

# Professor Thomas Grisso: The “Architect”

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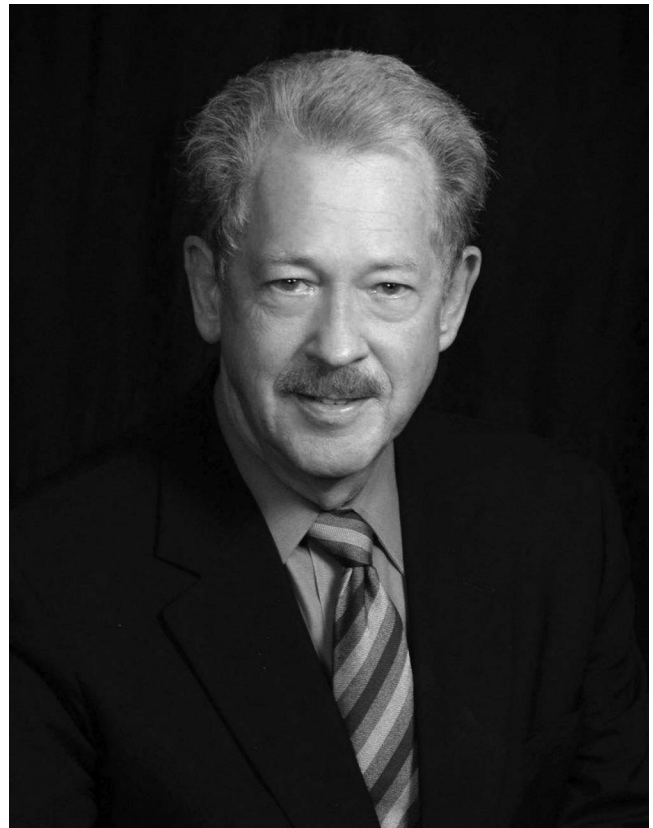
*J Am Acad Psychiatry Law* 46:279–85, 2018. DOI:10.29158/JAAPL.003784-18

Professor Thomas Grisso, known to everyone as Tom, is Professor Emeritus at the University of Massachusetts Medical School. This story of his life describes and summarizes his work and achievements. Those who know him well will recognize that I am unlikely to do his work full justice in a short review like this; and the term “justice” is ironic as I discuss his extensive and multiple contributions to the justice process in different legal fora, contributions that have changed the lives of many defendants for the better. I was fortunate to meet Tom at a formative moment in my career, and I am grateful to him for his generosity in making time to talk to me to prepare this publication. I am certain I will not be alone in saying how much I have been honored and privileged to learn from him, work with him, and to have had him as the “right-time” mentor we all need at critical junctures in our careers.

## Background

Tom Grisso was born in October 1942 in Dayton, OH, to parents who instilled in him the values and principles by which he has lived his life. His father was a minister of a small Christian denomination called “Brethren,” which was active in Ohio, Pennsylvania, and Illinois. When Tom was seven years old, his father was asked to start a church in Tucson, AZ. Much of Tom’s formative years were spent in Arizona and he went back to Arizona for his graduate studies. Tom’s late mother was a special education

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teacher who taught until she was 60, and Tom’s interest in children arose from his close relationship with his mother. She had, as Tom described, “a way with the kids,” and she was interested in where they came from, as Tom came to be later. In those early days of applied behaviorism, Tom remembered going with his mother to her school

and observing how children's behavior could be modified with reinforcement.

Tom described his father in terms of the Church of which his father was a part: nonconfrontational and with a "Quaker-like approach to group decision-making," that is, with discussion and consensus, not voting. This approach to conflict and debate influenced Tom's later approach to contentious issues, and to his skill in persuading the skeptical, using argument and evidence rather than assertion and dogma.

