

## Remote Forensic Evaluations

In these trying COVID-19 times, AAPL President-Elect Liza Gold has gathered some resources about conducting forensic examinations remotely, including literature references and on-line resources, and has suggested some practical guidelines. AAPL is providing this information to our members in hopes that it will be helpful. **This document does not constitute legal advice. Members are advised to consult an attorney knowledgeable in the laws of the states where they practice.**

Due to the pandemic, many medical services, including forensic evaluations, will be relying increasingly on remote technology. Some courts had already been utilizing remote technology for legal proceedings. Nevertheless, many AAPL members may not have experience with conducting remote evaluations, such as competency to stand trial or independent medical evaluations. In addition, although a great deal of literature about telepsychiatry and telemedicine is available, relatively little information regarding remote forensic psychiatry exists.

### Practical Considerations

Conducting remote forensic evaluations is a deviation from standard practice. However, current circumstances are unprecedented, and "standard practice" as we know it may be suspended for the foreseeable future. In fact, various agencies and states are relaxing some of their regulations regarding telehealth practices due to the pandemic.

Up to date information on the general topic of telepsychiatry:

#### Resources: On-line

- AAPL members can review the APA's Practice Guidance for COVID-19, which includes information regarding telepsychiatry:

<https://www.psychiatry.org/psychiatrists/covid-19-coronavirus/practice-guidance-for-covid-19>

- Additional information regarding risk management and telepsychiatry has also been made available by PRMS, Inc. at

<https://www.prms.com/services/risk-management/telepsychiatry-resources/>

*See in particular Alert 4 and the Telepsychiatry Checklist*

Certainly, one difference between face-to-face and online forensic evaluations is the evaluator's lack of control over the environment and some of the conditions of the evaluation. Evaluators conducting an online evaluation cannot know, for example, if an off-screen third party is present in the room with the evaluatee. Evaluators should be certain to ask about this and record the evaluatee's response. Observations regarding the evaluatee's behaviors may also be limited in certain ways. For example, evaluatees may be less anxious if being interviewed on-line in their own home.

Finally, because evaluations done by video have the potential to be recorded without the subject's awareness, the subject should be informed prior to the interview whether the evaluator is recording the interview or not. They should also advise subjects not to record the interview themselves and record their acknowledgment.

### Psychological Testing

Psychologists advise that MOST tests cannot be administered via video (the main concern is that having someone answer out loud would create very different testing conditions or that evaluatees might respond differently to question asked directly than to a written question. Test companies are apparently scrambling to make online versions of some psychological tests available.

## Reports

As in all forensic evaluations, the circumstances of the clinical interview and whether these affected the evaluation or clinical opinions should be considered and recorded. For example, evaluators routinely note if a translator was present during a face to face interview, and how that may have affected the interview, if at all. In a forensic example, during a remote interview in a correctional setting, people walking through the room where the evaluatee is sitting or nearby loud noises may interrupt the interview. Interruptions such as people walking through the room where the evaluatee is sitting may or may not affect the evaluation. Privacy/confidentiality may be difficult to maintain if remote access is in a shared location. Again, this may or may not affect the evaluation.

As a general rule, we recommend that reports of evaluations that include remote forensic evaluations should routinely include the type of information we would typically include under other unusual circumstances.

Similarly, reports that include remote evaluations should state that the clinical interview has been conducted remotely and should indicate consideration of

- a. the type of limitations this created in regard to the clinical interview;
- b. whether these invalidated the interview;
- c. whether the limitations on the clinical interview impacted the evaluator's conclusion; and
- d. if so, how

## Academic Literature

Although general literature regarding telepsychiatry is available, very little information about remote forensic evaluations has been published. A literature search yielded only a handful of articles, mostly regarding competency to stand trial evaluations. These indicate no significant differences between in-person and video assessments of competency to stand trial. See Reference List below.

## References

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