

USING MOCK TRIALS TO TEACH STUDENTS FORENSIC CORE COMPETENCIES IN MARRIAGE AND FAMILY THERAPY

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This article provides a description of a university-based project that used mock trials to train both practicum-level marriage and family therapy and law students in forensic work, and a qualitative investigation of student experiences with the training. The content of the training focused on American Association for Marriage and Family Therapy (AAMFT) core competencies that relate specifically to the legal aspects of therapy. This article describes the didactic training the students received to prepare for the mock trials, the structure and protocol of the mock trials themselves, and the specific AAMFT core competencies addressed in the project. The results of an analysis of focus group interviews with participating law school (n = 15) and marriage and family therapy (n = 19) students are presented as well as the results of a 36-item Knowledge, Skills, and Comfort Level Questionnaire completed by participating marriage and family therapy students. Participants discussed the value of the training with regard to preparation for mock trial procedures, preparation for testimony, importance of documentation, and cross-discipline collaboration issues. The article concludes with a discussion of how this type of training may be used in developing students' skills with regard to forensic and legal core competencies, and future research directions.

WHY TRAIN MFT STUDENTS IN FORENSIC WORK?

Family law is the single largest area of law practiced in the United States. Over one third of all civil cases filed in the United States courts of general jurisdiction are domestic relations cases (Wardle & Nolan, 2002). These cases include child custody issues, child welfare, divorce, wrongful death, personal injury, physical disability, and vocational issues. Marriage and family therapists (MFTs) are increasingly being called upon to testify in the courts (La Forge & Henderson, 1990; Nichols, 1980; Riley, Hartwell, Sargent, & Patterson, 1997). Testifying in the courts sometimes presents unique challenges for therapists given the competing mandates for client care and forensic testimony. There are two main ways family therapists become involved in the courtroom legal processes. One is as an "expert" witness where the therapist is compensated financially for his or her time and appears in court voluntarily. The other way is through a court order to appear in court at a certain time with regard to a specific case as a "fact" witness. Family therapists are more likely to be called to court as a "fact" witness (La Forge & Henderson, 1990).

Although MFT graduate programs include coursework on the basic legal, ethical, and professional issues pertaining to practice, most MFT students get little education or training in the skills needed in providing testimony in the courts (Riley et al., 1997). MFT ethics classes

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provide only general information about legal issues but often overlook specific information about family law and legal processes (Harris, 1995). Involvement with the legal system can be intimidating, as court proceedings are often described as being adversarial and competitive (La Forge & Henderson, 1990). Yet most MFT students do not receive training in courtroom proceedings, the expectations inherent in their role with regard to the courtroom, or specific laws that affect their clients in the legal system. While the demands for therapists to be involved with the courts have increased, few MFT programs offer any specialized training in this area. Given this lack of preparation, authors in the field of MFT have called for training programs to provide a structured environment for teaching legal processes (Piercy & Sprenkle, 1983; Riley et al., 1997; Wilcoxon, Remley, Gladding, & Huber, 2007).

The field has recently developed MFT core competencies following the lead of most professional organizations in the last decade (Miller, 2005; Miller, Todahl, & Platt, 2007). These competencies define the minimum skills needed for someone to practice as a licensed MFT (Nelson et al., 2007). Several of the MFT core competencies relate specifically to issues of legal process and forensic work. Thus, integrating these core competencies into the MFT curriculum is essential in preparing competent marriage and family therapists.

Table 1 lists the 14 AAMFT core competencies that relate to forensic work. Some of these core competencies *directly* relate to forensic work (i.e., 3.5.2, 3.3.7), while others relate to general professional practices that *support* competency in forensic work (i.e., 5.3.3, 3.3.2, 5.3.7). This article provides a description of a training method designed to meet the need for training MFT students regarding these forensic core competencies, and the results of a qualitative inves-

Table 1

Marriage and Family Therapists Core Competencies Pertaining to Legal, Ethical, and Professional Issues

