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Politics and Psychology: Assessment and the Law

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Abstract. This article highlights one significant impediment to valid psychological assessment in support of the criminal justice system.

Commonly discussed impediments to forensic psychological assessment include (1) reliability and validity concerns of any objective and projective assessment instrument based on traditional psychometric theories; (2) reliability and validity concerns based the "new look" of social psychological theories that have been derived from (a) epistemological and sociological works such as those of Habermas and Foucault, (b) policy treatises such as those of Edelman and Lindblom, and (c) psychological postmodernists and critical theorists such as Gergen, Richards, and Prilleltensky; and (3) the intentional and unintentional misuse of assessment instruments by psychological practitioners who attempt to answer legal questions with psychological data as opposed to psychological questions that may have legal implications. An impediment with impact on all three of the above areas is the intentional manipulation of the psychological practitioner by an attorney in attempts to strengthen the latter's case.

The attorney's manipulation may be considered an adaptive tool in a political environment--i.e., an environment in which there are infinite needs but finite resources, in which there will be winners and losers, in which notions of truth and justice are subjugating discourses to be deconstructed in the service of power and control and the subjugation of others. There are two types of such manipulation that are directly applied to the psychologist by the attorney and that are indirectly applied through the intermediary of the attorney's client.

Direct Manipulation. The attorney may phrase the referral question in a manner that can lead to assessment questions more likely to elicit and/or miss information--both contributing to strengthening the attorney's case. The attorney may phrase contextual information related to the referral question in a manner likely to generate innuendo, expectations, demand characteristics, and first impressions that may affect choice of assessment instruments, administration of these instruments, and attention to and analysis of data collected through the assessment.

Indirect Manipulation. The attorney may advise a client (1) how to respond to specific assessment instruments; (2) what elements of personal, social, and professional history to highlight; and (3) how to seem to be psychologically-minded or the converse. The attorney also may apply the variants of direct manipulation to a client if the latter seems a more useful unwitting than witting conspirator.

There appear to be enough psychological practitioners who either harbor the belief that--with "by the book" assessment administration--direct and indirect manipulation will have no significant assessment effects or that--through magical thinking--psychologists are somehow unencumbered by socio-cognitive phenomena that affect other humans.

The criminal justice system is a dynamic political environment, yet a psychological practitioner may be too quick to attribute static, apolitical qualities to it. Although psychological assessment theories contain

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approaches that possibly attenuate deception attempts by a client, less has been explored about attenuating the attempts of the client's attorney, and even less about the practitioner's self-deception. (See Calsyn, R.J., & Klinkenberg, W.D. (1995). Response bias in needs assessment studies. *Evaluation Review*, 19, 217-225; Girodo, M. (1997). Undercover agent assessment centers: Crafting vice and virtue for impostors. *Journal of Social Behavior and Personality*, 12, 237-260; Goldbeck, R. (1997). Denial in physical illness. *Journal of Psychosomatic Research*, 43, 575-593; Lees-Haley, P.R. (1997). Attorneys influence expert evidence in forensic psychological and neuropsychological cases. *Assessment*, 4, 321-324; Sinha, R.R., & Krueger, J. (1998). Idiographic self-evaluation and bias. *Journal of Research in Personality*, 32, 131-155.) (Keywords: Assessment, Deception, Forensic.)