

# THE WETC PSYCHOLOGY NEWSLETTER

Dr. Bruce Leckart

"Find the Truth, Tell the Story"

Dr. Bruce Leckart & Associates  
11301 West Olympic Boulevard, Suite 538, Los Angeles, CA 90064  
(844) 444-8898, DrLeckart@DrLeckartWETC.com

February, 2021  
Volume 1, Issue 145

## Understanding The Source of Weak Psych Reports

If you're an attorney or an adjuster in workers' compensation or personal injury, general liability, or any jurisdiction where a psych doctor produces a report of their evaluation or treatment in response to the claim of a mental injury, you are always confronted with psych reports that are weak. But do you understand them and do you know how to defeat them? Let me help you do both! This month I'll tell you how to understand them. In the next two months, I'll tell you how to beat them.

Many of you who have referred workers' compensation and personal injury cases to me over the last three plus decades know that I have evaluated between 5,000 and 10,000 applicants and plaintiffs. As part of my practice I've read tens of thousands of psych reports, the vast majority of which are demonstrably substantially flawed.

First, a little of my professional history will help to understand what I think is going on. For the first 30 years after getting my Ph.D. I was a full-time college professor. As part of my job I did a lot of research and widely published my findings in a variety of subject areas and carefully edited professional journals. As a "publish or perish" academic, journal editors would not let me, or anyone else, get away with authoring any conclusions without adequately supporting those comments with hard, cold data describing what I did and what I found. But in the medical-legal arena there are no journal editors to keep forensic psychiatrists, psychologists, and/or neuropsychologists on their toes. They can write anything they want and often what they write is nonsense. Worse yet, unless those doctors are correctly confronted to defend their conclusions, their reports stand, to the detriment of almost everyone and

every entity in the system, except the reporting physicians.

Before I started doing forensic work I was amazed when an orthopedist friend showed me some psych reports from his cases. I simply could not believe the weakness of those documents. In fact, what drew me to forensic psychology was the immediate perception I could write better reports standing on my head and could demolish what was passing as professional work and maybe make a positive contribution to the field. In the many years since, nothing has changed except the doctor's names.

It hurts me to say this, but the vast majority of psych reports are substantially flawed, grossly lacking in credibility and completely incapable of proving or disproving a disputed medical fact or a contested claim. The questions that are always with me is, "**Why Are There So Many Substantially Flawed Psych Reports?**" And, "**What Can Be Done to Defeat Them?**" So, this month, I set out to see if I could answer those questions!

One possible reason I see such bad reports is because the attorneys and adjusters who refer cases to me know I am a demanding critic who does not shy away from "crushing" bad reports, but who loves to do so. According to this explanation, I see a biased sample of incompetent reports because attorneys know a bad report when they see it but because they don't quite know how to reveal the flaws on cross-examination they send it to me for help. I doubt it, but according to this theory most of the reports are not worthless, only the ones I get to see.

A second possible reason I see bad reports is despite having gone through medical or graduate school, an internship and a residency, some

psychiatrists and psychologists, and maybe those that are most likely to work in a forensic practice, are simply doing what they were taught. Simply put, they have never been trained to conduct competent evaluations and write competent reports. Despite all the many hours spent on their education they were left lacking the basic “non-rocket science” ability to perform competent psychological assessments and write proficient reports. I can’t talk about psychiatric training from firsthand experience but I know that with very rare exceptions, graduate school, internships and postdoctoral training in psychology does not teach competent evaluations and report writing.

A third possibility is that incompetent reports are the result of forensic practitioners never having to suffer the consequences of their poor work, hence they never learn to correct their methods. Here, the major culprit is the legal system. Specifically, attorney’s understandable lack of knowledge of psychology and psychiatry leads them to unsuccessfully challenge the doctor’s reports, which, in turn, results in the doctors never learning to improve.

A fourth possibility is that the doctors simply do not care if their work is below par since they continue to get paid for bad work. Although these doctors read my critiques and/or encounter them in giving testimony they follow their same flawed evaluative procedures and report formats because it’s just easier to write off a single bad case outcome than change their methods. Or, maybe they just rationalize the bad outcomes and tell themselves, “What does that attorney/judge/jury know about my area? I did a good job. They just don’t understand what I do.” The bottom line here is that whatever intervenes between being called on the carpet and the next report is completely ignored. The appropriate analogy is if you feed pigeons in the park they’ll keep coming back for more. Unfortunate for justice!

**QUESTION: WHY IS ALL OF THIS HAPPENING?**

**ANSWER: THE PHILOSOPHICAL DIFFERENCE BETWEEN EVIDENCE-BASED PRACTICE (EBP)**

**AND “CURRENT GUT-ORIENTED/FEELING BASED STANDARDS.”**

Evidence-based psychological and psychiatric practice is making decisions about the diagnosis, cause, and treatment of psychopathology that is based on academically grounded scientific research. Evidence-based psychological and psychiatric practitioners rely on objective evidence in drawing evaluative conclusions. In contrast, non-evidence-based practitioners rely on their “gut,” intuition, clinical judgment or subjective feelings about what is occurring.