1.3.4	Explain practice setting rules, fees, rights, and responsibilities of each party, including privacy, confidentiality policies, and duty to care to client or legal guardian.
1.5.2	Complete case documentation in a timely manner and in accordance with relevant laws and policies.
3.3.2	Prioritize treatment goals.
3.3.7	Work collaboratively with other stakeholders, including family members, other significant persons, and professionals not present.
3.5.2	Participate in case-related forensic and legal processes.
5.1.1	Know state, federal, and provincial laws and regulations that apply to the practice of marriage and family therapy.
5.2.1	Recognize situations in which ethics, laws, professional liability, and standards of practice apply.
5.2.3	Recognize when a legal consultation is necessary.
5.3.2	Develop and assess policies, procedures, and forms for consistency with standards of practice to protect client confidentiality and to comply with relevant laws and regulations.
5.3.3	Inform clients and legal guardian of limitations to confidentiality and parameters of mandatory reporting.
5.3.5	Take appropriate action when ethical and legal dilemmas emerge.
5.3.7	Practice within defined scope of practice and competence.
5.4.1	Evaluate activities related to ethics, legal issues, and practice standards.
5.5.1	Maintain client records with timely and accurate notes.

tigation of students who experienced the training. This project involved creating mock trials in collaboration with a law school practicum class. In this training, MFT students served as mock “fact” witnesses, while law students served as legal counsel for both the plaintiff and the defendant. The specific procedures are explained later in the article. The project served as a forensic training experience for both MFT and law students.

WHY TRAIN LAW STUDENTS IN FORENSIC WORK WITH THERAPISTS?

Educating law students more broadly about the relationship between our professions expands their professional and social awareness and, in turn, translates into better public policy legislation and judicial treatment (Riley et al., 1997). Most law students receive little training regarding the therapy profession; thus, the two professions work together with vastly different goals and communication styles, and without adequate knowledge of one another’s role in the legal system. Lawyers who have more facility with counseling skills are less likely to be sued for malpractice or to be charged with ethical violations (Barkai & Fine, 1985). Thus, they will be able to understand the values, ethics, and ethos of therapy and to help better prepare therapists as “fact” witnesses.

OVERLAPPING AGENDAS AND DISADVANTAGES OF THE STATUS QUO

Many MFT training programs encourage an avoidance of the legal system with a “cover your tail” orientation/emphasis (Harris, 1995). Therapists who are unaware of the differing philosophical goals and methods of the legal system can make things worse for their clients. Similarly, an uninformed lawyer can undo months of therapeutic intervention (Piercy & Sprenkle, 1983). Some MFT authors have suggested that it may be a kind of malpractice not to collaborate with lawyers and the legal process as it relates to client welfare (Kaslow & Steinberg, 1982).

Often therapists and lawyers feel at odds with advice given by the other, due to their differing philosophical positions. Despite some differences, there are many areas of overlap for the profession of MFT and the legal system (Riley et al., 1997). Both systems are interested in similar issues and topics (e.g., divorce, child custody, mediation, domestic violence, and child abuse). Both train students in professional practice using similar in vivo methods (i.e., role play, mock cases, and case examples). Fundamentally, both systems are interested in producing change in a positive direction.

METHODS

Background: Training and Research Context

This training and research project occurred in the context of the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) accredited Couples and Family Therapy (CFT) master’s program (22 graduates/year) at the University of Oregon. The faculty at the University of Oregon made a decision to integrate the AAMFT core competencies into their program in 2004 as the national association solidified the core competency standards (Nelson et al., 2007). The core competencies have been integrated into the curriculum at the University of Oregon in several ways, including the creation and implementation of the *Mock Trial Exercises* with the University of Oregon Law School.

In the first year of the program, CFT students are required to complete an ethics class that covers ethics and legal issues, such as case documentation, practicing within one’s scope, confidentiality, and testifying in court. This coursework allows the students to become familiar with some of the ethical and legal guidelines that will inform their practice as couples and family therapists. The first-year students are encouraged to observe the second-year students as they

act as “fact” witnesses in the mock trial exercise described later in this article. In the second year of the program, students are required to take an *Advanced Family Therapy* class where they receive instruction on how to critically evaluate their own practice. As part of this curriculum, students examine how a court might view the therapy services they are providing and the outcomes yielded. Additionally, a law school professor provides a lecture to the second-year CFT students on tips for providing competent testimony in courts as a fact witness.

