

Psychologist ON YOUR TEAM

Can the expertise of a forensic psychologist help your case?

By Nicole Machinski

Many attorneys can better represent their clients by utilizing the expertise of a forensic psychologist. In personal-injury, workplace-discrimination and sexual-harassment cases these psychologists can provide information about the severity, veracity and causes of psychological damage. In child-custody cases they assist the trier of fact in making determinations about the best interests of the child. In cases regarding guardianship and diminished capacity they provide information essential for determining individuals' ability to manage their own affairs. And in criminal cases they address issues of competency in legal proceedings and provide risk assessments to guide judicial decision-making regarding placement and sentencing.

A forensic psychologist typically provides an expert opinion in these matters after conducting a psychological evaluation of one or more of the parties involved in the case. A standard psychological evaluation usually involves detailed interviews with all relevant parties, psychological testing, and collection and review of collateral data. Psychiatrists and social workers also conduct clinical interviews and review collateral data, but the administration and interpretation of psychological tests is not part of their formal training. Psychological consultation differs significantly from the consultation attorneys can receive from other mental health professionals in that the objective data obtained from valid and reliable psychological tests are a major strength of psychological assessment and testimony.



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Often a psychological evaluation is one of the most critical pieces of evidence in a case. For example, in a personal-injury lawsuit in which an individual is claiming the existence of post-traumatic stress disorder following a car accident, psychological testing can confirm such a diagnosis and consultation with collateral sources and review of available records can determine whether or not the symptoms were present before the accident.

Psychological testing can also provide information that suggests whether the plaintiff is fabricating the symptoms. By using validated assessment instruments and comparing the individual's responses to patterns of responses in large groups of people who have taken the same tests, a forensic psychologist can provide an expert opinion, with a reasonable degree of professional certainty, about the severity and veracity of the claim of post-traumatic stress disorder. Forensic psychologists usually do not address the ultimate legal question before the court. Rather, they pro-

vide information to assist in reaching a just verdict or settlement. In this example, the forensic psychologist would simply opine about the presence and impact of the psychological disorder but would not make any recommendations regarding the outcome of the lawsuit.

Psychologists often appear in depositions or court hearings to answer questions and explain their findings. It is important that attorneys work with psychologists who specialize in forensic assessment and consultation for these purposes. Most clinical psychologists are primarily focused on helping the person in front of them. As a result, they typically assume that the client is there for help and do not question the motives for presenting information in certain ways. This is the most helpful approach to take when conducting psychotherapy. However, if the same approach is used during a lawsuit-related assessment where there is the potential for the person's significant gain, the psychologist can easily be misled. Forensic psychologists are not

human lie detectors, but they are specifically trained to question clients' motives differently than a typical psychologist because they see their role as helping to answer a psycho-legal question, as opposed to helping the individual.

Forensic psychologists are also skilled at explaining their findings in ways that are helpful for judges and juries. Most psychologists who do not have forensic training are not used to explaining how they have come up with their clinical opinions and find the process of doing so in an adversarial setting very uncomfortable. This discomfort can often be misperceived as incompetence or dishonesty and can damage the case.

Attorneys also benefit from consulting with forensic psychologists in situations where there is not a specific individual who needs to be evaluated. By reviewing medical records, including psychological and neuropsychological reports, forensic psychologists can provide attorneys with information that can be helpful in the early stages of formulating a legal strategy. Consultation with a forensic psychologist can also help attorneys devise the most useful questions for a deposition or for the testimony of an opposing expert or a treating clinician.