Tom studied at Ashland College in rural Ohio. He told me that he had some brilliant teachers who would have been impressive at any Ivy League school, and he particularly enjoyed creative writing, drama, and philosophy. Coming out of college, he did not know for sure what he wanted to do, but even at that early stage he recognized that he wanted to change how people were treated by society, transforming its systems and organizations, much like the teachers who had so impressed him at Ashland. Throughout his life, says Tom, he had the good fortune to meet the "right-time" teachers and mentors who helped him with his choice of study and research.

He studied psychology at the University of Arizona, where he gained his PhD. Unsure of his next steps, he returned to Ashland College and took up a teaching role. He taught undergraduates in psychology seminars and spent 16 hours a week working as a therapist with college students. His experience there convinced him that his skills lay in the assessment of young people's problems, as opposed to treatment. He found a small consulting job with the local Ohio Youth Commission Forestry Camp, which was part of a scheme for youthful offenders. Tom's assignment was to assess the delinquent adolescents who had been sent there. He was required to read these young people's legal case files, and he became interested in where they came from and how they got into trouble. He started to form ideas about the legal and social processes involved and wondered whether psychology might have something to offer in the adjudication process for juveniles, not just in the rehabilitation process. Remembering this, Tom modestly commented that "it is hard to imagine, I suppose, but I naively thought this was an original idea."

In fact, in the early 1970s, it was not only an original idea, but a great one. At that time, there was little written on forensic psychology, few chapters on psychology and law at the American Psychological

Association, and practically no psychologists who worked in courts at the adjudication stage. There were some psychologists working in the criminal justice system, mainly in correctional services. The juvenile justice system was still a paternalistic, welfare-based system, not strictly adversarial. The difference between adults and children was emphasized. Technically, juvenile courts did not require juvenile defendants to "participate" in their cases, which meant that no legal professionals concerned themselves with the competency of the juvenile accused. However, access to justice by juveniles then came under Supreme Court scrutiny in a case involving a minor named Gault, who was not 18 at the time of his offense. The Supreme Court had unanimously found "had Gault been 18 at the time of his arrest, he would have been afforded the procedural safeguards available to adults," and juveniles were entitled to certain procedural safeguards under the due process clause of the Fourteenth Amendment. After *Gault*,<sup>1</sup> some sort of change was in the air.

All this, Tom did not yet know, but his work with the youth in the Youth Camp made him look more deeply into what was published on the psychology of offenders. He found a book called *Psychologists in the Criminal Justice System*, by Stanley Brodsky,<sup>2</sup> who was a faculty member at the University of Alabama in a program called the Center for Correctional Psychology. He also read a paper by D.E. Silber<sup>3</sup> in the *American Psychologist* on the potential role of psychologists in criminal justice. He noted that Silber's conclusions were inconsistent with Brodsky's work and he wrote a critique, comparing the authors' work. After much soul-searching, Tom sent the paper to Brodsky, who encouraged him to submit the paper for publication in the *American Psychologist*, where it was accepted. It is a marker of Tom's capacity for collaboration and professional friendships that, 40 years on, he and Brodsky (both now retired) have recently published a history of the role of psychology in law<sup>4</sup> and how it all began in the 1970s.

Tom went on to publish other early papers on juvenile justice, and on the back of these efforts, he taught graduate students at St. Louis University in 1973. He made contacts with the St. Louis County Juvenile Court and, in 1975, he started his first NIMH-funded research at that court, examining juveniles' capacities to understand *Miranda* rights. This scholarship produced important results and was noticed (and funded) by the late Dr. Saleem Shah,

who was then head of NIMH's Center for Studies of Crime and Delinquency. Shah is recognized as having greatly enriched American Forensic Psychiatry and Psychology by channeling grants to promising forensic researchers, and Tom has called Saleem one of his "right-time" mentors.

