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Overview of Forensic Consulting Psychology

The corporate defendant was being sued for wrongful death and products liability—a young child had suffocated in a motor vehicle. At stake in multiple civil actions, by multiple plaintiffs throughout the United States, was multimillions of dollars. This was the first case, and if it were decided in plaintiffs’ favor, the defendant was certain that future litigation on these issues would not go well for the corporation. For this reason, the corporation and its attorneys decided that any expenses incurred in defending this initial litigation would be money well spent in protecting the business and its shareholders. Recommendations and any other advice would necessarily be strictly followed. To be assured that such recommendations could be trusted, the defendant hired a well-known team of attorneys and other consultants, including forensic consulting psychologists (FCPs), to investigate and advise.

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Forensic Organizational Consulting: The Role of Psychologists in Litigation Support, by J. M. Finkelman with L. Gombert

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Although the primary consulting team was recruited from the Los Angeles area, the venue (actual court location) was a large island territory that could not be reached via direct flights from the mainland. The morning after arriving on the island, the visiting team met with local attorneys engaged by the defendant's insurance carrier. This meeting is common practice for at least a couple of reasons. First, potential jurors may have implicit biases against "big city" litigators and may see them as "hired guns" defending the "deep pockets" of their client. More practically, though, the out-of-state attorneys may have licensure issues if they appear in court without local sponsors.

Next, the defense team attended a prearranged meeting with the marketing department at a local university. The department was chosen both for its experience in recruiting focus groups that mirrored the population in that trial venue and its research skills in identifying and surveying stratified random samples for their more typical advertising projects. After asking them to sign Confidentiality and Nondisclosure Agreements, we quickly brought the group members up to speed on the object of our litigation research, while at the same time providing them with only the essential facts at issue.

The marketing professors did their job well, and within 2 days identified and recruited multiple focus groups that accurately mirrored the likely composition of a potential jury. The evening before the first focus group was scheduled to begin, the consulting team, now consisting of FCPs, reviewed the final strategy and approach with the defense attorneys.

The death of a child makes for a particularly egregious case, and the focus groups consistently demonstrated a propensity for awarding in excess of a \$10,000,000 liability verdict, plus substantial punitive damages and attorney's fees. That evening, the litigators and our team of FCPs contacted the insurance carrier with the focus group and survey results. Our strong recommendation was to settle the case and avoid trial at all costs, because it became apparent that juries in that venue would be very sympathetic to the plaintiff, given the horrendous facts in the case.

The defense attorneys and the insurance carrier agreed—it was too dangerous to the corporation to try the case. With prior approval from

the presiding judge, the trial was put on hold, and settlement negotiations began within a few days. Although experience put the final settlement in the many millions of dollars, the exact amount was sealed, and it was never revealed to our team.¹

Although the reader may question the moral and ethical issues inherent in advising a corporation to save money when the death of a child is at issue, the ethics and practicality of the actual case must also be considered: The client was the defendant, and the team was being paid by the corporate defendant. It is the job of the attorney to be an advocate for the client and the job of the FCP to be a neutral evaluator based on the facts of the case. Therefore, the attorneys were duty-bound to try to keep costs as low as possible for the client. The job of the FCP, of course, was to evaluate the facts of the situation based on the evidence accumulated. By deciding against a trial and offering a settlement, the defendant/client would be acknowledging that the plaintiff deserved compensation, and the exorbitant court costs of a trial would be avoided. In other words, this could be a true “win/win” result for all involved.

TYPES OF FORENSIC CONSULTING PSYCHOLOGY ACTIVITIES

The various books in this series reveal and confirm that consulting psychology takes many forms and creates many potential roles and client types for the consulting psychologist. As this case illustrates, however, no matter what the specific client need is, the FCP has one overarching role: The FCP has been hired by the legal professional or litigant for a legal purpose, to provide psychological expertise within and through the court or courts. Therefore, the FCP may be hired to participate in jury selection and witness preparation, as well as to organize mock trials and focus groups, provide expert testimony and psychological evaluation, or even to conduct change of venue surveys. Because a “legal purpose” may or may not involve actual litigation, the FCP’s role, as was seen in the

¹This might be an appropriate time to note that all references to personal/professional experiences are those of the first author.

original case, may or may not include participation in a trial. So, although this first chapter provides an overview of the entire field of forensic consulting psychology, this book is written with the intent to take the future or current FCP reader through that nonlinear path while taking whatever relevant detours present themselves along the way. Specifically, as the vignette demonstrated, from the inception of the hire, the FCP must be aware of the role(s) they are being asked to take in the process.

