

INVESTIGATION vs. INTERVENTION:  
FORENSIC ART THERAPY  
AND  
ART THERAPY IN FORENSIC SETTINGS



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**Abstract**

Investigation and intervention in forensic art therapy are distinct and separate entities that are predicated upon specified goals and objectives. The predilection to integrate these two entities can serve to foster misunderstanding, fusion of ideology, and a lack of role division. Descriptions for and explanations of Forensic Art Therapy (FAT), an investigative technique (Cohen-Liebman, 1997, 1999, 2001) and art therapy as intervention in Forensic Settings (FS) (Gussak, & Virshup, 1997; Liebmann, 1994), will be reviewed. Distinctions relevant to treatment, treatment goals, and the role of the art therapist in each circumstance are examined.

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### Investigation vs. Intervention

Forensic Art Therapy (FAT) and art therapy in Forensic Settings (FS) may appear to be similar in treatment and scope, however, they are distinct entities. FAT is an investigative technique while FS is a model for therapeutic intervention. We will present the distinctions and similarities associated with both methods of treatment and consider the populations addressed, the role of the art therapist, and the goals associated with each intervention. Definitions for FAT and FS will be provided. The advantages of art therapy in each domain will be identified.

### The Beginning

FAT is nontraditional art therapy, extending its application beyond evaluation and treatment. Art therapy in forensic settings (FS) subscribes to a relatively conventional art therapy approach with modifications.

Prior to presenting a pre-conference course entitled, "Forensic Art Therapy" at the 1997 American Art Therapy Association conference, Cohen-Liebman contacted Gussak to discuss the content of her course. Aware that *Drawing time: Art therapy in prisons and other correctional setting*, (Gussak & Virshup, 1997) was slated for imminent publication, Cohen-Liebman sought to confirm her conviction that FAT was a distinct and separate entity. Ursprung, Gussak, and Wisker's open forum

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presentation at the 1997 national conference, "Forensic Art Therapy" (1997), also provided substantive support of FAT as a distinct method of practice from FS. The dialogue that was spawned contributed to a conjoint presentation at the AATA conference the following year (Cohen-Liebman & Gussak, 1998). They identified and classified criteria associated with FAT and FS and outlined differences between the two.

The New World Dictionary (Guralnik, 1980) defines forensic as "characteristic of, or suitable for a law court, public debate, or formal argumentation" (p. 546). In the Dictionary of Psychology (Chaplin, 1985), forensic is defined as something pertaining to the courts. The definition of law according to Perry and Wrightsman (1991) is the protection of constitutional rights and the resolution of disputes through reliance on legal precedents. Forensic art therapy applies art therapy principles and practices within a legal context to assist in the resolution of legal matters that are in dispute. Art therapy within a forensic setting is the clinical application that adheres to strictures determined by the nature of the correctional institution.

### **FAT**

FAT is developing into a specialization within art therapy that juxtaposes art therapy on standard forensic procedure and protocol. The result produces a hybrid that is fundamentally investigative yet has clinical overtones. FAT is fact-finding. When confined to a forensic process, it is a method that assists in the acquisition of goals and objectives that are advanced by the elicitation of information, the corroboration of facts, and the assessment of credibility. FAT integrates art therapy theory with the law to facilitate the disposition of legal disputes.

Forensic investigations are fact-finding enterprises that merit meticulous and thorough inquiry. Procedures are dictated by circumscribed practice, which demands specially trained and skilled investigators. Forensic investigators, evaluators, and interviewers must adhere to forensically governed standards when facilitating a fact-finding process. In addition to fact-finding and addressing corroboration and credibility; determination is made of competency for investigative or court ordered purposes. The primary task of a forensic evaluator is to gather informa-

tion that will be useful within the legal system and assist with legal determinations (Haralambie, 1999; Mannarino & Cohen, 1992). Information is procured in a manner that is objective, developmentally sensitive, comprehensive and forensically defensible, (Cohen-Liebman, 1999; Davies et al. 1996) commensurate with the needs of the client, and compatible with judicial percepts. The forensic art therapist will often be compelled to communicate findings at a court proceeding, thus requiring knowledge of professional ethics and case law.