Tom and his group in St. Louis successfully applied for NIMH grants to study juvenile capacity. He became a tenured professor of psychology at St. Louis University and an Associate Professor of Psychology and Law at its School of Law. Unusually, one of those grants (a full \$90,000) was awarded to Tom to complete a book, which became the first edition of *Evaluating Competencies*.<sup>5</sup> Dr. Shah also offered Tom \$10,000 for something else he didn't request: to visit several states' forensic hospitals nationwide to provide lectures on the book, because Dr. Shah was concerned that they might not actually read it. This book provided a theoretical basis and an empirical model for how to study capacity—not just in the field of adjudicative competence, but in other domains of law. The book received high academic praise, and Tom's work acquired the level of recognition that few researchers achieve. Less than 10 years after his arrival in St. Louis, he was elected a Fellow of the American Psychological Association.

Tom's journey from St. Louis to Massachusetts began in 1986, following a telephone call from another well-known American forensic psychiatrist, Paul Appelbaum. In 1986, Appelbaum had already been at the University of Massachusetts for three years, and he invited Tom to help build their Law and Psychiatry Program, which would be truly interdisciplinary with psychologists, lawyers, judges, and social scientists. The State's Department of Mental Health (DMH) was reconstructing the forensic system and the court clinics, as there was no quality control or continuing education in those days. The Massachusetts Designated Forensic Professional program, which accredits every practitioner who wants to practice public forensic psychiatry in the state, was being constructed by Appelbaum and Massachusetts' DMH Forensic Director, Robert Fein. The DMH at that time was visionary in retaining the university to provide the academic training and quality control, which allowed the Department of Psychiatry to have direct input into how policy in adult and juvenile forensic practice would be implemented.

The prospect of teaching in such a premier academic institution, while shaping policy and practice

related to how forensic evaluations were done in a progressive state such as Massachusetts, was both inviting and daunting to Tom. There was unlikely to be a better opportunity to influence policy along the lines that Tom had already started to articulate in his research; in his words, "to be able to create something statewide, something that will change practice—it was attractive." On the other hand, he was leaving a tenured position, a steady salary, the comfort of not having to earn his salary (and more) through attracting millions in research grants, which were at that time getting harder to obtain. He would also have to uproot his family, which included a daughter in high school.

After much discussion and deliberation, Tom and his family made the move, and Worcester, MA, some 40 miles west of Boston, became his new home. He co-directed the Law and Psychiatry Program with Appelbaum, and over the next 25 years, he taught countless residents and fellows, many of whom have gone on to become giants themselves in the field all over the world. Together, for almost two decades, Appelbaum and Grisso enabled the University of Massachusetts Medical School to be one of the most reputable law-and-psychiatry research institutions in the country. Their main collaboration together was to do research on patients' capacities to consent to treatment through the MacArthur Foundation Research Network on Mental Health and Law.

Many awards have followed. In 2005, Tom was awarded the American Psychiatric Association's Isaac Ray Award for distinguished contributions to medical jurisprudence. In 2006, the Royal College of Psychiatrists in the United Kingdom conferred on him its highest honor, Honorary Fellowship, in a ceremony in Edinburgh, Scotland. Tom is one of the few scholars who have won the prestigious Manfred Guttmacher Award multiple times. The award recognized distinguished publications that Tom co-authored with Appelbaum. Tom has also served on the editorial boards of several journals in the field of law and human behavior.

Of all his domains of research, he calls the research on juvenile capacity to waive *Miranda* rights the most important,<sup>6</sup> not just for its findings, but also for the process of discovery in psychology and law. His work on *Miranda* involved determining what the law wants to know about mental function, which cannot be measured by simply translating information into psychological language and hypothesis testing. Rather, Tom's

work provided a model of logical process by which a court could test psychological evidence.