The University of Oregon is also home to one of the leading law programs in the state. Law students are required to participate in mock trials as part of their *Trial Practice* class in order to develop their skills (isomorphic to clinical role play assignments in MFT training). Mock trials within law school training are held at the law school’s courtroom studios, with real lawyers and judges from the community brought in to facilitate the proceedings of the mock trial. Mock Department of Human Services workers and witnesses are brought in to dramatize the proceedings. Mock cases are developed in advance with supporting documentation and case descriptions. In 2005, the CFT and law school programs began collaborating to create the mock trial exercises in order to further the development of both the law and CFT student groups. CFT students served as “fact” witnesses in the mock proceedings and law students served as the lawyers. The mock trial exercises have occurred two to three times a year since its inception.

Mock Trial Exercise Development and Protocol

A CFT faculty member and a law school faculty member met several times to determine the best protocol for the mock trial exercises and to coordinate the writing of the mock trial case problem. For every mock trial that the law students participated in, they had a “problem” for which to investigate (see Appendix A). For this project, a mock clinical case was developed based on a typical case involving the issue of parental rights termination. The “problem” was further developed and written through the collaboration between CFT and law school instructors in order to ensure its relevance for both sets of students. Components of the mock case file included (a) phone intake, (b) the client questionnaire, (c) a contact sheet, (d) the treatment plan, (e) progress notes, (f) the transfer/termination form, (g) Department of Human Services (DHS) documentation, and (h) a copy of the legal standards pertaining to the case.

One week prior to the mock trials, the participating law school professor lectured and provided tips for testifying in court. Topics of this lecture included how to prepare for testimony before receiving a subpoena and what makes for a good witness (Metcalf, 2007; unpublished data). Then, all participating law students and CFT students were given a copy of the “case file,” the “problem,” a memo from the clinic director about file documentation at the clinic, and fictitious resumes for the therapists called as “fact” witnesses. After all the students reviewed the files, CFT and law students were matched into teams. Then, the law students (lawyers) met with the CFT students (fact witnesses) for about 2 hr prior to the mock trial to prepare. The therapists (fact witnesses) were prepared for direct and cross examinations during these meetings.

Each time the mock trial exercise took place, four mock trials occurred concurrently in four separate mock courtroom studios. Local lawyers and judges acted as “judges” for the mock trials. Upon completion of the direct and cross examinations, debriefings were led by the “judge,” who provided constructive feedback for the CFT and law students. Other CFT students, law students, and CFT faculty served as observers to the trial and participated in the debriefing exercise at the end of the mock trial.

Participants

Following human subjects approval, CFT students completed a 36-item questionnaire, administered within 1 week prior to the mock trial exercises, designed to measure individuals’ trial and testimony-related knowledge, skill, and comfort level ($\alpha = .87$). In addition, second-year CFT students ($n = 19$) and third-year law school students ($n = 15$) participated in focus

group interviews held 1 week after the mock trial event. CFT and law students participated in separate focus group interviews. Focus group interviews were conducted by the CFT faculty and averaged 90 min in length. Among the 19 CFT students (17 female, 2 male), eight testified during the mock trial. The remaining 11 students participated in all activities *except* the testifying (i.e., training, related readings, and attending the mock trial as an observer).

Knowledge, Skills, and Comfort Level Questionnaire

A 36-item Knowledge, Skills, and Comfort Level Questionnaire was developed for this project. Mock trial participants self-rated their areas of least and greatest knowledge (14 items), areas of least and greatest skill (12 items), and areas of highest and lowest comfort (10 items). Some of the items on the Knowledge, Skills, and Comfort Level Questionnaire were informed by AAMFT Core Competencies related to forensic and legal aspects of practice.

Focus Group Interviews

Focus groups were designed to help researchers better understand the point of view of a group of people who had experienced a particular phenomenon (Patton, 2001). Further, participants of focus groups were provided with a forum to acknowledge intervention strengths, air grievances, and identify problems that researchers might address. This allowed researchers to gather more extensive information in a shorter period of time (Patton, 2001). The overarching research question for the focus group interview was “How did students regard the mock trial training experience?”

