

I30 Telehealth Forensic Mental Health Evaluations: Benefits, Pitfalls, and Lessons Beyond the Pandemic

Alan W. Chen, MD*, University of Southern California Institute of Psychiatry and Law, Los Angeles, CA 90026

Learning Overview: After attending this presentation, attendees will understand: (1) the current state of telehealth treatment and practice parallels relevant to forensic psychiatric/psychological evaluations; (2) possible objections to telehealth forensic evaluations from evaluators, evaluatees, attorneys, and judges; and (3) benefits and risks associated with expansion of telehealth forensic evaluations.

Impact on the Forensic Science Community: This presentation will impact the forensic mental health community by: (1) raising awareness of factors important in evaluating or considering to evaluate individuals via telehealth and videoconferencing technology; (2) highlighting best practices for evaluation; and (3) discussing the policy implications of forensic telehealth expansion.

There has been a significant expansion of telepsychiatry and telemedicine for treatment purposes as a direct result of the COVID-19 pandemic. Use of telehealth for forensic mental health evaluations has also occurred, but it is unclear to what extent this has increased.¹ It is likely that elements of this practice will persist beyond the pandemic, impacting how forensic evaluations are conducted.

There have been a few studies on administering competency to stand trial measures using videoconferencing, but there is insufficient research to reach conclusions about the reliability and validity of telehealth forensic psychiatric/psychological evaluations in general.² Research on clinical telepsychiatry shows that videoconferencing presents a variety of potential barriers. Most significantly, technological problems may reduce the quality of or interrupt entirely the video or audio elements. Even under ideal conditions, videoconferencing as a method of evaluation can limit the evaluator's ability to appreciate or detect clinically important observable clinical data.³ Generally there is more difficulty establishing rapport (a key factor in an evaluator's ability to elicit information), especially when there is a lack of familiarity with the use of videoconferencing by either party.

If third parties are required to assist with the call, this too may limit rapport and willingness to disclose information. Evaluatees, particularly those who are unfamiliar with videoconferencing technology, may have a preconception of telehealth as being substandard or inferior to in-person encounters. Moreover, evaluatees may have concerns about the confidentiality and security of internet technology. Individuals who have serious mental impairments may also have difficulty using this medium.

Although the courts have increased the use of videoconferencing technologies for legal proceedings and even expert testimony with little objection, there has been little if any statutory or case law on telehealth for forensic mental health evaluations.² Attorneys and judges may question the validity and accuracy of the videoconferencing evaluation based on any of the previously described concerns. Additionally, evaluator competence and experience in conducting evaluations via video technology itself may be scrutinized. Even if videoconferencing evaluations are accepted, findings and conclusions must acknowledge known limitations of the telehealth medium in general. Due to these factors, telehealth evaluations in place of in-person evaluations could be challenged as a violation of due process. Other problematic issues may be raised, including recording and storing the telehealth evaluations.

In light of the accelerated use of telehealth for treatment purposes, the continued adoption of this technology for forensic mental health evaluation requires careful review and consideration. This presentation will provide a thorough discussion of currently known clinical, practical, and legal concerns, and highlight the need for carefully establishing principles, procedures, and safeguards.

Reference(s):

1. Drogin E.Y. (2020). Forensic mental telehealth assessment (FMTA) in the context of COVID-19. *International journal of law and psychiatry*, 71, 101595. <https://doi.org/10.1016/j.ijlp.2020.101595>.
2. Sales, C. , Mcsweeney, L., Saleem, Y., Khalifa, N. (2017). The use of telepsychiatry within forensic practice: A literature review on the use of videolink—A ten-year follow-up. *The Journal of Forensic Psychiatry & Psychology*, 29(3), 387-402. doi:10.1080/14789949.2017.1396487.
3. Chen, J.A., Chung, W., Young, S.K., Tuttle, M.C., Collins, M.B., Darghouth, S.L., Huffman, J.C. (2020). COVID-19 and telepsychiatry: Early outpatient experiences and implications for the future. *General Hospital Psychiatry*, 66, 89-95. doi:10.1016/j.genhosppsych.2020.07.002.

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