Tom also feels rightly proud of the creation and dissemination of the Massachusetts Youth Screening Instrument (MAYSI) with forensic psychiatrist Richard Barnum. MAYSI was conceived in a short conversation between Tom and Barnum about the need for a gate-keeping screening instrument that could be used when children entered the juvenile justice system. Such a screening tool would have to be administered by non-clinicians and take no more than 10 minutes to administer. There was a wide demand for such a tool, so Tom and his colleague were ahead of the game in developing and validating the MAYSI. By the time I left Massachusetts in 2013, MAYSI was being used statewide in juvenile justice facilities in more than 40 states, and, in terms of suicide prevention, its impact has been significant. Although the MAYSI was copyrighted, it was published in a way that did not require fees for administration to each youth, so long as the purchaser registered with University of Massachusetts and agreed to be contacted to be asked to share their data. By 2005, data had been collected from 70,000 cases in 19 states and 290 sites. The MAYSI is now used nationally and electronically, and translations are now available in 10 languages, with a large group of researchers in Europe doing collaborative research with the MAYSI in European juvenile justice settings. There are over 3,000 registered users worldwide today.

Tom continued to be involved in the revolution that took place in juvenile justice in the first 15 years of the 21st century through the MacArthur Foundation Research network on Adolescent Development and Juvenile Justice. Within that network, Tom led its research on questions of juveniles' immaturity relevant to their competence to stand trial. The network, funded by the MacArthur Foundation, which operates in states as far flung as Pennsylvania, Illinois, Louisiana, and Washington, also supported the project "Models for Change," where Tom and colleagues have provided resources, technical assistance, and training on tools like the MAYSI if institutional users develop programs that benefit juveniles in measurable ways. It was a great success.

### **Personal Discussions**

Before I met Tom Grisso in real life, I had read much of his work to date (we are talking about 2001) and I had a mental image of him. In those days,

Google image did not churn out photos like it does today. I had imagined a rather stern, patrician, and very important—and thus inaccessible—figure. In real life he was nothing like that, except the important figure bit. On a personal level, he was most approachable, and he was wonderfully tolerant of my relative ignorance as a British psychiatrist naïve about the ways of the American legal system.

Our first meeting came when I was a visiting scholar at the University of Massachusetts Law and Psychiatry Program. I was struck by Tom's quiet, unassuming presence that still lit up the room. I remember being in a seminar in the fall of 2001. He was supposed to attend the class, not teaching but just observing and taking questions. A few moments earlier, the instructor had explained the large collection of donuts and coffee that day, saying it was Tom's birthday and we should all wish him well when he came in. In came Tom, and the instructor greeted him: "We were just talking about you." Tom smiled and asked, "What? Elder abuse?" Of course, that was the topic of the seminar that day. Almost 20 years on, I cannot forget how genuinely warm and affectionate his face was when we wished him many happy returns of the day.

Tom told me a story of being the "juvenile delinquent." He recalled how, as a bored adolescent during the endless summer in scorching Tucson, AZ, he and his band of friends entertained themselves by driving their car up an alley between patio walls, jumping into the backyard pools of unsuspecting neighbors, and making a quick getaway before anyone noticed. He was caught once and returned to his parents. I always wondered if this was why he became interested in juvenile justice, but Tom told me a different reason. He said that throughout his school and even early college years, he considered becoming a minister, like his father (intriguingly, two other famous forensic psychologists, John Monahan and Henry Steadman, also considered becoming ministers). For Tom, justice is a key human value that he grew up with in his formative years, and this influenced his decision to explore the empirical justification for his personal beliefs. Thus, for Tom, who is an ardent supporter of abolishing the death penalty for those convicted of crimes committed as juveniles, his work shows that juveniles are less mature in their decision-making and thus are less culpable. Tom's work provides empirical support and justification for his belief. Tom continues to be actively involved in



his local church and, in 2010, took up the role of Moderator in the First Baptist Church in Worcester, MA.

I was privileged to meet Tom and his wife, Donna, for dinner on many occasions during my time at the University of Massachusetts, which gave us a chance to talk about non-academic matters, such as his formative years, his politics, and his retirement plans, which were just taking shape. Tom and Donna had married at 21, and at 27 they'd had their only child. Between teaching and looking after dogs (he and Donna have a couple of them), Tom's other passions have been photography and horses. He did competitive show-jumping throughout the state. Although his academic studies have made these hobbies hard to pursue, Tom has kept up his interest in photography, with landscapes and buildings as favorite subjects.