For that reason, the remainder of the book will more specifically address the major contributions psychologists make in forensic consulting psychology. It also reviews the relevant literature and supporting evidence to assess the efficacy of the contributions of FCPs to clients, the courts, and the legal system in general. Relevant statutory and case law, as well as certain legal interpretations, are interjected throughout, with particular attention to the Federal Rules of Evidence (FRE; 2021) and the resulting decision in *Daubert v. Merrell Dow Pharmaceuticals, Inc.* (1993).

Although the specifics of the case that opened this chapter may be unique to the facts of that litigation, the process utilized by the litigation support team in the case example was typical and illustrates what FCPs (the generic term used in this book) are frequently expected to contribute when retained. The purpose of this book is to give a clearer, broader picture of the range of related activities in which the consulting forensic psychologist participates in legal matters. These activities not only include trials and trial preparation; they also include the entire process of participation in the case—from retention by the parties, through discovery, trial, settlement, dismissal, or any other final resolution.

To that end, this book addresses the ever-expanding professional activities of the FCP. Some of those activities are more complex and play a larger part in the FCP's career; those activities are deserving of their own chapter, while others are woven throughout the various references and experiences. Their professional activities are included next.

Working With Witnesses

Working with different types of witnesses—from eyewitnesses to fact-based witnesses to expert witnesses—is integral to forensic consulting. Courts

recognize three different kinds of witnesses: fact, eye, and expert (Gomberg, 2018). A *fact* witness may be law enforcement, a coroner, statistician, or another person with factual knowledge who can relate objective information about the facts of a given case. *Eyewitnesses* have relevant information, because they were there at the time the cause of action arose or, in some instances, they can provide factual background information. *Experts* may or may not have knowledge or opinions specific to the facts of a case, but they do have expertise in a topic or issue relevant to the matter being tried (*Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 1993; FRE 702, 2021).

Admissibility of expert testimony has a long and still-evolving legal foundation and is discussed in detail in Chapter 2. However, the admissibility of testimony by any of these types of witnesses is dependent on its relevance to helping resolve the issues before the court (FRE 402, 2021). Further, among other conditions, the probative value of that relevant evidence must not be outweighed by its prejudicial effect on the finder of fact, which is most often the jury (FRE 403, 2021). Ultimately, upon motion by either party, it is the trial judge who decides if the evidence is relevant and if its probative value does or does not outweigh its prejudicial effect (see Chapter 2).

The FCP's job in working with witnesses of whatever type begins as soon as the attorney begins putting the potential case together. Who will be testifying? What is their role? How will they present to a judge and/or jury? Given media portrayals of unscrupulous attorneys, jury tampering, witness threatening, and other dramatic interference with the litigation process, novice and future consultants might have some concern about the common trial practice of witness preparation. The apprehension is heightened by the anticipated effectiveness of witness preparation in enhancing critical testimony delivery skills. This might not be an issue if there was reason to believe that all parties to litigation were in a comparable financial position to avail themselves equally of professional witness preparation. But that is rarely the case. Of course, attorneys can assume some preparation responsibility for their own witnesses, but litigators may not be equally proficient in imparting these skills, even if they have and utilize them in the courtroom themselves.

Expert Reports and Witness Testimony

Expert reports and expert witness testimony can be required before or during an actual trial. This function deserves its own chapter, the reasons for which will become very clear in Chapter 2; however, all types of witnesses often need the expert guidance of the FCP.

Assessment of Individual Jurors

The assessment of individual jurors as to their predisposition and/or bias with respect to various case theories and arguments can be beneficial before, during, and after a trial. As discussed extensively in Chapters 3, 4, and 5, FCPs have a role in developing and reviewing potential juror questionnaires, observing potential juror behavior during voir dire (i.e., a common practice of attorney and/or judge questioning of potential jurors prior to empaneling them), assessing those potential and seated juror responses to questions and evidence presentation, and even interviewing willing jurors postverdict/postjudgment.

The purpose of the posttrial interview is to gain insight into the decision process and rationale utilized by jurors during deliberation, which helps to inform future case strategy, including the selection of witnesses. Litigators are interested in juror perception, and the FCP is the logical professional to engage in this activity because their training prepares them for an informed interpretation of the reported behavior. Actual juror deliberations are held privately, however, and the right of confidentiality belongs to the individual juror.

