

## **BACKGROUND MATERIAL**

### **ETHICS OF COMMENTARY ON MENTAL HEALTH OF PUBLIC FIGURES FOR PSYCHIATRISTS, PSYCHOANALYSTS AND PSYCHOLOGISTS**

The 2016 election and the early months of the Trump Administration has sparked a vigorous new debate about the so called “Goldwater Rule” which is explained in detail below. As of this writing, February 2017, psychoanalytic and psychiatric organizations are actively debating whether or not the Goldwater Rule should be revised. One important resource is an article by Jerome Kroll and Claire Pouncey in the *Journal of Psychiatry and the Law Online*, entitled “The Ethics of the APAs Goldwater Rule (*J Am Acad Psychiatry Law* 44:2:226-235 June 2016). The authors “question whether the Goldwater Rule is too restrictive in cautioning psychiatrists against public commentary and yet too lax to direct individual decision making”.

#### **1. BACKGROUND**

In 1963, during the presidential campaign between Lyndon Johnson and Barry Goldwater, a large number of psychiatrists were surveyed by *Fact* magazine (now defunct) about Senator Goldwater’s mental fitness for political office. The interviewed psychiatrists were quoted as offering diagnostic impressions such as that Goldwater was psychotic or paranoid. Obviously none had had any personal contact with the Senator. Senator Goldwater successfully sued *Fact Magazine* for libel.

Following the Goldwater episode the American *Psychiatric Association* its ethics code to prohibit such commentary on public figures. The American *Psychoanalytic Association* issued a strongly worded and tightly reasoned position statement directing its members to avoid commenting on public political figures. The authors of the statement state clearly that psychoanalytic observations about public figures necessarily cannot be assumed to have legitimacy. They base this conclusion on a conception, understandable at the time, that the only really useful psychological data about an individual is that obtained through a psychoanalytic relationship.

Strong feelings about political issues may be expected to impair with the psychoanalyst’s objectivity. And, Drs. Kohut, Anderson and Moore, authors of the 1964 APsaA statement, point out that severe mental illness in a politician will not escape public notice. Beyond this gross assessment of impairment, they argue, psychoanalysts have no basis to claim scientifically sound judgments. It is important to note that the Kohut et al opinion is based on the issue of professional competence, rather than an arbitrary prohibition. They insist that psychoanalysts’ knowledge about an individual can only derive from a personal clinical assessment in a confidential environment. In 2017, while

proper diagnosis should still be considered to depend on a personal interview, it seems to me that psychiatrists and psychoanalysts are well within their sphere of competence to offer expert opinions about observable behavior as long as they don't make assumptions about the internal mental life of the person being discussed.

When viewed from the angle provided by the issue of competence, the rule for psychoanalysts is analogous to codes of conduct common in other professions. One is expected to practice one's profession only within one's area of competence. For example, in the American Bar Association's ethical code, the requirement of competence (possessing sufficient knowledge and skill to represent a client) is the first rule. The full text of the 1964 statement can be seen below.

## **2. AMERICAN PSYCHIATRIC ASSOCIATION ETHICS CODE**

In the wake of the Goldwater affair, the American Psychiatric Association added the following rules to its ethics code (It is worth recalling that psychoanalysis dominated psychiatry in the 1960's and vice versa).

<http://www.psych.org/MainMenu/PsychiatricPractice/Ethics/ResourcesStandards/Principles-of-Medical-Ethics-2010-Edition.aspx?FT=.pdf>

1. Psychiatrists should foster the cooperation of those legitimately concerned with the medical, psychological, social, and legal aspects of mental health and illness. Psychiatrists are encouraged to serve society by advising and consulting with the executive, legislative, and judiciary branches of the government. A psychiatrist should clarify whether he/ she speaks as an individual or as a representative of an organization. Furthermore, psychiatrists should avoid cloaking their public statements with the authority of the profession (e.g., "Psychiatrists know that").
2. Psychiatrists may interpret and share with the public their expertise in the various psychosocial issues that may affect mental health and illness. Psychiatrists should always be mindful of their separate roles as dedicated citizens and as experts in psychological medicine.
3. On occasion psychiatrists are asked for an opinion about an individual who is in the light of public attention or who has disclosed information about himself/herself through public media. In such circumstances, a psychiatrist may share with the public his or her expertise about psychiatric issues in general. However, it is unethical for a psychiatrist to offer a professional opinion unless he or she has conducted an examination and has been granted proper authorization for such a statement.

