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Much is Forgotten in 123 Years

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In 1892, writing on the topic of fingerprint analysis, Sir Francis Galton called attention to the issues that, in today's terminology, are referred to as inter-judge reliability and test/re-test reliability. Galton discussed differences in individual judgments (inter-judge reliability) and consistencies (or lack thereof) in successive analyses of the same fingerprint (test/re-test reliability).

The 123 intervening years have taken their toll on our collective memory, and, in 2015, we find evaluators extolling the virtues of assessment procedures that lack reliability and, as result, also lack validity. Henry Murray is generally viewed as one of the pioneers in the field of projective assessment. When Christiana Morgan and Murray, colleagues at the Harvard Psychological Clinic, wrote the first article about the Thematic Apperception Test (Morgan & Murray, 1935), the title chosen by them was: "A method for investigating fantasies: The Thematic Apperception Test." It is noteworthy that many evaluators who, today, employ the TAT describe the stories told by evaluatees as stories that reflect the evaluatees' *perceptions* of important interpersonal relationships, not as stories that reflect their fantasies. When Murray wrote the *Thematic Apperception Test Manual* (Murray, 1943), he cautioned that "TAT responses reflect the fleeting mood as well as the present life situation of the subject," adding that users "should not expect the repeat reliability of the test to be high..." (p. 18).

Trubitt has asserted that when an evaluator employs the *Family as Animals in the Sand* technique, the "sandtray... becomes a 3-dimensional representation of the child's perception of the family. . ." (Trubitt, 2004, p. 6). The observations offered by Murray regarding stories told in response to TAT cards are applicable to children's play. It cannot be safely assumed that a child's sand-tray play reflects perceptions (as opposed to wishes or fantasies). Neither can it be safely assumed that what a child displays in play on a particular occasion would be displayed on a different occasion, having been transported by a different parent, or having had a particularly good or bad morning at the day care center. Of equal importance is the fact that there are no published data establishing that two or more evaluators observing particular episodes of play generate the same (or reasonably similar) interpretations of the observed play.

Trubitt has also asserted that "[w]here [children] put the family doll that represents themselves tells us where they feel most comfortable or safe" (p. 6). If we presume that "where [children] feel comfortable or safe" is where children wish to be, when children feel

neither comfortable nor safe in their current placement, their doll placement decision would reflect a wished-for placement, not a perception of their current placement.

In the *AFCC eNEWS* article to which I am responding, Trubitt has written: “The commitment to utilizing only evidence that meets the stringent test of reliability and validity is a goal I support, while still seeking a way to include some of the techniques, methods and strategies that do not yet meet that test.” In 2006, Trubitt opined that she had found “a way to include some of the techniques, methods, and strategies” that do not meet “the stringent test of reliability.” She offered the following advice to colleagues: “[C]ontinue to use play therapy methods.... We do not have to mention its use at all in the report to the court” (Trubitt, 2006, p. 5).

Trubitt practices in Hawaii, and Hawaii Rule of Evidence 705 is taken from Federal Rule of Evidence 705, and experts “may in any event be required to disclose the underlying facts or data on cross-examination.” Thus, if Trubitt were to decide not to mention her use of play therapy methods in her report, she would be required to disclose (and defend) those methods on cross-examination. The rights of those who might wish to challenge the manner in which evaluators have developed their opinions are dramatically interfered with when evaluators fail to fully disclose the methods that they employed in formulating their opinions. No constructive purpose would be served if Trubitt’s advice were to be followed, and evaluators employing play therapy methods were to decide not to disclose their use of those methods in their reports. It is likely that such a practice would lead to otherwise avoidable litigation. When evaluators’ reports contain all the information reasonably needed by the litigants, their attorneys, and the court, the probability of pre-trial settlements is likely to be increased.

The wording of Hawaii Rule of Evidence 703 has also been taken from Federal Rule of Evidence 703; however, Hawaii elected to add a sentence that reads: “The court may, however, disallow testimony in the form of an opinion or inference if the underlying facts or data indicate lack of trustworthiness.”

In its decision in *State v. Montalbo*, 828 P.2d 1274 (1992), the Supreme Court of Hawaii offered commentary on the factors to be considered in making decisions regarding the admissibility of proffered evidence. Those factors included whether: “the procedures used are generally accepted as reliable if performed properly [and] the procedures were applied and conducted properly in the present instance” (at 1280, 1281). It is my position that no generally accepted interpretive rules (i.e., procedures) guide interpretive conclusions of the type found in Trubitt’s (2004) text.

Following research conducted on 72 children between the ages of two and four, DeLoache (1995) concluded that young children do not perceive dolls as symbolic representations of themselves. If that is the case, it is even less likely that animals in a sand tray are treated by children as symbolic representations of themselves.

Trubitt asserts that, in her work, she has employed the “guidelines for a responsible way in which to use our inferences in making recommendations to the court” provided by

Tippins and Wittmann (2005). Tippins and Wittmann have perused the examples furnished by Trubitt, and they disagree.

In their abstract, Tippins and Wittmann (2005) state that it is their intention to put forward the argument that where the empirical foundation for evaluator conclusions is tenuous or non-existent, those “opinions should be routinely excluded from the fact-finding process” (p. 193). In personal correspondence, Tippins and Wittmann have stated: “There is more to the Tippins & Wittmann model than simply formatting the report in accordance with the four-level structure posited in our article. The essential feature of our model is its proscription of inferences that cannot be supported by empirical research. Accordingly, if an evaluator wished to state that because the child played in X manner, conclusion Y may be drawn, adherence to our model would require that the evaluator cite research demonstrating that such conclusion can be reliably drawn. Expressing the inference without such empirical support would not adhere to our model.”

In her article, Trubitt includes Stahl’s position statement that “it is possible to use play as a means of gaining rapport and helping reduce the child’s anxiety, [but] . . . there is tremendous risk in relying on children’s play as a means of gathering accurate family data” (Stahl, 2011, p. 106). I conclude by expressing my agreement with Stahl. Play is an indisputably useful communication facilitation mechanism. It is not a reliable data gathering method.

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