Focus Group and Questionnaire Testing

Focus group and questionnaire testing of the differential impact of a range of opening and closing arguments, as well as trial tactics, serves the attorneys prior to the presentation of evidence and after all the evidence has been presented. Chapter 4 provides an extensive discussion of

the various tools that FCPs have at their disposal to help understand the trial process, as well as to aid litigators (as discussed in Chapter 3). These tools include the above-mentioned questionnaires, shadow juries, focus groups, mock juries, and witness preparation.

Shadow juries consist of individuals resembling actual juror demographics; they actually sit in on evidence presentation and eventually come together to arrive at a possible verdict.

Focus groups are similarly made up of individuals with the same demographics as the jurors, but they do not participate in the trial. Prior to trial, they listen to presentations by litigators (or actors) from the side that recruited them in an effort to provide an assessment of the effectiveness of the potential opening statements.

Mock juries are recruited to listen to potential presentations by both sides and deliberate to a verdict. They are not present in the trial but hear presentations from both sides (actors usually replace attorneys for the opposing side, witnesses, and litigants).

In witness preparation, FCPs meet with and coach the various witnesses to help them present themselves in the best light for the trier of fact. In this context, coaching is limited to presentation style rather than content.

Anticipating Trial Outcomes

Empirically anticipating probable jury or bench trial outcomes before and even during litigation aids the litigants and their attorneys in understanding how and why they may want to settle, dismiss, or proceed to verdict in a case. The best example of this contribution was seen in the opening vignette. Because of the experience and expertise of the FCPs and litigation team, the client most likely avoided an eight-figure judgment. Although the advice derives from the entire litigation team, the FCP, as the most relevantly trained professional on the team, often takes the lead in integrating and distilling the recommendation to continue to or avoid trial. Within this process, the FCP also provides guidance regarding trial strategy and tactics.

Interviewing Willing Jurors Postverdict

Interviewing willing jurors after they have rendered a verdict helps litigation teams understand what worked and what failed in their case structure and presentation.

As stated above and discussed thoroughly in Chapter 5, contacting willing jurors after the fact is a significant role for the FCP. Again, just because one trial may be over, the FCP's job of understanding human nature in particular contexts does not end. The successful FCP continues to add to their skill sets regarding jurors and their thought processes in as many court contexts as possible. Insight regarding deliberation and decision-making processes will aid the FCP in future litigation matters.

Evaluation of Trial Venues and Courts

Evaluation of various trial venues and courts for their receptivity to the themes and theories of litigators on either side of both criminal and civil cases can often prevent costly mistakes for clients.

The trial *venue* is the actual court location of the litigation. An excellent example of poor venue selection comes to mind from an almost 3-decade-old case. In California, former football star and celebrity O. J. Simpson was tried for the murder of his former wife and her acquaintance, Ron Goldman. Although there was jurisdiction (the power of the court to hear and decide a case) anywhere within the County of Los Angeles, including the upscale portion of the county where the murders took place, the prosecutors chose downtown Los Angeles as the venue.

The prosecutors seemed so sure of a conviction that they chose a downtown venue, where there would be a more racially diverse jury. After an extremely well-publicized trial, Simpson was acquitted. Post-trial, there was speculation that the racial composition of the jury contributed to Simpson's acquittal. However, the criminal case was followed by a civil case wherein the plaintiffs were Simpson's children and Ron Goldman's heirs. For that case, the plaintiffs' chose to file their action in the court located in the upscale neighborhood where the victims

were killed. The jury came back with a verdict against Simpson. Location, location, location!

TYPES OF LITIGATION

Very often, the type of litigation determines the type of FCP consultation that will be needed (i.e., the witnesses that will be called to testify as well as the type of preparation that is required). The American Bar Association (2020) defines *litigation* as the process by which contested legal disputes are handled by and through the courts. Although other matters find their way through the judicial system, and a few of those might require the testimony of witnesses (e.g., probate, contested family matters), generally, there are two major types of litigation: civil and criminal. Each of these processes is introduced and described.

Civil Litigation

Civil litigation involves a legal dispute between private parties. An individual/company/agency (i.e., the plaintiff) claims to have been harmed by another individual/company/agency (i.e., the defendant) and has the burden of proving that the defendant is liable. The liability, if found, is usually resolved by awarding monetary damages to the plaintiff (see Chapter 3). The most common types of civil litigation are in torts (i.e., civil wrongs committed against the plaintiff's person or property) and in breach of contract.