## **FS**

Art therapy within a forensic setting presupposes a traditional application of treatment with modifications necessary for environmental adjustments. It is fundamentally a therapeutic intervention not investigative. Art therapy in a prison setting focuses on alleviating symptoms that emerge from mental health and/or environmental stressors, not on examining whether or not a crime has been committed. As mental health facilities are closing and more and more prisons are being built, the mentally ill who have committed an unlawful act are becoming criminalized (Gibbs, 1987). Thus, mental health workers, including art therapists, find themselves working in forensic settings (Gussak, 1997a; Liebmann, 1994).

FS is defined as any setting a person may be sent to as a direct intervention from the courts. This may include prisons, jails, juvenile detention centers, court-ordered school placements, and probationary programs. Due to Gussak's experience within an adult male medium to maximum security prison, information presented will be related specifically to this type of setting while some of this information may be generalized to other forensic settings. Unlike FAT, the FS art therapist provides treatment as well as conducts assessments. However, certain considerations need to be taken into account, specifically, characteristics of the environment, the relationship established in the setting between the inmates and the correctional staff, and the characteristics, both inherent and developed in response to the environment, of the incarcerated inmate. The FS setting is not a traditional treatment setting nor is a standard clinical model adhered to. Settings are usually custodial environ-

ments, clients are involuntary, and therapeutic philosophy and procedures, may conflict with the settings' rules.

## **Population**

### **FAT Clients**

FAT clients are often involuntary and may be remanded by the court or an investigative body to participate in an interview or evaluation. Clients are referred for investigative purposes because of a forensic or legal matter or dispute requiring investigation for resolution. Clients may be children, adolescents, or adults and may include individuals engaged in domestic relations disputes. Clients and/or their guardians (if the client is under 14) may be resistant to cooperating with an investigative agency or unmotivated to resolve a legal dispute depending on the case and the allegation. FAT is investigative, focused on individual clients. It is not practiced within a group albeit support groups for non-offending caregivers, siblings, and victims may be conducted by the FAT therapist. Allegations associated with a forensic clientele include child abuse and neglect, domestic relations issues, custody and visitation, domestic violence, and having been a witness to a crime. Possible referral sources include law enforcement personnel, prosecutors, defense counsel, representatives of child protection agencies, child advocates, or judicial officers (such as a judge) which may result in a court ordered process.

### **FS Inmate/Patients**

FS inmates are incarcerated for legal infractions. They may be members of a correctional or psychiatric population. They may be offenders on probation or adolescents in residential facilities. When inmates are members of a psychiatric population within a correctional setting they may have anti-social, paranoid, borderline, schizotypal, or schizoid personality disorders. They may have identity confusion disorders. Inmates may have problems with addictions to alcohol and narcotics. Some may carry thought or mood disorders found in Axis I diagnoses ( Diagnostic and Statistical Manual of Mental Disorders, 1994). Incarceration often exacerbates the psychiatric disorder to which the inmate is prone (Fox, 1997; Morgan, 1981).

To survive the correctional environment, where the weak are prey, the inmate may develop sociopathic behaviors. To hide vulnerability or weakness "masked identity" is assumed.. Defenses are developed, necessary for survival but difficult for an inmate with a mental illness to adopt. In some cases, the inmate/patient may not be weak or vulnerable, but may sustain sociopathic behaviors because these are considered the norm within a correctional environment.

If for no other reason than to leave his cell for an hour or two, the inmate/patient may attend art therapy sessions. Because of lack of space and personnel and an abundance of clients, the inmate/patients will most likely be seen in group sessions. Because of the fear of self-disclosure, or because the inmate/patient may not trust others, very little dialogue may occur between the therapist and the client during the group session. If the inmate/patient does disclose personal information, it is not clear if he is being truthful. Art therapy has been demonstrated to be effective specific to this population because although inmates are cautious with words they may allow themselves to be expressive using art materials.

### **Role of the Art Therapist**

#### **FAT Therapist**

The forensic art therapist does not assume the role of advocate or adversary but rather retains a neutral, objective stance. The art therapy process and discussion of information is communicated to the investigative agent. Often the process and findings are presented at court requiring testimony by the forensic interviewer/evaluator (FAT therapist) mandating knowledge and understanding of legal tenets, case law, judicial process, and professional ethics. Behavioral and psychological findings are often addressed within a legal context with respect to the forensic process.

