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IMPORTANCE OF FORENSIC PSYCHOLOGY GUIDELINES: THE JODI ARIAS TRIAL

This author has served as a clinical and forensic neuropsychologist expert witness for over twenty years. It is a matter of utmost importance that an even playing field be created in adversarial proceedings. What is conducive to this is use of forensic guidelines as standards by all experts involved in a case. The “common ground” for experts is undoubtedly guidelines and standards cited in the research literature and by specialty standards.

In the Jodi Arias trial, there were apparent omissions of important standards that could indeed influence outcome of assessment. For example, a defense witness, when asked, had testified that she had interviewed Jodi Arias for over thirty hours. This same witness, when asked if she had talked to anyone else other than Jodi Arias, had indicated that she **had not**. This leaves one only with “self-report” which is decidedly biased, in particular given the significant problems in credibility with Jodi Arias. The specialty guidelines for forensic psychology discuss the importance of multiple sources of information. Although the expert testified that they had relied on many e-mail communications, etc., there did not appear to be any interviews of third parties, such as friends, relatives, therapists, neighbors, and individuals who may have had some knowledge of the relationship between the victim and Jodi Arias or knowledge of Jodi Arias’s behavior and personality. Moreover, there were serious issues with respect to Jodi Arias’s veracity, which would mandate gathering data from individuals other than she alone. The case cried out for information from collateral parties, yet this was apparently never done. Heilbrun (2001) notes that the need for accuracy and scrutiny in forensic mental health assessment standards have been cited as providing the necessity for obtaining case-specific information in the form of records and interviews of third parties. Specialty guidelines in Forensic Psychology also mandate collateral data from multiple sources.

The process of attempting to confirm or disconfirm hypotheses by using other case-specific data obtained in the course of the evaluation is imperative. Moreover, it is difficult to understand how it was concluded that Jodi Arias was a victim of abuse from

the victim when there did not appear to be any police reports or documented instances of domestic violence. Moreover, there did not appear to be any consideration of **her** abusive behavior (e.g., alleged to have slashed tires on the victim's car as well as peeking in the window of the victim's house). One defense expert even stipulated that the victim was indeed fearful of Jodi Arias. Mechanic (2002) found **fear** to be the most frequently reported emotional response in stalking.

Assessing Validity of Response Set and Style

Another expert in the case had noted that Jodi Arias had, in fact, not been forthright in terms of one of the psychological test administrations. There did not appear to be any test of malingering or effort. Moreover, the testimony from one particular expert related to the fact that Jodi Arias suffered from post-traumatic stress disorder (PTSD). It is important to recognize that PTSD criteria did not appear to be established by any corroborating evidence. Moreover, it was represented that Jodi Arias had taken a video of the victim prior to the alleged murder. It is difficult to understand how she lacked "memory" of the event when she showed the thought process to be able to film the victim shortly before the alleged homicide. Moreover, the prosecutor represented that Jodi Arias had purchased cans of gas at a remote distance from the crime scene so as not to use credit cards near the scene of the allegations. This would appear to be facts which support premeditation rather than "not remembering" or reacting to a threat. The latter is difficult to understand when the evidence indicated, for example, that there was a rainbow-shaped pattern of blood on the wall in the area where the allegations had occurred, which the prosecutor indicated showed that the victim was trying to get away at the time he was being allegedly stabbed multiple times by Jodi Arias. All of these facts appear to support predatory and purposeful behavior.

Importance of Crime Scene and Physical Evidence

It is important to integrate the physical findings and characteristics of the crime scene and integrate this with the psychological profile of the defendant. This writer presented a seminar at the University of California at Irvine on Psychological Profiling and Crime Scene Analysis. This writer also, in an evaluation of a capital case with a prosecutor, had worked assiduously with correctional officers in the facility to go over different pieces of physical evidence. These are particularly crucial in cases such as this because a subjective interview with the defendant can be verified or not verified against physical characteristics of crime scenes. This also assists the jury and the trier of fact in understanding and integrating of findings from analysis of the crime scene with subjective interviews and objective psychological test findings. None of the experts appeared to have evaluated or considered crime scene evidence with their findings.