Two other points about civil litigation bear mentioning. In a civil lawsuit, the focus is on the plaintiff's perception of the defendant's action, and the burden on the plaintiff is to prove this to a preponderance of the evidence. An early 20th-century landlord-tenant case provides an excellent example. When a tenant was moving out of her apartment, the landlord pointed a gun at her and demanded that she leave her possessions, claiming she owed back rent. The tenant sued the landlord for assault, defined civilly as the intentional placing of another in fear of imminent danger (*Allen v. Hannaford*, 1926). The landlord's defense was that the gun was not loaded.

The court ruled that the landlord was liable because the plaintiff's perception of the defendant's intent was that she was in imminent danger.

The implication in looking at the civil burden of proof is that the role of the FCP may be even more crucial in determining or predicting a civil trial outcome, because the difference in perceived proof between winning or losing can be quite small (after all, how does one define a preponderance?) and the margin of error quite large. Incremental determinants of a verdict may be highly susceptible to trial strategy and tactics, in addition to witness preparation and coaching, when the outcome may be dependent on nuance or hundredths of a percentage point.

Greene (2003) explored the wide range of issues that are litigated in civil courts and are most likely to garner public attention, as well as in forensic psychology research. The author identified tort cases, including employment discrimination, sexual harassment, and personal injury disputes. Greene noted that focusing on tort cases omits many other areas of court filings that may entail substantive psychological issues, including wills, probate, family law, property law, and contract law.

Criminal Litigation

As stated previously, civil litigation involves private parties; *criminal* cases, however, involve acts against society, and they are punished to protect society. Therefore, the government prosecutes and has the burden of proving, beyond a reasonable doubt, that the defendant had both the requisite specific intent (i.e., guilty mind or *mens rea*) and committed the act (i.e., *actus reus*). In contrast to civil litigation, which focuses on the plaintiff's perception, criminal cases are viewed from the defendant's perspective. The question is whether the defendant had or could form the requisite intent to commit the crime. Although in civil litigation, a verdict for the plaintiff results in the defendant's liability to the plaintiff, in criminal litigation, a verdict for the prosecution results in the determination that the defendant committed the illegal act against society and results in suitable punishment.

In his review of Eisenberg's 2004 book, *Law, Psychology, and Death Penalty Litigation*, Goldstein (2005) reported that, in the case of *Wiggins v. Smith* (2003), the U.S. Supreme Court held that a capital defendant's

Sixth Amendment rights had been violated because defense counsel did not properly investigate the defendant's social history. According to Goldstein, Justice O'Connor reasoned that in order "to reach an informed decision as to whether or not to present mitigating evidence to a capital jury, counsel must investigate the defendant's history" (p. 123), in that this information could have influenced the jury's appraisal of culpability. The decision highlights the critical role that mental health professionals and FCPs are expected to play in both capital sentencing trials and in other criminal matters to help determine the defendant's intent (and ability to form it) beyond a reasonable doubt.

Mental health professionals may serve as trial consultants working with attorneys to prepare them to cross-examine opposing experts, to advise on jury selection, or to assist in the development of trial strategy. Other experts may offer testimony about a specific topic, such as battered spouse syndrome or the long-term effects of parental abuse and neglect on personality development (Eisenberg, 2005, p. 123).

The role of psychologists as trial consultants becomes even more crucial in death penalty litigation, not only because the stakes are so high but also because, as in all criminal cases, a higher standard of proof is required for conviction. The standard the prosecution must meet is beyond a reasonable doubt (see Chapter 5). Keeping in mind that the law doesn't define what is "reasonable," the need to persuade a jury becomes more challenging, and the utility of engaging FCPs at trial is more apparent.

In the remainder of this chapter, I address the following areas that compose the promised overview of forensic consulting psychology. What follows may not be thought of as actual "activities" of the FCP, but they are most definitely realities with which the FCP may have to contend. Under any conditions, the FCP needs to be aware and knowledgeable.

ABUSES OF LITIGATION

When there is money at stake, there is the foreseeable potential for fraud and misconduct. The legal system itself is not immune to this abuse but rather creates a tempting opportunity to exploit for dishonest litigants

and possibly opportunistic attorneys motivated to do so. FCPs need to be aware of such abuses and take care not to support them.