Just as forensic child psychiatry utilizes the fund of information of the child psychiatrist (Schetky & Benedek, 1992) the forensic art therapist depends on theory and practice developed by art therapists as well as drawing from other related fields. Education that includes theory and research about life span development, psychopathology, human behavior of individuals, families, and groups, principles of psychotherapy, and

the creative process are essential. Because the FAT therapist may be asked to testify at court hearings, judicial and forensic training is also basic. A forensic interviewer or evaluator is trained in additional arenas. For example, the FAT therapist who is investigating allegations of child sexual abuse must be experienced and trained in a myriad of competencies including but not limited to: forensic interviewing; the mechanisms for and dynamics of child sexual abuse, the disclosure process, recantation; child development including memory, suggestibility, cognitive capabilities, concept-formation, expressive-receptive capabilities; normal sexual development; offender profiles; credibility assessment; legal issues; state criminal codes; question continuum; current research; special populations; cultural competency; clinical vs. forensic interviewing.

### **Forensic and clinical processes.**

Inherent differences exist between forensic and clinical processes (Raskin & Esplin, 1991). These distinctions are identified procedurally in the role and style of the interviewer, in the intent, the context, and the collection of information. In a forensic process, the interviewer assumes a neutral stance, retains an objective point of view, and refrains from interviewer bias. Adherence to prescribed forensic procedure is strictly governed and is mandatory for the process to be legally defensible in court. The interviewer must be able to defend the practice and purpose of the entire process. Memorialization of the process is critical and involves specific rules and procedures.

In contrast, the clinical interviewer's primary role is as an advocate for the client. The therapist does not enact a nonjudgmental stance but rather validates the client's thoughts and feelings. Most clinical interviews are not governed by strict standards of procedure and process. The manner in which data is collected is not integral to the process. The forensic evaluator's task is to gather information and discern the truth through the acquisition of factual material while the clinician provides support and intervention.

*The FAT's use of drawings.* Drawings function in one of three ways in a forensic process; as an investigative implement, forensic/charge enhancement, and as evidentiary material or judiciary aids (Cohen-

Liebman, in press). As an investigative implement, drawings are utilized in a supportive capacity in the investigation of a legal or polemical matter. In the capacity of forensic/charge enhancement, drawings provide contextual information that can contribute to the determination of charges as well as the identification of additional areas to investigate. Drawings as judiciary aids provide evidentiary material that is admissible in a judicial proceeding. In some jurisdictions they are considered to be novel scientific evidence and are subject to a special admissibility hearing (Cohen-Liebman, 1994).

### **FS Art Therapist**

The FS therapist functions in a more traditional role than the FAT art therapist but with the understanding that the approach needs to be modified to adjust to the environment. The FS art therapist is not a fact-finder nor is he or she invested in resolving a legal matter. The FS therapist does not invoke an investigative function but rather provides therapeutic support. Although the FS therapist may utilize any theoretical structure to provide clinical care, the system limits how much can be addressed in a traditional fashion. The FS art therapist must act almost as an ambassador to the facility in which he or she works. The FS art therapist must understand the unspoken rules of the setting, the latent understandings that exist, and the need to value privacy and identity within an environment that strips this away if incarceration is to be effective. In this manner, the FS art therapist can better meet the therapeutic needs of his or her client, while ensuring the client's survival. They must also learn to trust the art process, as it may yield more information, as well as therapeutic gain, than a verbal interchange.

*Art Materials and Directives in a FS.* Art materials used by art therapists in a FS are oftentimes governed by institutional rules and thus create structures or barriers for directives (Gussak, 1997b). The decision for what can or cannot be used may seem arbitrary and can change constantly however, many materials in these settings can be used as weapons (Fox, 1997). Gussak faced mandates that pencils and paintbrushes must be cut down to a certain length, oil paints could not be used because of the flammability of the extracted oils, and clay and plaster



masks were not allowed. According to the staff of the institution, clay was dangerous because it could be formed into a weapon, could jam locks or be used to make impressions of keys. Plaster masks could not be made because they covered the face and thus constituted a security escape risk. However, as mask making and sculpting three-dimensional objects are important therapeutic methods employed by the art therapist, alternate methods were found. For example, instead of using clay, the clients in a group were given paper and glue and asked to construct a three dimensional object. The directive and benefits were underscored by noting that everyone was given the same materials, but the finished products were quite different. Such focus on individuality proved valuable in an environment where everyone was identified by a number and forced to dress alike. What is more, they were able to construct something out of minimal supplies. Similar to their prison experience, they needed to make the most out of very little.

