



## Psychiatry & Behavioral Sciences Section – 2011

### I18 Assessment, Not Judgment: A Cautionary Tale and Its Current Forensic Psychiatric Implications

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After attending this presentation, attendees will be able to understand and integrate the causal elements of alleged criminal acts with improved clarity as they utilize the information for the assessment of responsibility and related issues.

This presentation will impact the forensic science community by demonstrating to attendees how to perform more relevant, reliable, and valid assessments of alleged acts of their evaluatees by dissecting the pertinent causal elements, weighing their relative contributions, and integrating the results along with recognition of the pertinent limitations.

Forensic psychiatric work can bring its practitioners into contact with individuals accused of crimes that evoke strong reactions in normal individuals. The stronger the reaction is, the more difficult it can be to avoid the implicit formation of moralizing judgments extraneous to the forensic task at hand and possibly interfering with it. In this regard, Dostoevsky tells a cautionary tale in *The Brothers Karamazov*. Dostoevsky suggests that a judge cannot judge properly unless he recognizes that he himself could be more responsible for the crime in question than is the defendant standing before him. This could be the reality if the judge long ago gave a scowling look and hurtful word to an innocent child in need of a small gesture of love. The resulting damage could have resulted years later in the defendant's crime.

In order to avoid passing judgment on others and strive successfully to provide valid, relevant, and reliable assessments of criminal behavior for legal purposes; it is useful to recognize that its causality is likely to be complex. To organize the complexity of human behavior it is useful, following Aristotle, to consider the breakdown of causes into four kinds: material, formal, efficient, and final. We readily recognize final cause as the motive and efficient cause as, ordinarily, the accused and any accomplices. It is the concepts of formal and material causes that most interestingly engage our expertise.

Formal causes are what give behavior its shape or quality. In forensic psychiatric work these are usually manifold. In Dostoevsky's tale, the judge appears as a formal cause of the criminal behavior he is judging because of the overwhelming hatred felt years earlier by his innocent victim the future defendant. In a similar way, it is incumbent on forensic behavioral experts to gather and evaluate thoroughly the potential shaping influence of early upbringing on their evaluatees' behavior. For example it is becoming increasingly clear that violence in the various media have a shaping influence, a formal causality, on the future behavior of their young audiences.

Material causes of human behavior can be understood as its bodily or physiological substrate. This includes genetic endowment, some of the realm of neuroscience, and peripheral elements. There is great diversity here, and new information is accumulating rapidly. It is up to forensic behavioral science experts to attend to the findings being made as well as to understand at a reasonable level the technology involved. Some of this technology is already appearing in the courtroom, both in reality and in portrayals on television.

Generally, then, each human act arises from multiple causes operating simultaneously and unequally. The current discussion regarding the definition and measurement of depravity raises questions about what may be the passing of judgment rather than the careful assessment of both material and formal causes contributing to particularly heinous behavior.

It is being made increasingly clear, the many current challenges to professional objectivity require energetic and informed vigilance. Our response will be effective in proportion to the clarity with which each causal component of the behavior in question is identified.

#### Assessment, Criminal Responsibility, Causality of Behavior