

## **Forensic Evaluations**

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**Introduction:** The following describes the general procedures, principles, and potential ethical dilemmas that may arise in the context of a forensic mental health evaluation.

### **I. Forensic Evaluations: Principles and Procedures**

- A. **The Referral:** The referral sources request an evaluation of a client(s) in order to help the Court reach a decision in a legal proceeding.
- Clarify the referral questions, the clients, the roles of all parties, how the report will be used (and how it will not, if possible), and practical matters (e.g., deadlines).

As a matter of professional practice and standards, the mental health clinician should be aware of the relevant statutes, case law, and other criteria considered by or relevant to legal decision makers.

Prior to the evaluation the clinician:

1. Determines what legal constructs/standards/statutes are relevant for the forensic assessment and translates those criteria to psychological constructs (e.g., maturity, 'best interest of child'). Be aware that certain legal criteria are *issues of fact* (e.g., prior record) and others are *questions beyond the scope of clinical forensic expertise* (e.g., impact of the offense on the community).
  2. Identifies any potential conflicts of interests or problems (e.g., treatment provider, codefendant).
- B. **Conducting the Evaluation:** The mental health clinician utilizes valid, reliable, and generally accepted methods of accessing constructs (consistent with *Daubert, Frye*). Whenever possible, the mental health clinician uses multiple methods of assessing and describing constructs. The clinician should rely on testing, interviews with multiple informants, and documents from a range of sources. The information used by the evaluator in forming expert opinions should be clearly listed and/or described in any report/testimony.

## Conducting the Evaluation

### 1. Collateral Information: Documents and Interviews:

Medical/mental health records and providers  
Dept. of Social Services Records/GAL Records  
Parents, Foster Parents  
Academic Records/Teachers  
Occupational/Work Documents  
Juvenile Petitions/Delinquency History/Court Counselors  
Prior Court Records/Documents

### 2. Clinical/Forensic Interviews:

Purposes: To obtain history, assess current mental status, assist in making a diagnosis, and to evaluate attitudes/ beliefs/ understanding of relevant areas (e.g., needs of the child, discipline practices, capacity to proceed to trial interview).

Behavioral observations of the client(s) and parent-child interaction) are helpful in assessing family dynamics, maturity, communication styles, strengths/weaknesses, and in making a diagnosis.

### 3. Psychological/Forensic Testing

Testing can be useful in assessing potentially relevant areas (e.g., mental health symptoms); to determine level of functioning ability (e.g., IQ, adaptive functioning); to obtain additional data (“evidence”); to increase objectivity; and to assess specific and relevant forensic issues (e.g., exaggeration or minimization of symptoms, capacity to proceed to trial, parenting skills).

Keep in mind that experts may agree/disagree with the value or function of any given psychological instrument. Researchers have investigated the use of specific measures among experts (e.g., board-certified psychologists, as in: Robert P. Archer , Jacqueline K. Buffington-Vollum , Rebecca Vauter Stredny & Richard W. Handel (2006). A Survey of Psychological Test Use Patterns Among Forensic Psychologists, *Journal of Personality Assessment*, 87:1, 84-94, [http://dx.doi.org/10.1207/s15327752jpa8701\\_07](http://dx.doi.org/10.1207/s15327752jpa8701_07))

An expert should be able to discuss the attributes of a test (validity, reliability, acceptance in the field), as well as the reason s/he used a particular test in a given case, both in terms of how it is relevant to the forensic issues of the case (e.g., IQ test in a parenting evaluation) and in terms of its applicability to the individual taking the test (e.g., the use of a risk assessment instrument with a first-time offender).

- C. Communication: Mental health clinicians maintain contact with the referral source and makes changes to the evaluation objectives and process, if possible/necessary. Ex: Additional evaluation questions, unhelpful information is uncovered, conflicts of interest.
  