*The Advantages of Art Therapy in FS.* FS may provide the clients with a discharge of underlying feelings while maintaining behavioral self-control. Creative expression has long been found valuable in sublimating primitive aggressive and libidinal impulses (Dissanayake, 1992; Kramer, 1993; Rank, 1932), two characteristics prolific in the inmate/patient. However, although art therapy in a forensic setting may be utilized to assist an inmate/patient to process feelings, or may be used to address the inmate/patient's psychiatric problems, verbal expression of such problems should be curbed. In many cases, verbal expression of weakness may be detrimental in that others within the system may take advantage of such liabilities (Gussak, 1997c).

An art therapist in an "outside" facility works with clients to adjust to the societal norms to which they will be discharged. So does an art therapist in a forensic setting. In this environment societal norms are different, weakness is exploited and survival of the fittest is the rule. Many inmates violate others for their own benefit. People are imprisoned because they cannot adjust to societal rules, and cannot adapt to the outside culture. However, they have created a rigid norm within the prison. Those who cannot adapt in prison may not survive, especially inmates with mental illness.

Although a clinician may mean well, getting an inmate to express himself verbally in an FS may be contraindicated. Therefore, art therapy serves this population particularly well because artwork bypasses rigid sub-cultural prison prohibitions thus making it safe to express the unacceptable graphically simply because it would not be understood by peers.

Consequently, eight specific advantages of art therapy in forensic settings have emerged (Gussak, 1997c) Art therapy:

- 1- utilizes tasks whose simplicity may result in the expression of "...complex material which would not be available for communication in any other form..." (Kramer, 1958).
- 2- has the advantage of bypassing unconscious and conscious defenses, including pervasive dishonesty.
- 3- promotes disclosure, even while the client is not compelled to discuss feelings and ideas which might leave him vulnerable.
- 4- supports creative activity in prison and provides necessary diversion and emotional escape.
- 5- does not require that the inmate/patient know, admit, or discuss what he has disclosed. The environment is dangerous, any unintended disclosure can be threatening.
- 6- permits the inmate/patient to express himself in a manner acceptable to both the prison and outside culture.
- 7- can diminish pathological symptoms without verbal interpretation.
- 8- is helpful in the prison environment, given the disabilities extant in this population, contributed to by organicity, a low educational level, illiteracy, and other obstacles to verbal communication and cognitive development.

### **FAT Advantages**

Advantages associated with FAT have been identified with regard to investigative interviews with child victims of abuse (Cohen-Liebman, 1999). Benefits were discussed with regards to the victim, the process, and the system. A forensic investigation can be a stress provoking process for a victim/complainant and contribute to a diminished capacity to verbalize. FAT provides a victim/complainant with an alternative means of communicating. It also yields information that can serve as a

record of the process and provide evidentiary material that conforms to forensic dictates. Information derived from a fact-finding process may be used in the consideration of additional investigative measures and supportive interventions (Cohen-Liebman, 1999). Drawings have been identified as enhancing and increasing the productivity of the interview process (Farley, 2000).

### Conclusion

This paper was intended to create awareness of and an appreciation for the application of art therapy within forensic environments. FAT and FS are distinct and separate entities despite the commonality of the term forensics. Both models of practice are influenced by their affiliation with the legal system. Both provide a means of personal expression for their respective clientele. However, differences were identified in an effort to distinguish between the two modes of practice and to identify the dichotomy within art therapy related to forensics. This paper sought to outline fundamental applications associated with art therapy as an investigative technique, FAT, and as an intervention tool, FS, within an idiosyncratic setting.

