

## Clinical Evaluations for Juveniles' Competence to Stand Trial: A Guide for Legal Professionals

By Thomas Grisso, PhD. Sarasota, FL: Professional Resource Exchange Inc., 2005. 46 pp. \$18.95.

Reviewed by Greg Wolber, PhD

Dr. Grisso describes this small book as a "guide" to assist legal professionals (judges and lawyers) to understand the mental health professionals' assessment of juvenile competence. This guide for legal professionals makes reference to having been developed as a "companion" to *Evaluating Juvenile's Adjudicative Competence (EJAC): A Guide for Clinical Practice*, written by Dr. Grisso to instruct mental health professionals on the evaluation of juvenile competence.

The text is only 46 pages long. It is, however, concise and seems to present the crux of the problems surrounding the assessment of juvenile competence. Concepts for the guide were developed during the course of earlier preparation of the parallel clinicians' guide (*EJAC*). Contributing was a work group of individuals with extensive experience in the evaluation of juvenile competence: consulting juvenile court clinicians, consulting judges and lawyers, and members of the MacArthur Research Network on Adolescent Development and Juvenile Justice. The guide has four chapters, or parts: Part 1, "The Legal Standard and Process"; Part 2, "Taking a Developmental Perspective"; Part 3, "Understanding Clinicians Evaluations"; and Part 4, "Using Clinicians' Opinions." From the beginning, Dr. Grisso introduces the concept of developmental immaturity as a potentially incapacitating factor in juvenile competence; however, he also points out that immaturity does not necessarily mean incompetence.

In Part 1, "The Legal Standard and Process," Dr. Grisso defines the legal standard as *Dusky v. the United States* (1960) and points out that the law in most states is silent regarding developmental immaturity relevant to incompetence to stand trial. He presents, with clarity, the steps involved in the legal process for the assessment of competency to stand

trial to include raising the question of competence, ordering the evaluation, the course of the evaluation, the hearing on competence, and the disposition for the finding of incompetence. Realistically, he points out that there is a lack of resources in many communities for programming devoted to restoration of competency to stand trial in juveniles.

In Part 2, "Taking a Developmental Perspective," Dr. Grisso presents some of the clinical and psychological factors that can be relevant to juvenile competence to stand trial. He provides examples such as mental retardation, learning disabilities, or severe Attention-Deficit/Hyperactivity Disorder. He then differentiates between cognitive and psychosocial maturation, providing examples of each. He goes on to point out that we should not base the assessment of maturation on age alone. He cites the MacArthur research, which demonstrated that youths aged 15 and younger perform more poorly than young adults, when assessed for competence to stand trial. Also, he points out that the MacArthur study found that when IQ scores are below 75, incompetence to stand trial increases in youth 13 years of age and younger, although 16- and 17-year-olds with IQs below 75 were found to be no different in competence to stand trial from adults. Dr. Grisso then provides several relevant and specific ideas related to maturation to guide lawyers and judges when considering juvenile competence. He points out that special sources of information may be needed for juvenile evaluations—for example, school records and parent interviews—and that youth understanding can be factual but not rational, with a lack of appreciation of the gravity of the legal circumstance, and he provides examples of these. He again emphasizes that cognitive and psychosocial status are as important to the assessment of competence to stand trial as clinical status.

In Part 3, "Understanding Clinicians' Evaluations," Dr. Grisso addresses what he believes legal professionals should expect of a mental health evaluation of juvenile competency to stand trial. Also in this section, he suggests ways that the legal professional might contribute to the evaluation. He provides reasons that a legal professional may want to refer a juvenile for assessment of competency to stand trial, including prior mental illness, low IQ, or learning disability; age 13 years or younger; and deficits in memory attention or interpretation of reality. He

then discusses the preparation for the evaluation and seems to advocate, though cautiously, for the involvement of defense counsel to include attendance at evaluation interviews. He addresses the primary content of the juvenile competence interview, dividing it into two primary areas: understanding and appreciation. Understanding is defined as having a grasp of factual and procedural matters, while appreciation is related to beliefs and perception, and “rational understanding.” He then provides an outline of the different domains to assess during the interview. He essentially lays out in a concise and straightforward manner what legal professionals should expect from interview data to use in addressing the *Dusky* standard. He warns that if instruments that measure competence are employed, they should be used with caution and that, at the time this guide was published, there were no recognized instruments that provided methods for comparing youth.

In Part 4, “Using Clinician’s Opinions,” Dr. Grisso provides an outline of what should be expected in the evaluation report. This presentation appears to be fairly standard. He appropriately points out that the report “must explain how the data led to their opinion” (p 30). He provides a rational argument for why the “bottom line” opinion (definitive statement that the juvenile is or is not competent to stand trial) is not always appropriate. He then provides examples from an interview with a juvenile assessed for competence and includes explanations that relate to developmental factors that might affect rational understanding, appreciation, and other psychological factors that might affect competence. Dr. Grisso ends Part 4 with a discussion concerning disposition and recommendations. He again addresses the limitations of dispositions that are due to the lack of programming and touches on the questions of developmental immaturity and mental retardation in the context of time limits established for restoration.

This reviewer’s opinion is that the short length of this guide is an asset. My experience has been that lawyers and judges have generally disliked having to wade through long documents or just do not read them; they do not seem to have the time. But does the guide meet its purpose? Does it provide a structure to assist judges and attorneys when thinking about their competence-to-stand-trial cases involv-

ing juveniles? It is this reviewer’s opinion that this document does just that: it presents in a clear and concise manner the legal standard and process, the importance of understanding developmental factors relevant to competency, the specifics concerning the content of the evaluation and report, and the concerns about disposition once the opinion is rendered.

As a forensic evaluator, this reviewer has found that judges and lawyers are frequently unaware of the specific statutes that guide the legal process for evaluation of competency and in many states, legislation relevant to the evaluation of juveniles is limited. Dr. Grisso provides clarity about the legal process and what legal professionals should expect generally from an evaluation of competency to stand trial. Also, he makes it clear that more specific information may be obtained from references cited to include the companion guide, *Evaluating Juvenile Adjudicated Competence: A Guide for Clinical Practice*. He brings in an element of realism to his writing when balancing evaluation needs against such constraints as time requirements and resource limitations. He makes several important points and presents the components that are the crux of a good evaluation. He not only lays out in a concise manner the areas that the legal professional should expect to find in the evaluation, but also indicates that the evaluation should explain how the data led to the opinion given. He explains to his audience of legal professionals why evaluating mental health professionals may not always be able to give a “bottom line,” which can be perplexing to court officials.

While Dr. Grisso has written this text for legal professionals (for whom it should be very informative), it is this reviewer’s opinion that his text would be helpful to students and beginning forensic evaluators, particularly those assessing adolescent competency. Mental health evaluators who purchase the clinician’s guide may also want to have the *Guide For Legal Professionals* in their libraries to share with those attorneys and judges with whom they work. Legal professionals will want to have this text in their libraries for reference.

In summary, Dr. Grisso has extracted the relevant information concerning juvenile competency evaluations and translated it into a brief but concise and useful document that provides a good review of juvenile competency evaluation.