtle and sometimes even unconscious, the question of gender will remain significant.

References

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