

AAPL: Ask the Experts-2018-October

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Neil S. Kaye, MD, DFAPA and Graham Glancy, MB, ChB, FRC Psych, FRCP (C), will answer questions from members related to practical issues in the real world of Forensic Psychiatry. Please send question to nskaye@aol.com.

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Q.: An attorney has requested a videotaped/SKYPE interview instead of an in person interview. I note that AAPL doesn't have a position on this and it hasn't been recently addressed in literature. Might this be something you would consider addressing in your column?

A. Kaye:

Ah, the marvels of technology. Telemedicine and telehealth are rapidly being adopted in all branches of medicine including psychiatry and so it is perfectly natural to see this extend into forensics as well. Courts have adopted video technology to expedite arraignments,~~and~~ bail [hearingsarrangements](#), and even involuntary commitment hearings, so the law is very comfortable with using technology.

First, you need to make sure you are versed on any state laws that may apply to this procedure, as well as any licensing and malpractice issues that might exist when doing an evaluation across state lines. Currently, in the clinical domain, licensure is required in the state where the patient resides. As some states require licensure to do forensic work, this would presumably apply to doing video evaluations as well.

Just as in the clinical world, there are differences between in-person [forensic](#) evaluations and video. I have done electronic evaluations and generally they have gone well and been without problems. However, you will have no idea who else might be present in the room with the evaluatee [acting as a coach](#),~~,~~ even though you should ask. There is a greater ease/liability that the evaluation will be recorded [by someone else](#) and if you aren't comfortable with that, I probably wouldn't [proceeddo these](#). I have also had technology issues when Internet speeds were too slow and the lag time was frustrating for both parties.

Most important is there are some things you can't do without being present in person. I do a fair number of cases where as the evaluation progresses I decide I would like to administer some sort of objective/standardized testing. I might decide to administer an anxiety or depression rating scale, neurocognitive screening assessments, or even a standardized test battery in a case where dementia or brain injury may be an issue. I can't do any of these without being present. You also can't check blood pressure, look for cogwheeling, check reflexes, or do the physical/neuro exam the assessment may demand.

I also find that my "feel" for the person, especially along personality dimensions and when assessing for future risk is encumbered by the technology. People on a screen just don't always come across the same as when you are sitting with them and can "smell" the affect in the room. For those assessments I am only comfortable when I am present and can look the evaluatee in the eye.

Finally, I frequently glean additional information/insight by watching through my window as an evaluatee approaches walks up to my office, when I catch her interactions with other staff/patients, and I observe how she walks both before and after the evaluation, when her "guard" might be down. None of these observations are available to me when I start the evaluation with someone who is already seated at a screen and "ready to go."

A. Glancy.

In the interests of full disclosure, I should preface this by informing our readers that I come up de-generation but is not entirely comfortable with technology. → cannot speak for Dr. Kaye, he will have to speak for himself on this matter. I do recognize, however, that technology is not only the future but it has arrived in the present and we all need to accept this. I do agree with Dr. Kaye that I feel I may miss something if I cannot be physically with the evaluatee in the same room. This may well be the luddite in me, and younger practitioners may say: "get used to it." We will all have to in the near future, except maybe licensing bodies, as Dr. Kaye points out.

Like all new technology there are pros and cons. My limited experience of Skype is that there are often glitches, and this would be unfortunate in a forensic psychiatric evaluation. It is likely that there are better technologies such as videoconferencing platforms, which would be more reliable. Further comments and as wouldon the technologuy itself are → be outside my area of expertise.

There are some advantages to using some type of videoconferencing. For instance, saving the time and effort of traveling is a major advantage. Even traveling to a relatively local jail presents significant problems at times. These problems include the time it takes to get in and out of the detention center, the possibility of lockdowns for such things as security issues, which are common,

and the availability as well as the discomfort of interview rooms. All of these could be all be solved by videoconferencing technology if it were available. In addition, if the evaluatee is potentially violent I can definitely see the upside to video technology. Using this technology, it would be easy to record the interview, which has advantages. One of the advantages that the interview can be easily transcribed creating an accurate written record of the interview.

As has been discussed elsewhere, it is also useful in some cases to get an accurate contemporaneous recording of the evaluatee's mental state at the time of the interview. In some types of cases, for instance not guilty by reason of insanity assessments (known as NCR MD in Canada), it is very useful to have a-of video recording of the mental state since the evaluatee may be treated in jail during the hospital assessment prior to trial. The video recording provides helpful evidence of the previously disturbed mental state, which may be informative~~very helpful~~ in court at trial.

Another issue that arises is the issue of attorney is requesting assessments and dictating how we perform them. If the attorney asked you to do something with which were not comfortable, you should carefully consider the conditions before you accept to retainer. Attorneys may not be attentive or knowledgeable about the ethics and procedures of forensic psychiatrists, both of which you are. If the attorney is insistent and you are not comfortable you should politely refuse to retainer and suggests that the attorney either attenuates the conditions, or retains another practitioner to do the evaluation.

Take Home Point:

There is nothing unethical or unprofessional about using technology to allow an evaluation to occur. However, there may be limitations that arise with the use of videoconferencing. Careful preparation is required to assure the process goes well and without surprises. This technology may be better suited from some users ~~better~~ than others, and certain types of cases may not lend themselves to electronic interviews. Opposing counsel may try to create the perception that your electronic evaluation is inferior to the one done face-to-face by the expert ~~she~~ they hired. You will need to be prepared to address this issue should it arise. Our work is challenging enough and creating opportunity to question your examination procedure on voir dire may not always be desirable.