

THE WETC PSYCHOLOGY NEWSLETTER

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"Find the Truth, Tell the Story"

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Psychiatrists and Psychological Testing: A Frequent Nightmare

In the words of John Henry Wigmore, cross-examination is "beyond any doubt the greatest legal engine ever invented for the discovery of truth."

3 Wigmore, Evidence §1367, p. 27 (2d ed. 1923)

As a psychologist who helps attorneys effectively cross examine psychiatrists and psychologists I frequently have the opportunity to read depositions and trial records.

In those cross examinations, psychiatrists are often asked about the results of psychological testing that is sometimes completely left out of their examinations and reports.

The most bizarre testimonies are in response to questions about their failure to administer a keystone psychological test, the Minnesota Multiphasic Personality Inventory (MMPI). More often than you might imagine, a psychiatrist will openly testify something like, "I didn't give an MMPI because I'm not an expert in psychological testing."

This kind of answer is bizarre because a forensic psychiatrist's job is to evaluate the patient and arrive at a conclusion about whether or not they have a psychological disorder, and if so, what is it's likely

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cause, how disabling is that disorder and what can be done to return the patient to their normal level of functioning.

How this is done is not a mystery. The doctor makes their diagnosis using as many as five sources of information.

1. The patient's life history and presenting complaints or symptoms.
2. The doctor's face-to-face Mental Status Examination.
3. The objective psychological testing results.
4. The patient's medical records.
5. Any available collateral sources of information in the form of historical data provided by the patient's relatives, friends and co-workers.

Of these five sources the only one that is objective, i.e., not colored by the doctor's subjective impressions, is the psychological testing. Testing is also the only source of information that can be presented to the court in numerical fashion with the interpretations backed up by multiple decades of published academic research.

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As such, when a psychiatrist testifies that he/she doesn't know anything about psychological testing, didn't give any objective tests and has no objective data to support their conclusions, there is hardly a reasonable jurist, attorney or jury member who will place any trust in the doctor's opinions. Such a psychiatrist's behavior is analogous to an orthopedist claiming he or she can't read x-rays!

Of course, it is difficult to understand why psychiatrists would not obtain the needed testing or expertise to do a competent job. However, they often walk into court proceedings expecting to get by on their credentials, not their knowledge or behavior. "Trust me, I'm a doctor?"

The net result of this situation is that even when a psychiatrist gives an MMPI and sends the answer sheet to a computer service for scoring and interpretation all they can do is parrot the conclusions found in the computerized report. Those conclusions are very frequently incorrect and vulnerable to the right questions.

The attorney who finds themself cross-examining a psychiatrist needs an expert in testing to point out the

weaknesses in the doctor's report, testimony, knowledge and conclusions.

That's what I do in simply-written reports that are provided in common English, not psychologese. I call these reports Apricots™. An Apricot™ is a written report that describes the major flaws that exist in a psych report using easy-to-understand terminology that provides information that an attorney needs to successfully cross-examine a psychiatrist, a psychologist or a neuropsychologist and/or draft a brief for the court. It also provides an extensive list of questions that will expose the flaws in a psych doctor's report during cross-examination.

If you suspect you have such a doctor on the other side, and you can probably tell from nothing more than their reputation, give me a call. I'll tell you what can be done, how to do it, and provide revealing questions that will give you the upper hand. Unless it's purely a nuisance case, the Apricot™ will easily pay for itself.

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