Data Analysis

After each focus group, the facilitator debriefed with other project researchers to capture their first impressions and highlights from the group interviews (Krueger, 1998a). Focus group interviews were transcribed verbatim within 1 month of the focus groups. Initial data analysis included coding, thematic analysis, and thematic building. Transcriptions were read first for accuracy and then upon second reading, code words that appeared to capture participants’ thoughts, patterns of behaviors, and phrases were written in the margins (Krueger, 1998b; Strauss & Corbin, 1998). Initial codes were compared, and then a third reading was conducted using constant comparison and analytical induction to support or modify emerging themes (Strauss & Corbin, 1998). The emerging themes were noted and discussed and a final distillation of themes was performed. Using these procedures, student comments were grouped into the following three categories: (a) questions, thoughts, and feelings prior to the mock trial; (b) mock trial procedures and preparation; and (c) disadvantages and advantages of the mock trial. Descriptive statistics were generated from the Knowledge, Skills, and Comfort Level Questionnaire.

RESULTS

Knowledge, Skills, and Comfort Level Questionnaire

The results of the questionnaire indicated that the majority of the CFT students surveyed had little or no *experience* providing legal testimony, and little or no training about *how to* provide testimony prior to the mock trial project (see Table 2). For example, even when including the training associated with the mock trial, 84.2% ($n = 16$) of students reported having only 1–5 hr of total legal testimony training. *Excluding* mock testimony, two students (10.5%) reported having 1–5 hr of legal testimony experience *in any role*, while 17 students (89.5%) reported zero experience with providing legal testimony in any role. All of the items on the questionnaire had at least one associated competency relating to legal, ethical, or professional issues. We have mapped the corresponding competencies in parentheses with items from the Knowledge, Skills, and Comfort Level Questionnaire.

Table 2

Knowledge, Skills, and Comfort Questionnaire Results, Corresponding Marriage and Family Therapists Core Competencies Are Indicated in Parentheses

Category	Specific item	M (1 = very low to 5 = very high)
Least knowledge	Distinction between court order and a subpoena (3.5.2)	1.95
	Proper response to a court order (3.5.2)	1.97
	Legal testimony best practice (3.5.2)	2.01
	Most important questions to ask an attorney when preparing to testify (5.2.3)	2.03
	Recognize and evaluate activities related to ethics, legal issues, and practice standards (5.4.1)	3.97
Greatest knowledge	State statute related to limits of confidentiality (5.1.1)	4.15
	State statute related to mandatory reporting (5.1.1)	4.21
Lowest skill	Participate in legal process in a way that avoids triangulation between the therapist and key parties (3.5.2)(3.3.7)	2.00
Highest skill	Explain to client his or her rights and responsibilities, particularly privileged communication, confidentiality, and privacy (5.3.3)(5.3.7)	4.03
	Develop and assess policies, procedures, and forms for consistency with standards of practice to protect client confidentiality and to comply with relevant laws and regulations (5.3.2)	4.00
	Complete case documentation in a timely manner in accordance with relevant laws and practices (1.5.2)(5.3.7)	4.00
	Complete case notes within 24 hr of each session 95% of the time (5.3.7)(5.5.1)	4.00
	Prioritize treatment goals (3.3.2)	3.57
Lowest comfort	Testifying about diagnostic impressions of my client (3.5.2)	2.00
	Testifying as an expert (3.5.2)	2.00
Highest comfort	Speaking to my clients about their rights and responsibilities, particularly in regard to privileged communication, confidentiality, and privacy (1.3.4)(5.3.2)(5.3.7)	4.00

CFT Students' Focus Group Reflections

Couples and family therapy students overwhelmingly expressed anxiety about the mock trial, although they regarded the experience as worthwhile and relevant to their career. Anxiety about the trial centered around performance, novelty of the experience, and the uncertainties associated with interacting with an unfamiliar group (law students and the law profession). All students who testified expressed concern about their ability to competently articulate their ideas while testifying. Information about law, law proceedings, and testifying provided by the law

school professor prior to the mock trial was reported by CFT students as very useful toward improving their understanding of the court and their role as fact witnesses, and in alleviating their anxiety.