Frivolous litigation, defined here as litigation with no basis in law or fact, has the potential to both overload and undermine the legal system unless it is detected and controlled. FCPs are educated in the signs of malingering and deception detection. The boundary between engaging in frivolous litigation, as opposed to low probability of success litigation, is highly subjective and situation specific.

Although not directly related to the focus of this book, a case from the litigious world of medical malpractice suits provides an overt example of frivolous litigation (R. M. Gomberg, personal communication, December 12, 2002). A day or so after the birth of a healthy baby boy, a pediatric nurse informed the pediatrician that the baby was dehydrated due to the mother's lack of milk production. The pediatrician explained to the mother that nursing would need to be supplemented with water or formula. The mother reacted angrily and threatened to sue the pediatrician for intentional infliction of emotional distress, a tort. The emotional distress inflicted, according to the mother, was that the doctor had "ruined" what should have been the happiest day of her life. Three hundred and sixty-four days later (the Statute of Limitations was 1 year), the suit was filed. The mother's suit was on behalf of her son, in case the child would eventually need mental health treatment due to being bottle fed for the first week of his life. As the mother was a law school graduate but not a licensed attorney, the suit was filed *pro se* (she acted as her own attorney). As "frivolous" as such a suit might seem, the plaintiff probably had good reason to believe she would collect. Insurance companies and other frequent defendants will often settle a case quickly to prevent further legal expenses. In this case, however, the malpractice insurance carrier threatened the plaintiff with an abuse of process suit, if she did not immediately move to voluntarily dismiss the action. Although she asked for a small settlement (which she did not get) to dismiss the suit, this frivolous filing did cause damage to the defendant, who was required to list the malpractice suit on hospital and credentialing applications for the next 10 years.

Guthrie (2000) offered a component of prospect theory to help understand the logic behind this type of litigation. Prospect theory explains that

people respond differently to gains versus losses, and loss aversion typically is more compelling than the quest for gain—or winning in litigation. Prospect theory suggests that the decision frame in frivolous litigation is such that it triggers risk-averse behavior in defendants and risk-seeking behavior in plaintiffs. “Because plaintiffs in frivolous litigation have a greater tolerance for risk than the defendants they have sued, plaintiffs in frivolous litigation have a psychological leverage in settlement negotiations, which is likely to lead to plaintiff-friendly settlements or bargaining impasse” (Guthrie, 2000, p. 163). Guthrie drew the logical conclusion that those concerned about frivolous litigation are best advised to target their reform efforts at the decision-making process of plaintiffs in frivolous lawsuits.

Although there is no justification for initiating frivolous litigation, it is not always possible for an attorney to discern the reality of the situation at the onset. Sometimes it only becomes apparent to the attorney representing a client after compelling exculpatory evidence is introduced by the defense. Additionally, attorneys want to believe their clients, are expected to be zealous advocates when they take a case, and admittedly may have financial incentives to accept a case. On the other hand, as mentioned at the beginning of this chapter, the FCP is neither an advocate nor an opponent and may be in position to help the attorney end the matter prior to expending unnecessary time and resources.

However, when it is the attorney who seeks and then initiates the frivolous lawsuit, as some attorneys did by soliciting clients to sue small businesses under the Americans With Disabilities Act (1990) throughout the State of California, the attorneys are subject to malicious prosecution liability, monetary sanctions, and even disbarment in egregious cases (*Hutchins v. Municipal Court*, 1976; *Molski v. Arby's Huntington Beach*, 2005).

Similarly, some plaintiffs believe they have been wronged, typically by an employer, and are easily persuaded by their own unfortunate circumstances to blame the employer for something out of their direct control. In some cases, employees are unwilling to accept their employer's adverse, but appropriate, performance-based action against them and may try to retaliate. Many workers are not entirely objective when it comes to their own performance and might prefer to blame someone else, typically

the employer, for their deficiencies. It is easy and, for some employees quite satisfying, to initiate a lawsuit with a willing and often unknowing attorney, who is then obligated to be their advocate after agreeing to take the case.

In the more than 60 trials in which I've testified, there seems to be a discernible pattern in which discrimination lawsuits are triggered only after employees receive a less than stellar performance evaluation or are not promoted into positions they feel are deserved. But the biggest trigger for such litigation, in my experience, occurs when an actual termination takes place. Then an employee has little to lose by claiming the firing was in retaliation for having engaged in some protected activity, such as filing a complaint. And that may well be the case. But it is difficult for a third party to discern the reality without a thorough review of the personnel file and some level of investigation, depending on circumstances.

