

INQUIRING MINDS

Test Data Will Strengthen a Mental-Health Expert's Effectiveness

By Richard M. Samuels, Ph.D.

Mental-health experts such as psychologists and psychiatrists are often asked to render an opinion regarding the emotional state of a plaintiff or defendant. In many cases, the expert's opinion can help influence a jury's decision, determine a monetary reward, if any, and have an impact on sentencing. The level of the expert's credibility, his or her testimony style, and the nature of the screening tools used to render an expert opinion are all factors that may influence the outcome of a trial or hearing.

Often, a mental-health expert will render an opinion based upon an interview with the client and a review of case materials. In some cases, the forensic mental-health expert may conduct ancillary interviews with other persons, such as the parent of a child or the spouse of the plaintiff or defendant. While usually not used in the ultimate diagnosis of the individual undergoing the examination, interviews with significant other parties will frequently provide information that can help explain or emphasize the conclusions reached by the examiner.

Many psychological/psychiatric examinations primarily involve the use of the clinical interview for determining the mental status of the individual and to identify, label and interpret symptoms and patterns of emotions and behaviors that are germane to the case. For example, if an individual is allegedly emotionally traumatized because of a particular incident, the individual's emotional symptoms are detected, categorized, and measured for intensity and consistency based upon the interview.

The limitations of basing an expert psychological/psychiatric opinion in this manner are often dictated by the time spent in the interview and the reliability of the person under examination. Both psychologists and psychiatrist are trained to perform a thorough mental examination. While individual styles may vary, these interviews are designed to obtain information using a structured protocol manner, observing both verbal and nonverbal responses. The interview often involves a branching procedure so the information revealed directs the next area of inquiry. The interviewer is constantly rendering hypotheses as to what areas to pursue by taking into account previously obtained information.

Open-ended questioning is used to evoke maximum information from the interviewee. Among the many variables used while conducting a comprehensive mental interview, a competent interviewer is often able to pick up inconsistencies between

statements made during deposition and those revealed in interview, thus weighing the information's reliability. A review of medical records can also be helpful in determining a diagnosis. Information is solicited from both the individual's past and present status.

Along with other reviewed case material, a reasonably accurate determination of the client's emotional state can be made. These findings are then, within psychological probability, either linked to the incident or to other factors that are not incident related. Thus, the interview provides the expert with data, which are then analyzed and an opinion is rendered.

As with any science, and assuming the reliability and validity of data to be reasonably accurate, the more data available for analysis, the more accurate are the predictions that can be made.

One need only look at weather forecasting accuracy over the past thirty years. With the advent and deployment of weather satellites, oceanographic weather buoys, high-altitude weather balloons, and far-flung and remote weather-monitoring stations provide the accuracy of short-term weather forecasting.

In the assessment of personality, the task of the expert witness is to obtain psychological information and to use that data to determine (and sometimes predict) within all reasonable psychological probability, the diagnosis rendered accurately describing the client's emotional state. It is also often possible, within a reasonable degree of psychological probability, to determine causation of the emotional anomaly. Estimates of the impact of this emotional state on present and future functioning of the client can also be rendered, again within a certain degree of psychological probability. These conclusions can often assist the attorney who is representing the client. Again, as with weather forecasting, the more data available for analysis, the more likely the opinion rendered will be valid.

A good source for this additional information is the use of psychological testing, which can detect and document clinical syndromes and personality traits. Personality, cognitive, and neurological data thus derived are often independent of the self-reporting, upon which interviewing is based. Since the testing material is not usually connected directly to the issues being examined by the expert, the client is far less likely to be able to control, and thus distort, his or her response in a manner aimed to influence the examiner.

Indeed, many of these tests are surprisingly sensitive to patterns of exaggeration and lying, thereby providing valuable information about the honesty and integrity of the client. While not yet perfected, there are tests available that have been designed to specially test for malingering and the feigning of symptoms.

Psychological tests that measure intelligence, and others which are used in neurological assessment, will not be discussed here. Suffice it to say that tests are well-established and their results have been deemed admissible as evidence in courts throughout the nation for many years. This particular article limits its discussion to tests that measure the emotional state of an individual.

There are two major categories of psychological tests used - subjective and objective. Subjective tests include the familiar Rorschach Inkblot Test, the Thematic Apperception Test, Figure Drawings and many others. Briefly, the theory behind these tests is that individuals respond to the various test stimuli or instructions by offering information that is reflective of their inner psychological process. In the Rorschach Test, for example, vague inkblots are shown to the subject, who then responds to each stimulus card. The responses are recorded, then interpreted by the examiner for content and meaning. The actual interpretation of these stimulus cards is based upon years of study and comparison with responses of clinical patients and test subjects with previously-known emotional states.

There are several different systems of interpretation in use today, and interscorer reliability can vary based upon training, thus the term "subjective tests." Through complex analyses, inferences can be made about the current emotional state of the client.

The Thematic Apperception Test is similar, however, the stimuli are more specific in nature and tend to evoke different types of responses. Figure drawings also reveal important personality variables and is valid even if the client possesses little artistic talent. Other subjective tests are similar in concept. There are many types of such tests available, some more appropriate than others, and are usually selected as a function of the particular nature of the evaluation.

Objective psychological tests are based upon materials that are constructed to force a particular response to an item. The true / false choice is used for many, including the ubiquitous and highly-respected Minnesota Multiphasic Personality Inventory and the Millon Multiphasic Clinical Inventory. These tests are administered either in a pencil-and-paper format or directly on a computer. A complex-factor analysis is performed, usually by one of several computer programs or services commercially available.

Analysis of the various subscales provides the data that are sometimes used to generate computer statements regarding the client's personality. Because of the use of specific formulas for scoring and high interscorer reliability, these types of tests are referred to as "objective" tests. There are dozens of such tests available and many have undergone extremely rigorous reliability and validity testing. Versions are often provided for specific age and cultural groups, while foreign language versions are available as well. Again, tests are chosen based upon the specific needs of the evaluation.

A comprehensive psychological test battery can consist of up to a dozen different tests, using both objective and subjective types, with each testing a different aspect of personality. Tests are chosen as a function of need and time constraints. In a typical evaluation, four to six hours may be required to administer complete test battery. However, individual test-taking characteristics of the client may vary, and the number of tests administered and the time allotted is usually ideographic in nature.

When psychological tests are used in conjunction with the mental-health review, a comprehensive psychological / psychiatric report can be generated. The important data's findings, coupled with the strategic planning of the attorney, will provide the strength and validity necessary to produce a more powerful representation for the client.



Richard M. Samuels, Ph.D.

is a Fellow of the
American Psychological
Association
and is a
Diplomate in both
Clinical Psychology
and Forensic Medicine.

With offices in
Arizona & New Jersey,
Dr. Samuels may be reached at

480 . 661 . 9896



Reprint from ARIZONA JOURNAL / November 11, 1998