

Ethical issues in forensic psychology



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1. 0 Introduction

Forensic psychology refers to the professional application of specialized knowledge in psychology to aid in solving legal problems. Since forensic psychology straddles two great fields- study of human behaviors (psychology) and correctional measures that can deter wayward behaviors (law), its guide on ethics should be two-throng. Robert Wettstein agrees: “ Given the interdisciplinary work of forensic psychiatry, questions arise about what principles of ethics should guide forensic psychiatry and what theory of ethics should underlie those principles,”

When it comes to ethics, forensic psychology is one field of professional practice where a very delicate balance must be created. This is so because a forensic psychologist is more interested in the inner feelings of the offender, then the displayed characters. Further, the forensic psychologist must understand the legal requirements and the judicial system under which he operates. So, the expert is required to bridge the wide gap between two very diverse, and even opposing faculties. Since his analysis informs the outcome of the case, forensic psychologists can easily abuse the great influence of the work. This is where ethics come in. It’s not enough to have rules and statutes. Professionals must practice adherence to particular code of conducts without the need for monitoring. That applies to forensic psychologists too.

2. 0 Ethical issues in forensic psychology

There are a number of dilemmas that a practicing forensic psychologist deals with in his day-to-day professional activity. However, I can easily bet that

half of them involve ethical questions. Issues such as juvenile incarcerations, mental capability of the accused to stand trial, discrimination, confidentiality, objectivity, payment for his service and so many others, come into consideration for the expert in a big way. Sometimes the expert's findings even contradict personal views. Kalmbach, Karen C. and Lyons, Phillip M, say that, these ethical issues must always be given a special attention.

Since the forensic psychologist often acts as an expert witness, he must set for himself the highest possible ethical standards. Kalmbach Karen C. and Lyons Philip M. “ Professionals who choose to participate in the legal forum must ensure that their performance meets not only the standards of general practice for their profession, but also those pertaining to the forensic specialty”. Given the dynamism of legal field, the expert should also be well up-to-date with the current standards and the changes in it. This means that he must keep reading, both in the legal and psychological fields. However, extensive studying is just half of the job. The elephant in the room is a matter of life and death-quite literally, sometimes.

“ A fundamental responsibility of forensic psychologists is to provide treatment, assessment, research, and training in an ethical manner”, (Walden University).

To ensure that you adhere to the highest standards of ethical practice, Robert M. Wettstein writes that the following steps should be followed: identify the problem; consider the significance of the context and setting; identify and use ethics and legal resources; consider personal beliefs and values; develop possible solutions to the problem; consider the potential

consequences of various solutions; choose and implement a course of action; and assess the outcome and implement changes as needed. All these steps, if followed properly, would ensure that the highest possible ethical is not only adhered to, but also maintained in the forthcoming and subsequent cases.

It is often said that the first step to solving a problem is by acknowledging that the problem exists. By identifying the problem, it means that you are already acknowledging that a problem exists. Then follow this by knowing the magnitude of the problem. The third part now is where you start using your expertise to help you solve the problem. Personal beliefs may lead to biases and prejudices. If this happens to be the case, then it is only wise not to be engaged in the case of the client.

If you pass all these self-assessment tests, then it is time for you to formulate answers to the problem at hand. Check all your resolutions to see what outcome they would have. Select the one that is most suitable- the one with the least negative outcome and the best positive outcome. After you are done, identify where you may have fallen short of expectations and make appropriate changes.

“ Ethics has been described as beginning where the law ends. The moral conscience is a precursor to the development of legal rules for social order. Ethics and law thus share the goal of creating and maintaining social good and have a symbiotic relationship”,(Lisa V. Brock, J. D., and Anna Mastroianni).

As an expert witness who is relied upon to provide information to help in convicting, or setting free a suspect, the forensic psychologist should uphold

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the highest standards of integrity. He should be honest, sincere, and very straightforward. A renowned psychologist, Margaret Hagen, had long dismissed forensic psychologist as “witchdoctors” who are only after the “almighty dollar”. This is a damning report which clearly shows that some of these experts deliberately lie and twist the course of justice for financial gain.