### References

- American Psychiatric Association (1994). *Diagnostic and statistical manual of mental disorders* (4th ed.). Washington, D.C.: Author.
- Chaplin, J. P. (1985). *Dictionary of psychology* (Rev. 2nd ed.). New York: Dell.
- Cohen-Liebman, M. S. (1994). The art therapist as expert witness in child sexual abuse litigation. *Art Therapy: Journal of the American Art Therapy Association*, 11(4), 260-265.
- Cohen-Liebman, M. S. (1997, November). *Forensic art therapy*. Preconference course presented at the annual conference of the American Art Therapy Association, Milwaukee, Wisconsin.
- Cohen-Liebman, M. S. (1999). Draw and tell: Drawings within the context of child sexual abuse investigations. *The Arts in Psychotherapy*, 26(3), 185-194.

Cohen-Liebman, M. S. (in press). Using drawings in forensic investigations of child sexual abuse. In Cathy Malchiodi (Ed.) *Handbook of clinical art therapy*. New York: Guilford.

Cohen-Liebman, M. S., & Gussak, D. (1998, November). *Investigation versus intervention: Forensic art therapy versus art therapy in forensic settings*. Paper presented at the American Art Therapy Association 29th Annual Conference, Portland, OR.

Davies, D., Cole, J., Albertella, G., McCulloch, A. K., & Kekevan, H. (1996). A model for conducting forensic interviews with child victims of abuse. *Child Maltreatment*, 1(3), 189-199.

Dissanayake, E. (1992). *Homoaestheticus: Where art comes from and why*. New York: The Free Press.

Farley, R. H. (2000). *Child abuse and exploitation investigative techniques* (3rd ed.). Washington, D.C.: US Department of Justice

Fox, W. M. (1997). The hidden weapon: Psychodynamics of forensic institutions. In D. Gussak & E. Virshup (Eds.), *Drawing time: Art therapy in prisons and other correctional settings* (pp.43-55). Chicago, IL: Magnolia Street.

Gibbs, J. J. (1987). Symptoms of psychopathology among jail prisoners: The effects of exposure in the jail environment. *Criminal Justice and Behavior*, 14(3), 288-310.

Guralnik, D.B. (Ed). (1980). *Webster's new world dictionary of the American language*. Cleveland, OH: William Collins.

Gussak, D. (1997a). A brief history. In D. Gussak & E. Virshup (Eds.), *Drawing time: Art therapy in prisons and other correctional settings* (pp.xv-xx). Chicago, IL: Magnolia Street.

Gussak, D. (1997b). The ultimate hidden weapon: Art therapy and the compromise option. In D. Gussak & E. Virshup (Eds.), *Drawing time: Art therapy in prisons and other correctional settings* (pp.59-74). Chicago, IL: Magnolia Street.

Gussak, D. (1997c). Breaking through barriers: Art therapy in prisons. In D. Gussak & E. Virshup (Eds.), *Drawing time: Art therapy in prisons and other correctional settings* (pp.1-11). Chicago, IL: Magnolia Street.

Gussak, D., & Virshup, E. (Eds.). (1997). *Drawing time: Art therapy in prisons and other correctional settings*. Chicago, IL: Magnolia Street.

Haralambie, A.M. (1999). *Child sexual abuse in civil cases: A guide to custody and art actions*. Chicago: American Bar Association.

Kramer, E. (1958). *Art therapy in a children's community*. Springfield, IL: Charles C Thomas.

Kramer, E. (1993). *Art as therapy with children (2nd ed.)*. Chicago, IL: Magnolia Street.

Liebmann, M. (Ed.). (1994). *Art therapy with offenders*. London: Jessica Kingsley.

Mannarino, A.P., & Cohen, J.A. (1992). Forensic versus treatment roles in cases of child sexual abuse. *The Pennsylvania Child Advocate Protective Services Quarterly*, (4), 3-7.

Morgan, C. (1981). Developing mental health services for local jails. *Criminal Justice and Behavior*, 8(3), 259-262.

Rank, O. (1932). *Art and artist*. New York: W. W. Norton.

Raskin, D. C., & Esplin, P. W. (1991). Statement validity assessment: Interview procedures and context analysis of children's statements of sexual abuse. *Behavioral Assessment*, 13, 265-291.

Schetky, D. H., & Benedek, E. (1992). *Clinical handbook of child psychiatry and the law*. Baltimore: Williams & Wilkins.

Ursprung, W., Gussak, D., & Whisker, C. (1997, November). *Forensic art therapy*. Focus group presented at the American Art Therapy Association 28th Annual conference, Milwaukee.