BEST PRACTICES IN FORENSIC MENTAL HEALTH ASSESSMENT

EVALUATION OF JUVENILES' COMPETENCE TO STAND TRIAL

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Preparation for the Evaluation

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Chapters 4, 5, and 6 provide guidelines and recommendations for preparing to conduct a CST evaluation of a juvenile, collecting the data, and interpreting the data. Preparing for the evaluation (this chapter) is among the most important stages of the evaluation, because decisions made early in the process will influence the whole course of the evaluation.

Qualifications for Conducting Juvenile CST Evaluations

As earlier chapters underscored, juvenile CST evaluations pose unique challenges relative to adult CST assessments (Grisso, 2003a; Oberlander, Goldstein, & Ho, 2001). Consequently, juvenile CST examiners must possess a unique blend of expertise, including special training, knowledge, skill, and experience (Grisso, 1998). Juvenile CST examiners must possess expertise in forensic assessment and child development (Borum & Grisso, 2007; Grisso, 2005; Oberlander et al., 2001). Furthermore, they must develop expertise about the functioning of the criminal and/or juvenile justice systems within which they will be serving and about the youth who become involved in them.

Few graduate training programs provide adequate cross-training in the knowledge and skills required for juvenile CST evaluation practice (Borum & Grisso, 2007; Grisso, 1998; Oberlander et al., 2001). Therefore, most juvenile CST examiners will need to develop adequate expertise in other ways. Consistent with this view, some jurisdictions require juvenile CST examiners to obtain specialized training and meet state credentialing

requirements. The present volume can only scratch the surface of the information that juvenile CST examiners will need, but the types of knowledge associated with adequate practice can be identified.

Forensic Mental Health Expertise

Forensic mental health evaluations are conducted specifically for use in a legal context or to assist in specific legal decision-making (Grisso, 1998; Melton et al., 2007). Forensic evaluation practice is distinguished from general clinical evaluation practice in critical ways that are thoroughly reviewed in the first volume of this series, *Foundations of Forensic Mental Health Assessment* (Heilbrun, Grisso, & Goldstein, 2009). Forensic mental health examiners must be trained to practice within relevant practice standards, such as those offered by Heilbrun (2001), Grisso (2003a), Rogers and Shuman (2005), and Melton et al. (2007).

Examiners who lack adequate forensic mental health training are at risk of making basic mistakes, such as offering opinions that are inadequately substantiated, inadequately reasoned, and beyond the expertise of the mental health professions, or even failing to recognize the nature of the legal inquiry (Grisso, 2003a). These mistakes can occur from unfamiliarity with relevant laws, specialized ethical standards (Committee on Ethical Guidelines for Forensic Psychologists, 1991; American Academy of Psychiatry and the Law [AAPL], 2005), and/or specialized assessment methods.

Forensic mental health practitioners can avoid such mistakes by adhering to a ***legal–empirical–forensic model*** in which opinions reflect understanding of the relevant legal standards and the application of empirically grounded methods and procedures to the specific case (Rogers & Shuman, 2005). Of course, this model requires specificity to the type of forensic mental health evaluation, such as juvenile CST. Competence in one area of forensic evaluation practice does not necessarily establish one's expertise in another (Melton et al., 2007).

Child Clinical and Developmental Expertise

Working with children in clinical contexts has long been recognized as a specialty area because of the added complexities and

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Lack of adequate training in the application of general forensic evaluation standards to specific types of forensic evaluations can lead to basic mistakes.

need for specialized knowledge. Child clinical evaluations require an understanding of age-specific development; assessment strategies across multiple domains, contexts, and informants; and the diagnostic ambiguity characteristic of developmental psychopathology (Kamphaus & Frick, 2001). For juvenile CST examiners lacking appropriate child clinical and developmental expertise, the risk of making mistakes is so high that such practice is patently incompetent and unethical (Grisso, 2005; Oberlander et al., 2001). For example, Kruh has been involved in juvenile CST cases in which mental health experts, who were trained only with adults, identified a verbally delayed 11-year-old as demonstrating "disorganized psychosis," administered adult assessment measures to children well below the age range on which the test was standardized, and altogether missed important diagnoses, such as Asperger's disorder, because of unfamiliarity with disorders more typically diagnosed in youth. Several types of child clinical and developmental expertise are needed for juvenile forensic assessment.