Thus, a change of heart and thinking is necessary if this profession still values its popular will amongst the populace.

Impartiality and fairness is another area where the expert should place a huge premium. Almost everybody has his own biases, although we often suppress them in the interest of decency. However, a forensic psychologist should shut down all his wells of prejudices so that he can look at the issues with relatively undistorted lenses. Only this way can he proclaim the truth with the authority it requires. Any deviation can lead to a repetition of the wrong until it becomes the norm. “A profession does not genetically produce the next generation of practitioners; instead, the ethical practices of subsequent generations of practitioners are established through socialization”, (Practicing Forensic Psychology).

It is well known that often, impartiality is a result of conflict of interest. This interest may be financial, political, social, or any other. If such a case occurs, it is best for the forensic psychologist to withdraw, and let someone else take over. Personal interests are not necessarily mistakes. However, they could be a mistake if a professional decides to twist facts to protect own interests.

An expert of forensic psychologist's nature should avoid deception at all cost. Accurate information from him is required to make a legal judgment and set trend for future litigations. Any deception, thus, coming from him would be utmost injustice to the larger society. Of equal importance, if not more, is the expert's ability to differentiate between what he sees and what he has inferred. Personal biases have a peculiar way of clouding judgment. Therefore the expert should be fully convinced that there is a strong relationship between what he has seen, and the conclusion he is making.

This psychology expert is also required, and should be obliged, to disclose sources of their information so that everybody can know how he arrived at a particular conclusion. Moreover, he should also present his findings and opinions in a well-researched report. A clear and concise report on the inference of the forensic psychologist would give people a glimpse at how he arrived at the conclusions he is making. It also clears away any whiff of favoritism as a result of financial gain.

Forensic experts should avoid issuing statement about a legal proceeding that is in a court of law. Such statements may lead to a breach of confidentiality, and privacy of a person. However, this can happen when consent has been obtained from the person holding any privilege, or when the statement is already in the public domain, (Lyons, Phillip M, and Kalmbach, Karen C). Still, even here, the expert still has to strike a delicate balance of the amount of information that he can release to the public without compromising on the confidentiality of the concerned party.

The expert should be aware of the influences that may deal a blow to his impartiality. If there is anything that stands in the way to impartiality, it is in his best interest to step aside, and let someone else take the role. “ Many question whether MHPs can produce an impartial and unbiased clinical forensic evaluation while simultaneously providing input to the legal team on defense strategy”, (American Psychological Association)

The issue of payment given to the forensic psychologist is clear cut. Forensic psychologist should not take contingency fee. This may compromise his honesty. The payment he should receive is the retainer fee. Money has been at the centre of many of the botched court cases. Therefore, to ensure that it does not cloud one’s judgment, it is best to keep it at an arm’s length.

Forensic psychologist can allow attorneys to change the structure of his report, but he should not allow them to change the content. The content of the report belongs to the forensic psychologist. It serves to give the client best service, thus, if it is objective, let it remain as it is.

The role of a forensic psychologist as an expert witness is very critical in a legal proceeding. This is why, as a matter of ethics, the forensic psychologist should be competent enough to handle the concerned issues. If you are not competent enough, do not get into this delicate profession and obstruct the course of justice. Lack of specialized psycho-legal knowledge, and a number of others, should be enough disqualification.

As an expert, do not advocate for any other agenda, whether it’s the client’s or otherwise. Always remain objective and very neutral. A forensic psychologist should not enter into multiplicity of alliances-like being the

expert witness and an advisor to the client. This would create a huge conflict of interest which will not allow him to be impartial.

Like any other human being, a forensic psychologist may assume a lot helpful facts and even fail to write down proper notes. This will easily pass for a professional negligence. But for this expert whose work influences justice, it is also very unethical. Again, personal competence matters a lot. However, in most cases, it is the practitioner who knows the limit of his competence. If there is a case whose legal competence demand is way above yours, it is better you let it go, or pass it to a superior expert.

