

An Unwelcome Guest in the Courtroom

Editor:

Drs. Kapoor and Williams¹ brought an important matter to our attention, with which I am in agreement, given some 45 years of general and forensic practice.

I was surprised that a commentary was not presented, especially by a practitioner of both psychoanalysis and forensics. My education and practice have been guided by psychoanalytic theory for both psychotherapy and forensic examinations.

Given that, I was drawn to page 456, paragraph 3. I reviewed citations 7 to 9, all three of which referenced sexual boundary violations from 1990 and 1992. The authors assert that these “violations tarnished the reputation of psychoanalysis in the latter part of the 20th century, which *led to a general questioning of its value*” (emphasis added). Where is the authors’ evidence that “psychoanalysis lost its dominance as the explanatory model of human behavior”? No citations were noted to justify such a profound and overarching declaration.

I don’t accept the authors’ conclusions as fact. I’d like to hear opinions from psychoanalysts about the authors’ “belief,” which is what I have to term it, without evidence presented.

Also, on page 457, citations are lacking for their statement that “magnetic resonance imaging (MRI) and computed tomographic (CT) scans have become commonplace in the courtroom. . . .” (My focus is on their use of the term commonplace). I would welcome published studies that document these assertions; if they exist, I’ve missed them.

So, yes, teach and keep a “role for psychodynamic formulation in forensic practice” (Ref. 1, p 459).

Reference

1. Kapoor R, Williams A: An unwelcome guest: the unconscious mind in the courtroom. Editorial. *J Am Acad Psychiatry Law* 40:456–61, 2012

Melvyn M. Nizny, MD
Adjunct Faculty
Cincinnati Psychoanalytic Institute
Cincinnati, OH

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

Reply

Editor:

We are pleased by Dr. Nizny’s close reading of our editorial and his agreement with its main tenet—that psychodynamic formulation still has a place in forensic practice. Dr. Nizny takes issue only with a few sentences in the introductory section of the paper, where we reviewed the seemingly settled matter of psychiatry’s shift away from psychoanalysis and toward neurobiological models of mental illness. Several areas of scholarship support this claim, including discussions of the declining role of psychoanalysis in clinic practice,^{1,2} in academic psychiatry and psychiatric training programs,³ and as a defensible treatment modality when faced with malpractice suits.⁴

Dr. Nizny is correct in his assertion that boundary violations alone are not responsible for the decline of psychoanalysis in the psychiatric profession. That would, of course, be too simplistic an explanation. However, we stand by the claim that public scandals certainly did tarnish the reputation of the field, much as high-profile scandals involving financial relationships with pharmaceutical companies have tarnished psychiatry in more recent years.

Dr. Nizny also objects to the use of the word “commonplace” to describe neuroimaging in the courtroom. Perhaps it would have been more precise to say that neuroimaging has become commonplace in the professional discourse around law and psychiatry,^{5,6} and even in the lay media.⁷ Computed tomography, magnetic resonance imaging, and positron emission tomography scans are gaining increased acceptance in the courtroom, particularly in the context of high-stakes criminal cases and death penalty mitigation.^{8–10}

References

1. Gunderson JG, Gabbard GO: Making the case for psychoanalytic therapies in the current psychiatric environment. *J Am Psychoanal Assoc* 47:679–704, 1999
2. Gunderson JG, Gabbard GO, Fonagy P: The place of psychoanalytic treatments within psychiatry. *Arch Gen Psychiatry* 59: 505–10, 2002
3. Paris J: Fall of an icon: Psychoanalysis and Academic Psychiatry. Toronto: University of Toronto Press, 2004
4. Klerman G: The psychiatric patient’s right to effective treatment: Implications of Osheroff v. Chestnut Lodge. *Am J Psychiatry* 147:409–18, 1990
5. Simpson JR: Neuroimaging in Forensic Psychiatry: From the Clinic to the Courtroom. Chichester, UK: Wiley-Blackwell, 2012

Letters

6. Blume JH, Paavola EC: Life, death, and neuroimaging: the advantages and disadvantages of the defense's use of neuroimages in capital cases—lessons from the front. Cornell Law Faculty Publications. Paper 212, 2011. Available at <http://scholarship.law.cornell.edu/facpub/212>. Accessed February 24, 2013
7. Rosen J: The brain on the stand. *New York Times*, March 11, 2007. Available at <http://www.nytimes.com/2007/03/11/magazine/11Neurolaw.t.html?pagewanted=all>. Accessed February 24, 2013
8. *People v. Weinstein*, 591 N.Y.S.2d 715 (N.Y. Crim. Ct. 1992)
9. *State v. Marshall*, 27 P.3d 192 (Wash. 2001)
10. Pettit Jr M: FMRI and BF meet FRE: brain imaging and the federal rules of evidence. *Am J Law & Med* 33:319–40, 2007

Reena Kapoor, MD
Assistant Professor of Psychiatry
Law and Psychiatry Division
Yale School of Medicine
New Haven, CT

Andrew Williams, MD
Consultant Psychiatrist
Forensic Psychotherapy
Portman Clinic
London, UK

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