Students overwhelmingly regarded the mock trial as positive and worthwhile. Many students gave specific examples to describe how the mock trial influenced their practice and how they anticipated that it might influence their career. Several students indicated that due to the mock trial experience, they anticipated that they will have greater mastery over their performance anxiety and anticipate better personal performance in the courtroom in the future. Some students commented on a number of procedural and interpersonal challenges associated with the mock trial. The most frequently mentioned challenge centered in minor scheduling difficulties that are naturally associated with interdisciplinary collaboration. The most substantive challenge seemed grounded in issues associated with student group projects—here complicated by disciplinary cultural differences and lack of familiarity of project members.

Law School Students' Focus Group Reflections

Law school students overwhelmingly found the experience to be useful, especially with regard to increasing the authenticity of their training and better understanding the mental health profession. Several law students also remarked that this more authentic experience was useful because its realistic nature presented a greater challenge in comparison with using law student actors. Law students also described the benefits of collaborating with the mental health profession. As a result of this collaboration, law students believed that they gained a better understanding of family therapists' code of ethics, family therapist–client relationships, and family therapists' general position with regard to testimony.

Faculty Reflections

From the faculty perspective, the creation of the mock trial exercises proved to be both challenging and rewarding. Some of the main challenges for the faculty included the time and effort needed to coordinate the mock trials and the preparatory tasks associated with the event, such as MFT/law student meetings, paperwork development, and managing schedules. These challenges were well worth the effort for us. The mock trial exercises provide a powerful teaching opportunity in our efforts to effectively teach forensic core competencies. The product of the experience for us as teachers included the open discussions afterwards in the classroom, which brought the subject matter to life. The debriefing discussions that followed the mock trials served mainly as feedback opportunities for the students involved, yet also benefited the faculty. Scholarly and academic discussions between faculty and legal experts who officiated the event also occurred during the debriefing. Topics that were discussed included the nature of confidentiality and privileged communication, the process for making good decisions regarding parental rights termination (the content focus of the mock trial exercises), and the various aspects of useful testimony.

DISCUSSION

In vivo simulations as a method of training clinical students are widely used in fields such as medicine, social work, nursing, psychology, and increasingly in CFT (Hodgson, Lamson, & Feldhousen, 2007; Miller, 2007; Miller, Todahl, & Linville, 2007). One of the advantages of this type of training is that students can gain experience with anxiety-provoking situations before actually dealing with them in the real world (Bartfay, Rombough, Howse, & LeBlance, 2004; Hodgson et al., 2007; Linville, Miller, & Todahl, 2007). Indeed, the results of this project indicate that one of the main dilemmas students face when dealing with forensic work is anxiety regarding their perceived lack of preparation to deal with the challenges they may face. Most of the CFT students reported little or no experience in forensic work prior to the mock trial

training. CFT students reported that they had little knowledge about basic forensic issues such as knowing the difference between a court order and subpoena, or how to prepare for legal testimony. Yet, both the CFT and law students reported that the experience with their mock trial exercises helped to prepare them for the challenge and lowered their anxiety. Both student groups reported that the novelty of working with new people (as opposed to fellow students from their own program) helped to keep the experience more fresh and realistic.

Implications for Clinical Training

The increasing demand for therapists to be involved with the court system calls for new strategies to prepare graduates to perform in these expanding professional roles. This training was not intended to be a comprehensive education in forensic work but to provide interns at least some limited experience with this type of work before dealing with it as a postgraduate. COAMFTE implemented Version 11 of its accreditation standards in 2006, calling for training programs to reconceptualize teaching strategies to ensure that graduates would be able to meet the AAMFT core competencies. This project was designed to help students gain initial competence with standards related to basic forensic work.

The emphasis in this type of training was on providing both law and CFT students a formative training experience, versus a summative evaluation of their performances. As such, the training provided an opportunity for participants to receive feedback from both law and CFT supervisors in the form of shaping, encouragement, advice, guidance, and information to prepare for future real-world forensic experiences. Both student groups reported their appreciation for this process in demystifying the work and each other's professions. Although student collaborations were not totally free of minor tensions, these experiences served as object lessons regarding the professional culture clashes that can occur between the two fields.