UNDERSTANDING NORMAL DEVELOPMENT

Developmental psychology involves the scientific study of the common variations of changes in physical, intellectual, emotional, and social development that occur across individuals over the life cycle (Steinberg & Schwartz, 2000). Clinical evaluations of youth must consider that the domains being assessed are always in flux (Lahey et al., 2004). Therefore, juvenile CST examiners should be knowledgeable in the early theories of developmentalists such as Piaget, Erikson, and Kohlberg, as well as in the decades-long research that followed these theories. Study of a commonly used graduate-level developmental psychology text (e.g., Steinberg, 2007) can help in developing this foundation. It can also be fostered through other forms of quality continuing education.

BEST PRACTICE

Acquire child clinical and developmental expertise in the following:

- Normal development
- Developmental psychopathology
- Developmentally appropriate assessment

KNOWLEDGE ABOUT DEVELOPMENTAL PSYCHOPATHOLOGY

Examiners must be familiar with disorders more commonly diagnosed among children (e.g., pervasive developmental disorders, fetal alcohol syndrome) and with the unique childhood presentation and/or diagnostic criteria of other disorders (e.g., the role of irritability in major depressive disorder among youth). They need specialized training in the ambiguities of differential diagnosis among youth because of the true symptom overlap between disorders (e.g., anger and irritability in both behavior and affective disorders; distractibility in both attentional and affective disorders) and the limitations in child mental health diagnostic classification systems that exacerbate diagnostic ambiguity (Grisso, 2005; Mash & Hunsley, 2005; Schwartz & Rosado, 2000). Examiners must also appreciate the high prevalence of comorbid disorders in youth (Jensen, 2003; Youngstrom, Findling, & Calabrese, 2003).

Interactions between mental health symptoms and normal development also make diagnosis of mental illness itself less reliable among juveniles than in adults (Dulit, 1989; Mattanah, Becker, Levy, Edell, & McGlashan, 1995). The appropriate label and conceptualization of a disorder, the characteristics of a disorder, and the impact of a disorder on functioning can vary according to when the disorder emerges during a person's development, but many of the developmental patterns of disorders are not well charted (Grisso, 2005; Kazdin, 2000).

Therefore, examiners should understand childhood disorders from a *developmental psychopathology* perspective. That is, psychopathology is to be understood in relation to normal development and adaptation (Cicchetti, 1990, 1993). Symptoms of pathology result from adaptational compromises or failures in normal development (Cicchetti & Rogosch, 2002). Once they develop, these symptoms continue to interact with patterns of normal development, making the stability and trajectory of identifiable problems difficult to specify (Borum & Grisso, 2007; Grisso, 1998). In short, the lines between normative development and pathology are often unclear.

ABILITY TO PERFORM DEVELOPMENTALLY APPROPRIATE ASSESSMENTS

Juvenile CST examiners must have specialized training in child and adolescent assessment. Interviews must include developmentally appropriate questioning and responses must be placed within an appropriate developmental context (Borum & Grisso, 2007; Mossman et al., 2007). Interviews may need to accommodate information processing, expressive language, and/or attentional weaknesses (Slobogin et al., 1997). Examiners must be skilled at navigating the more complex relational styles demonstrated by youth, such as extreme oppositionality or poorly differentiated attachment. They need to be trained in the selection, administration, and interpretation of tests used in child assessment, including assessment modalities that are uncommon with adults. Examiners must also be skilled at integrating information obtained at different ages, using multiple assessment methods, and data from a variety of informants, as well as addressing functioning in a number of contexts and social systems (Mash & Hunsley, 2005).