Intimate Partner Violence and Stalking Behavior

Mechanic (2002) writing on intimate partner violence and stalking behavior speaks of stalking from attachment perspectives, noted intense scrutiny of a victim and monitoring and harassing behavior engaged in by batterers, which can be conceptualized as

seeking to reestablish connection with partners to reestablish a secure base in the face of perceived or actual threats of separation. This is related to histories of early attachment disruptions in childhood. A defense witness **did** stipulate to Jodi Arias peeking in the window of the victim's house and watching him kissing another female. She stated that this was **not** stalking. This is difficult to understand especially given the research of Mechanic (2002) on the etiology and dynamics of stalking. Stalking is to annoy and harass. In domestic violence there is the heightened risk of violence in the face of actual or perceived threats of separation. This non-endorsement of stalking behavior by the expert is also inconsistent with this author's analysis of many cases of stalking.

Avoidance of Dual Role

It is incumbent upon forensic evaluators to avoid dual roles which could create the appearance of bias. Forensic evaluators are to be objective experts. This is addressed in the professional guidelines. However, in the case of Jodi Arias, one expert apparently gave her a book and then reportedly apologized for looking at her diary. Another expert had also given her a book. It is difficult to even understand how this could occur when contraband is not allowed in correctional facilities. In any event, it impairs objectivity in expert evaluators.

Reference Manual on Scientific Evidence

The *Reference Manual on Scientific Evidence* (RMSE) was formulated to provide the tools for judges to manage cases involving complex scientific and technical evidence. The manual contains updated chapters on neuroscience, mental health, and forensic science. It was published by the Federal Judicial Center and National Research Council of the National Academies in 2011. The reference manual addresses the fact of when deception is suspected, efforts to confirm it should begin during the clinical examination. Testimony in the case established that Jodi Arias was not telling the truth and was deceptive in various areas. This lack of veracity was noted by the jury. There did not appear to be any study or assessment of malingering by the experts to scrutinize her statements during the evaluation, nor did there appear to be any assessment of functional impairment subsequent to diagnosis of such areas as PTSD.

Collateral Informants

The RMSE addresses collateral informants, noting that in addition to reviewing records, interviewing third party informants can provide important perspectives on the person being evaluated. Family members and friends, including coworkers, can relate behavior and patterns indicative of symptoms of a mental disorder or functional impairment. Current or former therapists can share useful impressions in terms of diagnosis and psychopathology. Collateral parties can round out a picture of the person and help to confirm or disconfirm the evaluator's impressions. This did not appear to have been done, with one evaluator answering "no" when asked if she had spoken to any other parties other than Jodi Arias. An evaluation of only the defendant is weighted towards

self-report of the defendant, in this case Jodi Arias. This leaves an evaluation devoid of information from third parties who can provide various perspectives on a defendant.

Pursuit of Alternate Hypotheses to Account for Behavior during Allegations

It appears that the experts focused on “PTSD” and “lack of memory” issues. It is difficult to understand, given the extreme and egregious nature of the allegations, why neuropsychological and clinical assessments were not done. Neuropsychological deficits are often seen in extreme violence. Clinical assessment can reveal presence of psychopathic traits.

Conclusions

There has been a tremendous expansion of the field of forensic psychological practice, as noted by the American Psychological Association, over the past fifty years. Thus, guidelines are important standards for contributing to the reliability and validity of data from forensic examinations. It is incumbent on all experts and practitioners to adhere to appropriate professional standards in forensic practice. As is frequently said, output is a function of input. Good input translates to a good outcome. Bad input leads to a bad outcome. These are standards to be striven for by all practitioners in the pursuit of good science and practice. There appears to have been significant omissions of these guidelines and standards in the Jodi Arias trial. However, the jury carried out its duty and carried it out well. The jury focused on the facts, evidence supporting the facts, and rendered a verdict of guilty of first-degree murder. They are to be commended for their hard work and rendering of justice. The victim’s family deserves no less.

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