If you have taken a case, meet the client fast and get the details from him. This would help you to clarify the lingering questions early enough in preparation for the legal battle. In the same breath, ensure that the client knows about the protection to his privacy; confidentiality and; other rights that are clearly spelt out in the law.

The testimony of a forensic psychology expert has a powerful influence on the court. It directs the sails of justice. Therefore, the expert involved should use this influence to help in unveiling the truth, and not hiding it. Keep a clear documentation of your interview of the client. Do not get carried away by the case. Always maintain a professional detachment from your client. This would ensure that you can observe issues objectively.

Make your client aware of your role as a forensic psychologist prior to the start of your evaluation. Also, as an expert, know the legal grounds on which the case is built. This would help you know what is expected of you; and

collect enough of what is needed to present in the court when called upon to do so.

Deliberations on ethics cannot be wrapped up without discussing one of the most critical issues-sex. It occurs in all professions, and forensic psychology is by no means an exception. But the truth is, as a professional, the moment you gotten into a sexual relationship with a client, or a student, your objectivity flies right out through the window. That is why it is strongly advised that you keep away fro it like HIV/AIDS.

The forensic psychologist should provide a conducive environment for the evaluation, and tell the client, in advance, the time and length of the evaluation. This allows the client to prepare psychologically. This will give both of them a free atmosphere to interact freely, without the client feeling that he is being pushed to do things against his will.

Many evaluators prefer relative anonymity. As a forensic psychologist, preserve that. Also in line with this, ensure there is no past, current, or future personal relationship with the examinee. This would ensure that your objectivity is not in question.

“ Forensic psychologists have an obligation to provide services in a manner consistent with the highest standards of their profession. They are responsible for their own conduct and the conduct of those individuals under their direct supervision,” (Committee on Ethical Guidelines for Forensic Psychologists).

In order to meet these high ethical standards, the expert forensic psychologist should do the following:

The forensic psychologist should assess the mental state of his client for insanity. If he proves that there are chances that the client is not mentally sound, then he can enter an insanity plea. This way, he will help to the mentally-ill out of a trial meant for sound-minded persons, thus keep the integrity of the profession.

There are clients who can fake signs of insanity quite effectively. Check for such an occurrence so that you don't enter an insanity plea for a person who is perfectly normal.

A polygraph is, in plain terms, a “ lie detector”. Depending on the expertise of the person handling it, the machine can give be fairly accurate in detecting whether a person is telling the truth, or lying. Use it and interpret its data accurately to know more about the examinee.

Conclusion

Ethics is one of the guiding principles in any profession the world over. It ensures that one sets the standards for himself and strives to reach them. The infusion of ethico-legal issues into a single field called forensic psychology makes this profession a particularly challenging one. Just reading the ethical guidelines and standards is not enough. As a professional, your adherence to them should show in the applications. In special cases, use your own unbiased judgment and intuition to get to the root of the problem.

The various ethical issues outlined above are: impartiality, honesty, fairness, and non-sexual contact with a client. Others are objectivity, making the client aware of his rights, respecting the privacy and confidentiality of the client, and not receiving payments that may compromise the forensic psychologist's objectivity.

These ethical guidelines, and, any other more, should inform any interaction a clinical psychologist should have with a client. The moment one is breached, then it becomes easier to follow suit with a breach of the rest. This would automatically lead to lack of objectivity, partiality, deception, and even breach of the client's basic rights.

A Code of Ethics for Psychology summarizes it thus: At its heart, an ethics code should reflect the moral principles underlying the values of the profession. For most professions, ethical behaviors are generally those that fulfill the fundamental moral obligations to do good, to do no harm, to respect others, and to treat all individuals honestly and fairly. For some, statements of general principles are sufficient to guide the ethical behavior of persons devoted to the ideals of their profession. For others, however, statements describing specific types of behaviors that meet these ideals are necessary to maximize the code's utility and to provide a means of evaluating its efficacy.

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