- D. The Report and Testimony: Mental health clinicians provide feedback in a timely manner and should include clear descriptions of all relevant information (e.g., dates of evaluations, collateral documents, relevant history, test results). Expert opinions – and any limitations or restrictions of that information - should respond directly to the referral question and should be clearly stated. Mental health clinicians are obligated to maintain an up-to-date knowledge of research relevant to the forensic issues of the case and are able to apply that research appropriately (e.g., treatment amenability, recidivism, brain development).

## **II. Practical Issues: What Evaluators Need to Know**

The Court Order (and/or accompanying documents) should specify:

- a. Evaluator(s)
- b. The Referral Questions
  - What are the specific questions to be answered?
  - What are the legal criteria or states?
  - How the report will be used/not used?
- c. Who is the Referral Source? Attorney/Court/DSS
- d. Funding (source, limits/rates)
- e. Expectations (timeframes, report/testimony)
- f. Records, Authorizations (e.g., to obtain records) and Limitations (e.g., who cannot be interviewed/observed)
- g. Access (e.g., jail letter, school)

### **III. Ethical Standards, Principles, and Guidelines (links)**

#### General

- A. Ethical Principles of Psychologists and Code of Conduct with 2010 Amendments  
<http://www.apa.org/ethics/code/index.aspx>
- B. Specialty Guidelines for Forensic Psychologists, APA (2013)  
<http://www.apa.org/practice/guidelines/forensic-psychology.pdf>
- C. Ethical Guidelines for the Practice of Forensic Psychiatry  
<http://www.aapl.org/ethics.htm>
- D. National Organization of Forensic Social Work  
<http://nofsw.org/?s=ethics>

#### Child Custody/Divorce

- A. Guidelines for Child Custody Evaluations in Family Law Proceedings (APA, 2010): <https://www.apa.org/practice/guidelines/child-custody.pdf>
- B. Model Standards of Practice for Child Custody Evaluation, Association of Family and Conciliation Courts, 2006:  
<http://www.afccnet.org/Portals/0/ModelStdsChildCustodyEvalSept2006.pdf>

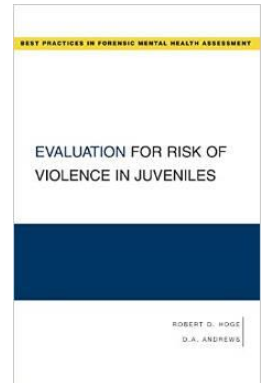
#### Child Protection Matters

- A. Guidelines for Psychological Evaluations in Child Protection Matters, APA (2013)  
<http://www.apa.org/practice/guidelines/child-protection.pdf>

#### IV. Recommended Resources, Quick Reads, and Websites

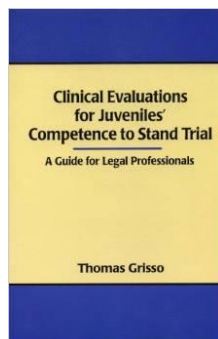
- A. Quick Reads: Best Practices in Mental Health Assessment Series, Editors: Thomas Grisso, Alan Goldstein, and Kirk Heilbrun; Oxford University Press

Relatively concise (150-200 pp) but thorough books on specific topics related to mental health law. Each title covers a given area (e.g., Evaluation of Risk of Violence in Juveniles) and is written by the professionals who are considered to have substantial clinical and research expertise in that area.



Each book in the series follows a basic format of providing a foundation of relevant forensic mental health concepts, a summary of research in the area, how/what comprises a forensic evaluation of the issues, a review of specialized tests/instruments, and an overview of case law and statutes.

- B. Thomas Grisso's Work: Well written; covers legal statutes and practical issues. Grisso is one of the first and most well known researchers in the area of juvenile delinquency.



Forensic Evaluations of Juveniles, Second Edition (2013)

Clinical Evaluations for Juveniles' Competence to Stand Trial: A Guide for Legal Professionals (2005)

- C. Web Sites

The MacArthur Foundation Research Network on Adolescent Development and Juvenile Justice: <http://www.adjj.org/content/index.php>

National Institute of Mental Health Publications: Child/Adolescent Mental Illness, Adolescent Brain Development:  
<http://www.nimh.nih.gov/health/publications/children-and-adolescents-listing.shtml>