Nowhere can the contrast be more clearly seen than in the American Psychiatric Association’s Diagnostic and Statistical Manual of Mental Disorders-Fifth Edition, the DSM-5!

I have written extensively about the DSM-5 and how in the workers’ compensation arena in California it does not conform to Labor Code section 3208.3 which wisely requires that psychological diagnoses be made using a diagnostic manual “generally approved and accepted nationally by practitioners in the field of psychiatric medicine.”

Fortunately, the DSM-5 has not been widely accepted either nationally or internationally. If you want documentation about the reasons I can suggest you read a series of newsletters I published in the latter part of 2013 and in the beginning of 2014 at my website, drleckartwetc.com.

Perhaps the single most telling weakness of the DSM-5 occurs in the attitude it expresses concerning the criteria it has written for the literally thousands of disorders found in that diagnostic manual.

Specifically, the DSM-5, which supposedly represents the official view of mental disorders for the psychiatric community states very clearly and concisely on page 25:

“it is important to note that the definition of mental disorder included in DSM-5 was developed to meet the

needs of clinicians, public health professionals, and research investigators rather than all of the technical needs of the courts and legal professionals.”

This statement follows on the heels of what was said on page 21:

“Diagnostic criteria are offered as guidelines for making diagnoses, and their use should be informed by clinical judgment.”

WELL NOW WHAT DO THOSE STATEMENTS TELL US?

**BY EMPLOYING THE SIMPLE WORD “GUIDELINES” THEY TELL US THAT THE CRITERIA LAID OUT FOR THOUSANDS OF PSYCHOLOGICAL DISORDERS IN THE 947-PAGE DSM-5 CAN BE COMPLETELY IGNORED BY DIAGNOSING PSYCHOLOGISTS AND PSYCHIATRISTS, AND ESPECIALLY THOSE WORKING IN FORENSICS IN FAVOR OF THEIR CLINICAL JUDGMENT!**

OR, IF YOU PREFER, “DEAR FORENSIC PRACTITIONERS: PLEASE FEEL COMFORTABLE TO COMPLETELY IGNORE THE EVIDENCE-BASED KNOWLEDGE OF THE 1810 MENTAL HEALTH PROFESSIONALS, LISTED ON PAGES 897-916, WHO CONTRIBUTED TO THE DSM-5 DIAGNOSES AND JUST USE YOUR GUT FEELINGS, INTUITIONS OR CLINICAL JUDGMENT IN DRAWING THE CONCLUSIONS IN YOUR FORENSIC REPORTS AND IN PROVIDING TESTIMONY IN COURT!”

AND YOU WONDER WHY YOU SEE SUCH TERRIBLY DOCUMENTED REPORTS WITH SUCH UNSUPPORTED CONCLUSIONS AND RECOMMENDATIONS?

At this point, I’m pretty sure you know that for the last 10 years I have been writing Apricots™. An Apricot™ is a work-product privileged report written for an insurance adjuster and/or an attorney who believes they have a substantially flawed psychological or psychiatric report that will harm their

client’s case. In my Apricots™ I find and describe those flaws in non-technical language and discuss the specific techniques and strategy for cross-examining the doctor, providing simple questions designed to expose those flaws during a deposition or trial despite a slippery doctor’s evasiveness. Those same Apricots™ are frequently used to write trial briefs or appeals. You can simply think of me as “the watchdog,” a nickname given to me by an attorney who has successfully used my Apricots™ on multiple occasions.

This had been the hardest newsletter I have written over the last 10+ years. In fact, I have struggled for some time about whether or not I should write this newsletter, thinking that maybe I’ve missed something and that incompetence is not the main issue. Well, maybe I have made that mistake and someone will shortly send me proof.

Finally, I also know this newsletter is going to anger a lot of my colleagues, but then I think, “Maybe they should write better reports.”

**Now for some good news! If you are an attorney or an insurance adjuster or supervisor and you just know you have a substantially flawed psych report, send it to me for a free phone consultation describing the flaws in the report and get a cost estimate of an Apricot™. Just give me a call at 844-444-8898 and we will set up a time to chat.**

---

This is the one hundred forty-fifth of a series of monthly newsletters aimed at providing information about pre-deposition/pre-trial consultations, psychological evaluations and treatment that may be of interest to attorneys and insurance adjusters working in the areas of workers’ compensation and personal injury. If you have not received some or all of our past newsletters, and would like copies, send us an email requesting the newsletter(s) that you would like forwarded to you.