### **3. FULL TEXT OF AMERICAN PSYCHOANALYTIC ASSOCIATION POSITION STATEMENT 1964**

Following the APA ethics code addition the American Psychoanalytic Association approved the following position statement written by then President Heinz Kohut, Russell Anderson and Burness Moore. (APsaA has not added this to our ethics code as the APA's did, but relies on the position statements, which do carry the force of the professions consensus judgment. As far as the ethics code is concerned it was considered to be covered by more general statements about professional behavior. I personally disagreed with this decision but lost that fight.)

A STATEMENT ON THE USE OF PSYCHIATRIC OPINIONS IN THE POLITICAL REALM (1964)

BY THE AMERICAN PSYCHOANALYTIC ASSOCIATION

Comments solicited from psychiatrists have been used in a recent article to support conclusions about the mental stability of a political candidate. The American Psychoanalytic Association views with concern such use of professional opinion: unverified impressions, when offered by specialists in any field, may be regarded as authoritative and scientific when in fact they can be neither.

It is understandable that some members of the professions dealing with mental illness might wish—out of a sense of social responsibility—to share their knowledge with the public in order to make a contribution to one of the most important activities in a democracy; the choice of a leader. However, professional judgments regarding the mental stability of any person have to be based on carefully evaluated psychological data which must be secured through a detailed review of the life history and a thorough clinical examination. Such information is most reliable when obtained in a therapeutic relationship in which there is the expectation of confidentiality and the wish to be relieved from emotional suffering as a motivation for self-revelation. These conditions do not exist in a political campaign. Not only are the available data about the emotional stability of a public figure different from those with which the psychiatrist and psychoanalyst usually work, but the strong feelings aroused impair that objectivity which is necessary for scientific assessment of behavior. Psychiatrists and psychoanalysts, no less than other people, are subject to the insecurities and emotions which may distort judgment and are inevitably stirred up during a political campaign.

Although the presence of severe and crippling mental illness is, of course, disqualifying, these conditions do not escape public recognition. Apart from such instances, however, there are no valid, well established psychological criteria which can be applied in the evaluation of the personality of a political leader. It is not the presumed underlying bases of behavior which count, but how these are resolved in final aims and actions. At

the present state of our knowledge, therefore, judgments about a political candidate must be based on his views, the political company in which he moves, his past opinions and actions, and those aspects of his character which are open to the scrutiny of all, rather than on an assessment of his emotional conflicts and idiosyncrasies.

Like other citizens, the psychiatrist or psychoanalyst has the right to take sides in public affairs and to express his opinions, privately or publicly, about the candidates competing for office. In so doing, he will, of course, draw from his personal experience, predilections and biases as well as from his scientific knowledge. The American Psychoanalytic Association is convinced, however, that such such private views must not be regarded as scientific inferences that are derived from valid and secure observations. It believes that the use of such views about the psychological fitness of a candidate during an election campaign serves no constructive purpose in the political life of the nation and is potentially damaging to science in general and to psychiatry and psychoanalysis in particular.

10/5/64

Heinz Kohut, M.D., President, The American Psychoanalytic Association

Russell Anderson, M.D., Secretary

Burness E. Moore, M.D., Chairman, Committee on Public Information

#### **4. EXCERPT FROM AMERICAN PSYCHOLOGICAL ASSOCIATION CODE OF ETHICS**

(Date of this plank unknown)

Standard 5.04

##### **5.04 Media Presentations**

When psychologists provide public advice or comment via print, Internet, or other electronic transmission, they take precautions to ensure that statements (1) are based on their professional knowledge, training, or experience in accord with appropriate psychological literature and practice; (2) are otherwise consistent with this Ethics Code; and (3) do not indicate that a professional relationship has been established with the recipient. (See also Standard [2.04, Bases for Scientific and Professional Judgments.](#))

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