Expertise About Justice Systems and Delinquency

To conduct juvenile CST evaluations, examiners need an understanding of the processes and procedures of the justice system(s) within which they work (Grisso, 1998). This includes the history and logic for the existence of criminal and juvenile courts, and knowledge about the general process of cases in each. Additionally, examiners need to know the procedures in the specific courts where they conduct evaluations, including local laws (statutes and case law), local systems of detention, courts, attorneys, and services for adjudicated youth, and contours of the interface between the justice and mental health systems.

Examiners must also have expertise in the patterns of development, psychopathology, and offending that are typical of youth in juvenile justice settings. For example, examiners need to understand the developmental pathways to

BEST PRACTICE

Be familiar with the justice systems in which you are practicing and the typical youth involved with them.

BEWARE
Ignorance of issues common among juvenile defendants can lead to critical misattributions.

juvenile offending (see, e.g., Loeber, Slot, & Stouthamer-Loeber, 2007), theories about subtypes of children with conduct problems (e.g., McMahon & Frick, 2007), and theories about the psychology of offending (e.g., Andrews & Bonta, 2007). They also require expertise in the relations among offending and disruptive behavior disorders, substance use disorders, affective disorders, posttraumatic stress disorders, developing personality disorders, cognitive disorders, and psychotic disorders.

Examiners need to be knowledgeable in the impact and implications of the life complexities common among youth involved in the justice system, including

- relational and residential disruptions from separation, divorce, incarceration, abandonment, and parental termination;
- variations associated with race, ethnicity, and cultural diversity among delinquent youth;
- varieties of special education classifications, placements, and services; and
- programs within social service, foster care, mental health, chemical dependency, and justice systems.

Ability to Maintain Objectivity

Clinicians who perform forensic evaluations must be able to maintain an objective, dispassionate stance when conducting these evaluations (Greenberg & Shuman, 1997; Melton et al., 2007). Examiners must be particularly sensitive to internal threats to objectivity from beliefs and values. Examiner objectivity can be threatened by a wide range of extreme and inflexible views about child conduct problems (e.g., attachment theories versus behavioral theories), juvenile offenders (e.g., social learning theories versus sociological theories), the juvenile justice system (e.g., "Children with mental health problems don't belong in the juvenile justice system" versus "Juvenile justice is the best way to change troubled kids"), and politics (e.g., "child-saving" child

BEWARE
Be sensitive to internal and external threats to objectivity in juvenile CST evaluations.

welfare orientation versus "lock 'em up" punitive orientation) (Kruh, 2006; Schwartz & Rosado, 2000).

Potential threats to objectivity in juvenile CST evaluations can also come from external factors, such as blurred lines between retribution and rehabilitation goals that can make the intent of the juvenile adjudication process unclear. Examiners must be especially sensitive to the potential for the progressive development of biases as a result of establishing closer contact and relationships with either the prosecution or defense communities. For example, examiners may begin to see genuine CST concerns as "an excuse to avoid punishment" or develop an oversensitivity to CST concerns (Grisso, 1998).

Clarifying the Referral

Examiners have an active responsibility to clarify the referral with precision before a CST evaluation begins. Those who fail to do this run a serious risk of straying into unprofessional or even unethical practice. As explained below, discussions with the referral party, the court, and/or other legal entities about a number of issues must be considered. As examiners become more experienced and clearer about the evaluation issues, some of the topics will no longer need to be explicitly discussed. This may especially be true when examiners work in contexts where roles and relationships are well established, clear, and consistent, such as working as a court clinic examiner or as the "go-to" examiner of a given attorney. Examiners in more variable contexts or developing new attorney contacts may need to explore these issues regularly.

BEST PRACTICE
For CST referrals, be sure to do the following:

- Obtain proper authorization
- Clarify the referral question
- Clarify the clinical concerns
- Clarify any non-CST goals

Evaluation Authorization

Examiners obtain appropriate authorization for conducting the evaluation before initiating it (Heilbrun, 2001). The authorization