This collaborative work helps bring specific professional issues into sharper focus for both disciplines. Students learn not only what the law is but also how the law works. Using mock trials with students helps develop competent, thoughtful graduates who are able to successfully bridge the gap between training and practice. In the process, CFT students are encouraged to be more assertive in defining clearly and concisely what they do and how they do it.

Future Directions

The field of MFT has recently engaged in a movement to define, teach, and evaluate clinical competence standards (Miller et al., 2007; Nelson et al., 2007). Along with the competency orientation there has been an increased demand for output-oriented, competency-based teaching strategies (Miller, 2007). The mock trial exercises discussed in this article are one method to teach forensic core competencies. The limitations of this teaching strategy include the time-intensive nature of the exercise and the faculty resources to support the project. Despite these limitations, we found the benefits outweighed the costs. Training programs that did not have a law school at their disposal could develop other strategies to help carry out the project. This may include involving local lawyers and DHS workers to dramatize the mock trials.

Further research is needed to determine whether the mock trials actually promoted increased competence in forensic work in the real world. Also, this project focused on one type of case—parental rights termination. Although this is a common type of case for therapists to be involved in, a greater diversity of cases should be developed. While the mock trial training exercise may not be a fit for every MFT program, it is likely that it can be replicated by many other programs and lead to new strategies for teaching forensic core competencies.

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APPENDIX A

Case Vignette

In September this year, the Department of Human Services (DHS) removed the minor child of Ms. Jane Doe (Mother) from her home after receiving a report of child abuse and neglect. In addition, DHS had reason to believe Ms. Doe was abusing narcotics. The minor child, Maggie Doe (Daughter), was placed in foster care, where she currently remains.

At the time Ms. Doe's children were removed from her custody, the presiding family court judge ordered Ms. Doe to receive drug counseling and treatment, anger/stress management counseling, and seek gainful employment. These conditions were imposed to address issues in Ms. Doe's life that were interfering with her ability to provide care for her child.

Ms. Doe's compliance has been spotty. Although a DHS Social Worker, Chris Sweeney, attempted to provide services and support to Ms. Doe, it is the view of DHS that it is unlikely that Ms. Doe's child would be returned to her. Included in these services was a referral to the Center for Family Therapy (CFT). Ms. Doe failed to meet regularly with her assigned CFT therapist, Abigail Smith.

On December 18 of last year, Ms. Doe was arrested for possession of methamphetamines. Following this arrest, Ms. Doe attempted to turn her life around. Ms. Doe reinitiated drug treatment and started attending therapy again at the Center for Family Therapy with a new therapist, Teresa Long. From January to the present, therapist Teresa Long met with Ms. Doe on several occasions. Ms. Doe is scheduled to enter pretrial diversion in order to obtain a dismissal of the criminal charge.

At present, Chris Sweeney, the DHS case worker, remains dissatisfied with Ms. Doe's overall compliance despite her recent improvements. Chris Sweeney believes this is an "11th hour" rehabilitation and does not think it will last. Although delaying action is one alternative, Maggie Doe has been in limbo for over a year and a half, and needs permanency and stability. Chris Sweeney maintains that return of Maggie Doe to her mother is improbable within a reasonable amount of time, as required by the statute that governs unfitness. Chris Sweeney believes it is time to terminate Ms. Doe's parental rights and place the child in an adoptive home. The Department of Justice supported Chris Sweeney's recommendation and filed a petition to terminate Ms. Doe's parental rights. Ms. Doe is opposing this petition and hopes to maintain her parental rights with the eventual hope of being reunited with her daughter.

For our mock trial, we will be conducting an abbreviated hearing to determine whether Mother's parental rights should be terminated. The State intends to call the DHS Case Worker, Chris Sweeney, to the witness stand in support of the petition. Ms. Doe's attorney intends to call Teresa Long, the second therapist, to the witness stand in an effort to bolster Ms. Doe's claim that she is attempting to deal with the issues in her life impacting on her ability to provide for her daughter.