

Therapeutic and Forensic Role Conflicts

by [Dr. Dan Swerdlow-Freed](#) on April 14, 2017

Psychologists and other mental health professionals who provide therapy to patients involved in litigation are sometimes asked by attorneys to provide expert witness testimony. It may be appropriate for a therapist to testify when there are questions involving the nature of a patient's symptoms, response to therapy, diagnosis, or prognosis. However, in other proceedings, such as a child custody dispute or a criminal prosecution for child sexual abuse, a mental health professional that has not performed a comprehensive forensic evaluation will typically lack the necessary foundation for forming an opinion regarding the ultimate issue(s) and, therefore, should be very careful about providing testimony proffered under the guise of expert witness.

Recognizing a potential for conflict of interest when psychologists assume more than one role, the American Psychological Association has promulgated ethical standards to address this issue, by limiting multiple role relationships. The professional literature also articulates boundaries that should be maintained between therapeutic and forensic roles. The remainder of this paper summarizes some of the ideas proposed in one article (Greenberg and Shuman, 1997).

It is essential for attorneys to understand the distinction between therapeutic and forensic roles to avoid retaining a psychologist-therapist who provides improper expert witness testimony. It is also critical to recognize and challenge expert witness testimony that violates professional standards.

Different attitudes: One important difference between therapeutic and forensic roles is the attitude that the professional brings to the relationship. Therapists strive to listen to their patients, while communicating acceptance and creating an atmosphere where patients feel safe discussing their intimate thoughts and feelings without fear of being judged or criticized. Forensic evaluators, in contrast, need to convey a dispassionate attitude and maintain impartiality while discussing an examinee's difficulties. Evaluators deliberately focus on obtaining information that is relevant to the instant legal question(s), even if doing so may upset the examinee or be perceived as adverse to a hoped-for outcome.

Degree of scrutiny: Historical information is gathered by both therapists and forensic examiners, albeit for different reasons. Therapists obtain historical information to understand the patient's intrapersonal and interpersonal dynamics, to make a diagnosis and to formulate a treatment plan. While the therapist recognizes that information obtained only from the patient has limitations, this is not generally considered an impediment to conducting therapy, and such information is often accepted at face value. Thus, if a child reports an incident of child sexual abuse, the therapist accepts this allegation and does not conduct a forensic interview to establish whether the child is accurately reporting the alleged event. When conducting a forensic evaluation, it is common to carefully scrutinize an examinee's report, and to contact collateral sources that may be able to corroborate or disconfirm the information provided in order to assist in making a judgment about the examinee's reliability. Collateral sources may include teachers, employers,

physicians, or therapists, and information obtained from their records or other sources.

Different goals: The information collected by a therapist differs from that gathered by a forensic examiner and is used for different purposes. People enter therapy seeking relief from their problems. Regardless of a patient's reason for entering treatment, therapists only gather historical information sufficient to make a diagnosis and initiate treatment and not to form an opinion about an ultimate legal issue. The therapist-patient relationship is a helping one because its main consideration is improving the patient's well-being. The relationship is not adversarial and therapists carefully refrain from making judgments about their patients' behavior.

In contrast, the goal of a forensic evaluation is to provide the court with information that can be of use in reaching a determination regarding the ultimate issue. It is expected that the examiner will comment on the examinee's credibility and provide an honest assessment of the examinee's personality, including any psychological problems that the evaluation revealed. A forensic examiner needs to maintain a neutral, unbiased attitude and avoid becoming personally invested in the outcome of a case. A credible forensic evaluator will advocate for the results of the evaluation, while rendering an unbiased opinion about the psycho-legal issue(s) of the case. The examiner-examinee relationship is not intended to be helpful in a manner similar to a therapist-patient relationship. Because the relationship is not defined as a helping one, the likelihood is reduced that an examinee will feel irreparably harmed by the examiner's opinion.

Different expertise: In order to provide effective treatment, therapists must be knowledgeable about different therapeutic techniques and the ways that psychological problems are manifested. They focus on asking questions to assess personality dynamics and functioning and symptom severity, and utilize therapeutic techniques to resolve psychological distress.

In contrast, forensic examiners must be knowledgeable about various evaluation procedures and the psycho-legal issues that are relevant to each specific case. Additionally, they must be capable of applying the obtained information to answer the ultimate legal question(s) in the instant case.

The purpose of this article was to summarize some important distinctions between therapeutic and forensic roles and explain some reasons why therapists should not provide expert witness testimony. If you would like more information about this topic, please feel free to contact our office.

[For more information about Child Custody Evaluations click here.](#)

Reference:

Greenberg, S.A. & Shuman, D.W. (1997). Irreconcilable conflict between therapeutic and forensic roles. *Professional Psychology: Research & Practice*, Vol. 28, No. 1, 50-57.

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