

Cross Examination of Psychological and Psychiatric Experts in Competency Cases

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This workshop will...

- Review critical areas of testimony
- Identify fatal mistakes
- Facilitate evisceration when appropriate
- Provide useful tools

This workshop will not...

- Dwell on basic direct- or cross-examination techniques
- Exhaustively review the topic area

Overview

- Challenging Expert's Qualifications
- Questioning Expert's Methods
- Special Topics
 - Dual Roles
 - Children & Young Adolescents

But first...

Psychologist

- Graduate School
- Internship
- Scientist/Practitioner Model
- Board Certification

Psychiatrist

- Medical School
- Internship
- Residency
- Board Certification

APA Ethical Principles and Code of Conduct

- Latest version published in 2002
- Available on-line at www.apa.org/ethics/homepage.html
- Comprehensive
 - Competence
 - Bases for Scientific and Professional Judgements
 - Release of Test Data

Specialty Guidelines for Forensic Psychologists

- Originally published 1991
- Currently under revision
- Aspirational model
- ...engaged regularly as experts and represent themselves as such...(p. 656)
- Copy included with handouts

**American Academy of Psychiatry
& the Law Ethical Guidelines for
the Practice of Forensic Psychiatry**

<https://www.aapl.org/ethics.htm>

Included in handouts

American Psychiatric Association's “The Principles of Medical Ethics”

- Available on the web at
http://www.psych.org/psych_pract/ethics/ppaethics.pdf
- Included in handouts

The Errors Experts Make

- Carelessness and Negligence
- Attitude Errors
- Loss of Perspective
- Failure to Come Clean
- Intention to Help

(Greenberg, 2004)

Challenging Qualifications

- Basic licensure
- Advanced Qualifications
- Board Certification
- Experience

Qualifications

- Licensed by Wisconsin Dept. of Regulation & Licensing (s.455, Wis. Stats.)
 - Doctorate
 - National Examination
 - State written and oral examinations
 - Documentation of training & experience
- See 455.02(2m) for exceptions
- See 455.03 Temporary Practice

Advanced Qualifications

- National Register of Health Service Providers in Psychology
 - Verification of credentials
 - Approved internship
 - Supervised practice
- www.nationalregister.org

Board Certification

- Not comparable to physicians
- Vanity Boards
- American Board of Professional Psychology (ABPP)
- Others

Experience

- Psychiatrists
 - Test and measurement courses
 - Training in standardized testing
 - Use of tests
- Psychologists
 - Familiarity with specific CST instruments

Experience

All Experts

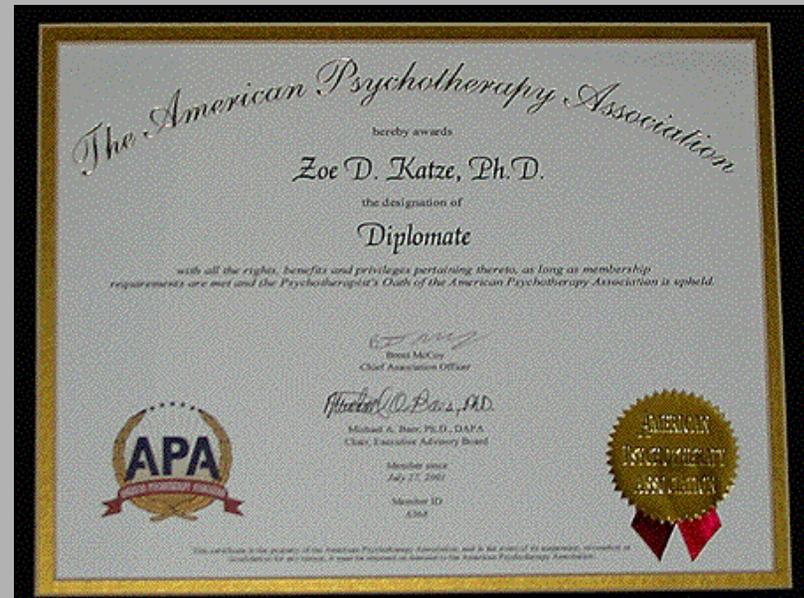
- Experience with specific population
- Familiarity with legal criteria and standards

Vanity Boards

- Pay a fee
- Unproctored multiple choice “test”
- Continuously extended grandfathering period

Zoe D. Katze

- Board Certified in Hypnotherapy
- Subsidiary of American Board of Forensic Examiners



Zoe D. Katze



- A fully credentialed cat.
- ABA Journal E-report (*October 25, 2002*).

American Board of Forensic Psychology

- ABPP specialty board
- Credential and ethics review
- Proctored written test
- Work sample review
- Oral examination

Fatal Error

“Board Eligible”

- Term not permitted by ABFP
- See letter from ABFP

Challenging Methods

- Documents reviewed
 - All relevant?
 - Attempt to obtain?
- Testing
 - Testing used?
 - Appropriate tests?
 - Standardized administration?

Challenging Methods

- Specific CST concerns
 - Did expert contact defense attorney?
- Scope of evaluation
 - Limited to court personnel roles?
 - Juvenile waiver?
- Assertions about intellectual functioning

Fatal Error

Billing an insurance company for a forensic
evaluation

- Medical vs. legal necessity
- Exception: Some medical competency assessments (DPOA for Healthcare)

General Testing Issues

- Normative samples
- Cross validation
- Psychometric Properties
- Standardized administration

Testing: Use of Projective Tests

- Projective Theory
- Examples:
 - Rorschach Inkblots
 - Thematic Apperception Test (TAT)
 - Projective Drawings
- Lack of empirical support

Testing: Use of Projective Tests

Rorschach

Exner's Comprehensive System

- Current Controversy--For
 - Norms OK
- Ritzler, Erard, & Pettigrew (2002)

Testing: Use of Projective Tests

Rorschach

Exner's Comprehensive System

- Current Controversy--Against
 - Norms duplication
 - “Over pathologize”
- Grove, Barden, Garb, & Lilienfeld (2002)

Adult CST Tests

- MacArthur Competence Assessment Tool – Criminal Adjudication (MacCat-Ca)
- Examination of Competence to Stand Trial – Revised (ECST-R)
- Competence Assessment for Standing Trial for Defendants with Mental Retardation (CAST*MR)

MacCat-Ca

- Published 1999
- Adults 18 years and older
- Not mentally retarded
- 22 items scored by objective criteria
 - Understanding (Factual Understanding)
 - Reasoning (Assist Counsel)
 - Appreciation (Rational Understanding)

ECST-R

- Published 2004
- Adults 18 years and older
- IQ 60 or above
- Semi-structured & structured interview
 - Consult with counsel
 - Factual Understanding
 - Rational Understanding
- Response style scale

CAST*MR

- Published 1992
- Adults with mental retardation
- Multiple choice format read to subject
 - Basic Legal Concepts
 - Skills to Assist Defense
 - Understanding Case Events

Juvenile CST Tests

- None
- Grisso's structured interview format
- Juvenile waiver issues

Juvenile CST

- Developmental considerations
- Attention variables
- Capacity
- Abstraction abilities

Summary

- Is the expert properly qualified?
 - Training
 - Credentials
 - Experience
- Were the methods appropriate?
 - Testing?
 - Contact with defense attorney?
- Does the opinion follow from the above?

Questions?

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