In the case of a dismissal, FCPs and human resources management professionals are likely to agree that the way in which the termination is conducted can have a significant impact on whether an employee elects to visit an attorney as the next stop after departing. For a variety of reasons, including but not limited to common decency, every effort should be made to allow a terminated employee to save face during the stressful exit interview and especially in front of colleagues still at work. The classic "perp walk," in which a fired employee is escorted out of a supervisor's office (or out of human resources), in front of everyone and often with security visibly present, is a textbook example of how not to terminate an employee for any reason—unless the intent is to trigger a lawsuit.

FORENSIC PSYCHOLOGISTS IN THE LEGAL SYSTEM

It seems fitting to close this introductory chapter with a brief consideration of the legal system climate—an environment that psychologists will find very different. Whereas FCPs' work in settings that are typically not adversarial (although they may be contentious at times), litigation consulting, even behind the scenes, is a departure from the norm. Attorney styles often differ from those of psychologists, and attorneys may go through

more than one FCP before settling on the one or very few with whom they are comfortable working. In my experience, attorneys are more understanding of the role psychologists play in the legal system and the assistance they can provide for trial than the other way around. Psychologists are often unprepared for the noncollaborative nature of litigation and the inevitable win/lose outcomes. Even cases that settle are often extremely contentious throughout the negotiations.

Attorneys are required to be zealous advocates for their clients. Although television shows, such as *Law and Order*, often exaggerate the interactions among the parties for dramatic effect, those programs featuring criminal defense attorneys who tell their clients they do not care if they are guilty or not are fairly accurate. That is because if an attorney knows factually that a client is guilty, and the client pleads not guilty, the attorney cannot be the unbiased advocate legal ethics require. On the other hand, it deserves repeating that FCPs are required by professional ethics to be neutral parties, not “advocating” for one side or the other, except when the facts justify a particular point of view. FCPs, therefore, are independent fact finders and presenters, basing all opinions on valid and reliable evidence.

Nonetheless, testifying psychologists face a different type and level of scrutiny and sometimes outright hostility from opposing counsel. Sometimes the apparent hostility is an act, designed to intimidate or disparage a witness. But sometimes the hostility is an emotional reaction to an expert whose testimony may serve to undermine a case at the expense of a client for whom the attorney is advocating. Although trial judges are quite effective in minimizing, if not eliminating, angry outbursts in the presence of the jury, other parts of the case, for example, depositions (i.e., pretrial out-of-court testimony usually conducted in an attorney’s office) are less regulated (even though depositions are always transcribed, often recorded with video, and sworn under penalty of perjury). There is nothing casual about depositions despite the fact that they take place outside the formality of a courtroom. The sworn testimony during a deposition can be and usually is played in court and/or read to the jury. The contributions of FCPs are essentially the same whether engaged in conjunction with depositions or

courtroom testimony. The common element is the probable impact on and perception of trier(s) of fact, most often the jury.

Regardless of motive, to maintain credibility, testifying experts need to be able to maintain composure in court and not retreat from an opinion that is offered in good faith, given the facts and circumstances at hand. Experts need to expect that credentials, background, and professional experience may be severely challenged in attempts to undermine qualifications even before FCPs' expert testimony can be offered to the court. Once the expert does testify, the opposing counsel may aggressively cross-examine in an effort to try to impeach the opinions just offered to the jury. FCPs should anticipate being confronted with any prior testimony and/or their own published work. Experts can anticipate videos of their prior testimony being played to the jury, especially if there is an appearance of contradiction or inconsistency with current testimony.

If after several involvements with the legal environment, it is too far out of the comfort zone of FCPs, the solution is obvious: Do not go there. But above all, it is essential not to compromise professional standards or ethics, regardless of circumstances or pressure from either party to the litigation.

SUMMARY

In summary, this first chapter introduced the variety of activities in which the FCP may participate. A couple of issues were raised, including abuses in litigation and the general role of a psychologist in the legal system, which provided background information that might not be part of the FCP's actual job, but they do depict some realities of working in the courts. Seven of the activities were listed specifically and touched on as part of the overview. Expect to see them repeatedly throughout this book, as they exist independently and as integral parts of other consulting roles. As stated in that list, one of those activities, acting as an expert witness, has many components and is deserving of its own chapter (see Chapter 2).