Since I left the University of Massachusetts in 2013, my contacts with Tom have been less frequent. I hear that, although now officially retired, he remains active, both at the university and in the community. He is still directing research, helping write grant applications, and active in the department which bestowed upon him Emeritus Professor status in 2014. In the same year, the University of Massachusetts Medical School awarded him the chancellor's annual Medal for Distinguished Scholarship, the only time that it has been awarded to someone other than a biomedical researcher. Tom still does some consulting work and travels to some extent, often to give lectures and share his experiences in the field of juvenile justice. He is currently the Vice-President of National Youth Screening and Assessment Partners, LLC, based in Worcester, MA. It is fitting that, since his retirement, he remains advisor to the Office of Faculty Affairs in retirement planning and mentorship.

### ***The Bridging Role: Tom in South Africa***

Asked how he would like to be remembered in his field of work, Tom's response was that he is perhaps not classifiable—one who cannot be pigeonholed. He is more clinical than most researchers, but he is comfortable with both identities. He has always considered himself to be a bit outside any given group and one who could talk to other groups, playing the bridging role.

Tom recalled that he was invited in 1991 to speak to the Psychological Association of South Africa

(PASA), formed of predominantly white, Afrikaner South Africans, which had earlier in its history supported the apartheid policies of the government, using racist-based science. Black South African psychologists had developed their own organization called the Psychology and Apartheid Committee (PAC), and neither PASA nor PAC recognized each other. Consequently, in line with the worldwide boycott of South Africa's apartheid regime, since the late 1980's the American Psychological Association (APA) had severed all ties, educational, academic, or diplomatic, with PASA.

The APA strongly discouraged any psychologists from accepting such an invitation because it would be against their policy of boycotting South African academia. The APA did not sell their books or journals there, nor did they attend conferences or exchange ideas with academics who had earlier supported the apartheid regime. It was a simple political matter, and when Tom asked APA how they felt about his accepting this opportunity, the answer was no. Further, when Tom consulted his black psychologist friends in Boston about the possibility of visiting South Africa at PASA's invitation, they felt that PASA would use his visit to demonstrate that the APA was really on PASA's side. Also, with PASA as his host, they thought he would learn nothing about the real South Africa, and he would only see and learn what PASA folks would want him to see.

For many of us, that would have been that. Change was, however, in the air, and Tom saw a great opportunity to build bridges between different communities and to lecture on the relationships between psychology and law and human rights. He could spread the message that, in the United States, you simply could not be a person who applied psychology to law without respecting and promoting human rights, and without eschewing discrimination based on race, religion, or gender. With the help of Robert Fein (a psychologist colleague), and black psychology colleagues in Boston, he arranged to visit and lecture at events hosted by PASA at historically white universities, and at events hosted by PAC at historically black universities. Tom recalled how, after lecturing at a PAC event, PAC members handed him over to PASA members, speaking and even shaking hands with each other for possibly the first time. The handshake was real, uneasy, important, and possibly symbolic of a different

future. Shortly after, the apartheid regime folded, and in 1994 PASA voluntarily disbanded and a new organization embracing all of South Africa's psychologists, named Psychological Society of South Africa, was formed.

I asked Tom why he had persisted. Surely it would have been simpler to just say thanks but no thanks. No one needed to know. Tom was kind in his reply. He simply explained, "But it would have been such a great opportunity missed, an opportunity to infiltrate the South African education system to preach a model of psychology that was entirely inconsistent with apartheid." Tom might be the first to say he is no crusader, no activist in the ordinary sense of the word, but his life's work belies that.