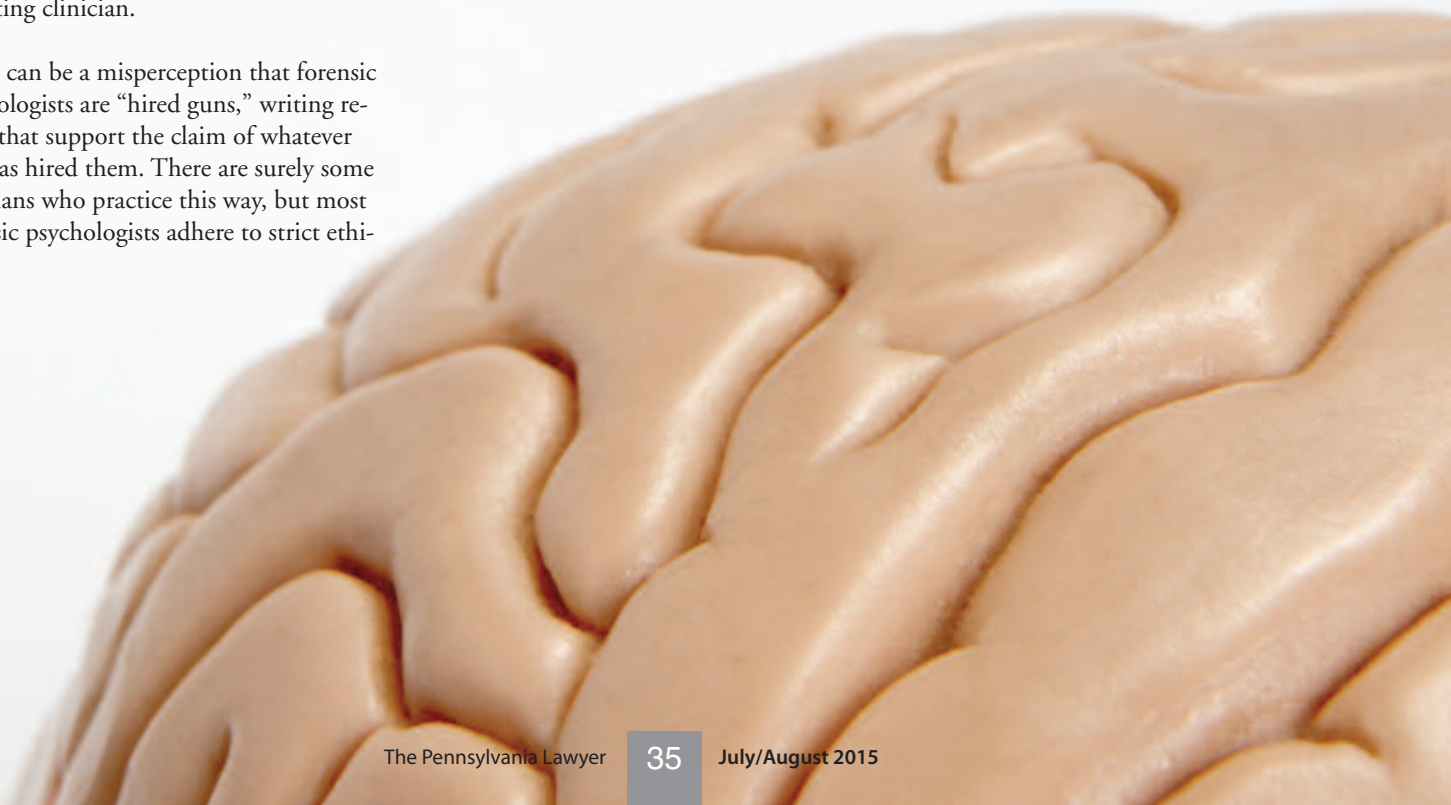
There can be a misperception that forensic psychologists are "hired guns," writing reports that support the claim of whatever side has hired them. There are surely some clinicians who practice this way, but most forensic psychologists adhere to strict ethi-

cal guidelines that compel them to testify honestly and objectively about their conclusions and opinions.

I never make statements or offer an opinion without sufficient data to support those statements and opinions. As a result, on more than one occasion I have contacted a retaining attorney and told him or her that my findings would not be helpful for the case. Although this is never the outcome the attorney is hoping for, the information obtained through the course of the evaluation is still useful in helping the attorney to modify legal strategy.

If you are looking for an expert to perform any of the duties discussed in this article, it is best to find a psychologist who has had specialized training in forensic psychology. Most forensic psychologists have earned their doctoral degree (Ph.D. or Psy.D.) in clinical psychology but have focused on forensic psychology while in graduate school or have had internships, fellowships or other specialized training in this area throughout their professional careers. Ask the psychologist about his or her specialized training and experience in forensic

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work or just ask to see his or her curriculum vitae to find out whether he or she has had experience in cases such as yours, if he or she has been qualified as an expert witness in the type of court you are involved in and if he or she is licensed to practice in your state.

If a psychologist makes any guarantees about getting the results you are looking for, he or she is not someone who is going to be very helpful to your case in the long run. Your psychologist-expert's testimony will be much more valuable if the person cares enough about his or her reputation to adhere to a high standard of ethical behavior. Good forensic psychologists understand that their opinions can have a tremendous impact on the individuals involved in legal cases and do not take that responsibility lightly. ☞



Nicole Machinski, Psy.D., is a clinical and forensic psychologist with Dr. Robin Lowey & Associates LLC (www.drlowey.com). She provides psychological assessments, consultation to attorneys and expert testimony in Philadelphia and the surrounding area.

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