### **Ethics and Law**

This bridging role has been most obvious in his work with the APA on amicus briefs. For example, there was the amicus brief he helped write in *Roper v Simmons*,<sup>7</sup> drawing on work he and others did on juvenile capacity. Then there was the brief on *Hodgson v. Minnesota*,<sup>8</sup> which looked at the maturity of juveniles to make decisions about having an abortion. In this work, Tom contributed to the use of developmental neuroscience in some of the most contentious matters of the day. The decision in *Roper* has been criticized,<sup>9</sup> but not for the neuro-developmental argument. Tom also helped write amicus briefs in two further juvenile sentencing cases, first in *Graham v. Florida* in 2010<sup>10</sup> and then in *Miller v. Alabama* in 2012.<sup>11</sup> The courts in these cases were influenced by the increasing evidence that there are distinctive attributes of youth that "diminish the penological justifications for imposing the harshest sentences on juvenile offenders, even when they commit terrible crimes" (Kagan J, writing for the court in *Miller*).

Tom never waded into the public debate among academics about the divisive issue of the death penalty. His views, supported by his religious faith and how he was raised, have remained private even when many of his peers have been fulsomely open about their views, either in support of it or opposing it. In conversation, Tom and I discussed the matter of "just desserts," and Tom accepted that rape is one crime where the death penalty could be contemplated, given the potentially life-long impact on the victim, which might be just as heinous as homicide. We discussed the case of *Coker*<sup>12</sup> in 1977, which abolished the death penalty for rape;

and the 2008 case of *Kennedy v. Louisiana*,<sup>13</sup> in which the Supreme Court struck down the death penalty for child rape by a 5–4 majority. We did not revisit the arguments made by the *Coker* plurality, but we briefly acknowledged that two of the justices in *Coker*, William Brennan and Thurgood Marshall, started out from the position that the death penalty was unconstitutional.

I mention the above only to highlight the point that the most senior and high-profile leaders of our profession often have private opinions on divisive subjects based on their faith and belief system. But without empirical data to support one's private view, there is an argument that one's private beliefs and one's public stance should be kept separate, so that dissent is restrained by what Judge William Pryor has called "judicial modesty."<sup>14</sup> Tom is a prime example of how a true and exceptional scientist can quietly change policy without the need to grab headlines. None of the tricky issues Tom has dedicated his career to reforming is without its fair share of opponents, but I doubt if anyone can point the reader toward a sensational headline or flashy media interview that cites Tom Grisso. In today's society, where instant fame (or infamy) is often caused by a simple musing of 140 characters, Tom is a prime example of that modesty and restraint that Judge Pryor cites approvingly.

### **Conclusion**

Just over 10 years ago, in his citation for Honorary Fellowship of the United Kingdom's Royal College of Psychiatrists, I wrote:

Although most famous for his advocacy of the juvenile's due process rights, [Dr. Grisso] has made enormous and lasting contributions to the field of capacity in general.... His work in both these fields has meant that the rights of some of the most vulnerable in our society have been better protected, and their clinical needs understood. Few researchers have his clinical acumen or humanity; few clinicians have his intellectual rigour or gravitas. The body of our College would be enhanced by having Professor Thomas Grisso as an Honorary Fellow.

At 75 years of age, Tom is still as young and as active as the day I first met him in 2001. His energy has not diminished one iota, nor has his passion for doing the right thing the right way.

I conclude by explaining the title of this piece. In one of our many fascinating conversations, Tom told me that another of his dreams at school had been to be an architect—so much so that he went to another school for drawing classes. In a rare departure from

his trademark modesty, Tom commented that he thought he would have been a good architect; I have to say that I think there is good reason to agree. We might say that he has been an architect and master builder within the academic study of law and psychiatry. His innate sense of design, structure, and proportionality, so important for great building design, are also essential for great research on which to build knowledge and new questions. Because of the body of work that he has built, forensic psychology and juvenile justice are in a much better place today than they were in 1974. For this and for his remarkable humanism and passion for doing the right thing, we must all be grateful.

### Acknowledgments

I am most grateful to Dr. Gwen Adshead, Consultant Forensic Psychiatrist and Group Analyst, for taking the time to read previous versions and suggesting improvements in both style and readability. The use of "Architect" in the title was her idea.

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