



# Forensic Psychological Evaluations: Ethical Purposes and Limits

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NOFSW Conference - New Orleans 2025

My ducks may  
not be in a row,  
but boy do they  
have a good  
time.



# Agenda



What does it mean to be Forensic



Define psychological evaluations and a subset which are risk assessments



Core elements and key components



Types of testing



Ethical areas of concern



Bonus Topic





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"I know nothing about the subject,  
but I'm happy to give you my expert opinion."

### THE TOOTHPASTE PERSONALITY TEST



IMPULSIVE,  
LIFE OF THE  
PARTY



THRIFTY,  
PRONE TO  
DEPRESSION



STUBBORN,  
SLOW WITTED



ANTISOCIAL,  
BAD BREATH

from 454



CARLA VENTRESCA AND HENRY BECKETT

# Definition of Forensics

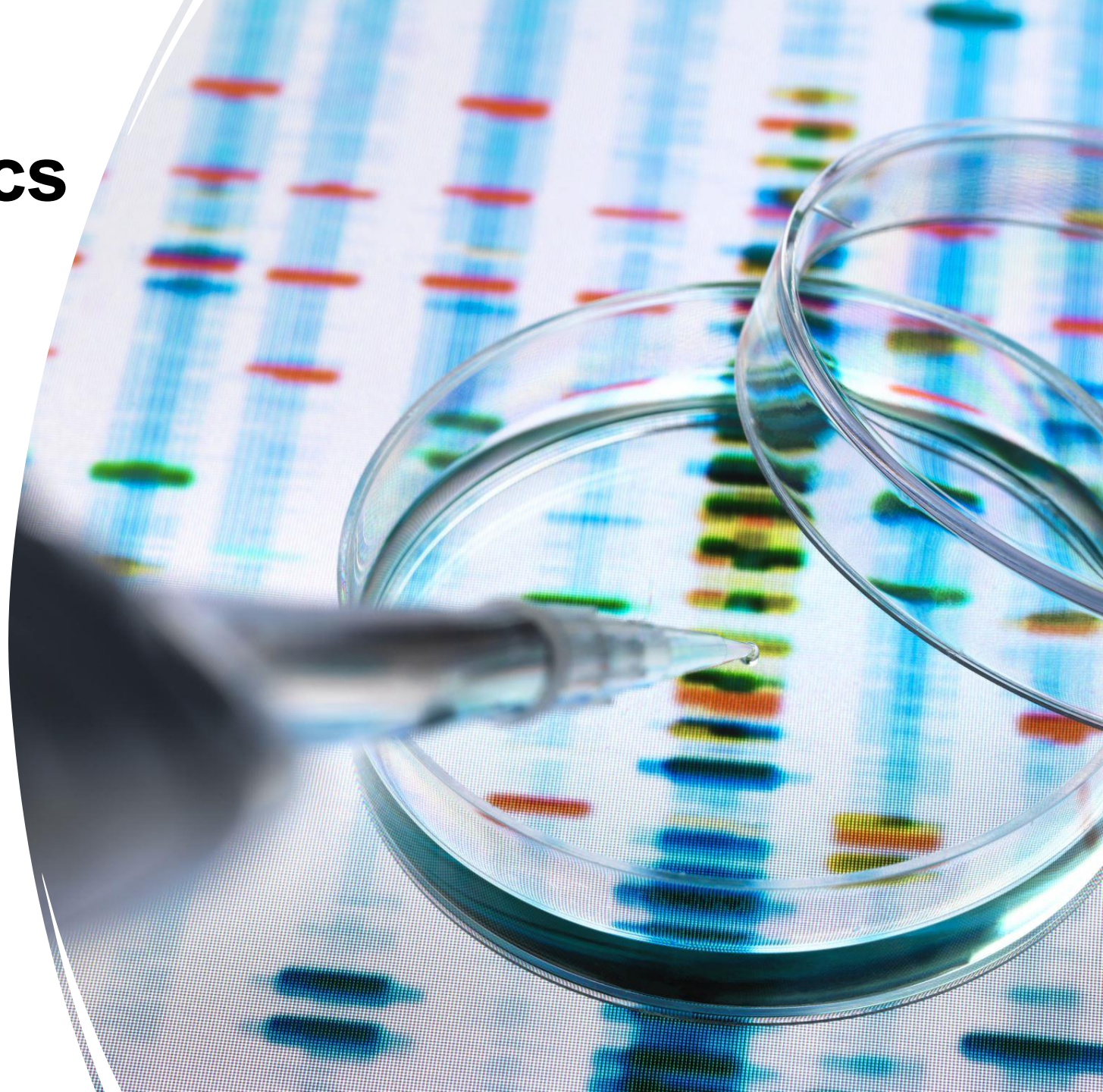
The word **forensic** comes from the Latin word forum, a place for public assembly and discussion—the precursor of "court."

Forensic Science is the application of science to criminal and civil laws.

Most professions can have *forensic elements*.

Certain fields are predominately *forensic*:

- Bloodstain pattern analysis
- Forensic accounting
- Forensic child interviews
- Mobile device forensics







# Forensic Social Work

The application of social work to questions and issues relating to law and legal systems

Social work practice - related to legal issues and litigation (both criminal and civil)

Including:

- Juvenile and adult justice services/corrections
- Mandated treatment
- Child custody issues
- Child and spouse/partner abuse

# Foundation for Psychological Evaluations

- The proponent of scientifically based expert testimony must establish that the expert's opinion is based on principles and methods that are reliable.
- Reliability may be established either by demonstrating that the principles and methods generally are accepted in the relevant scientific community or by applying the factors set forth *Daubert*.
- The judge is the gatekeeper and is responsible for making the threshold determination that the expert opinion is reliable.
- Particularly in the case of psychological or behavioral sciences, lack of prevalence data alone may not be sufficient to justify a ruling that the theory is unreliable.

*Commonwealth v. Hoose*, 5 N.E.3d 843, 467 Mass. 395 (2014).



# Why an Evaluation?

Common reason - identify factors interfering with functioning

Method to assess behavior, personality, cognitive, and/or other domains

Clinical - likely diagnosis and/or treatment recommendations

Forensic – depends on referral question



# Clinical versus Forensic Evaluations

- Scope
  - Clinical - broad (such as diagnostic, personality and best treatment)
  - Forensic – narrow (often from outside authority)
- Importance of Client Perspective
- Voluntariness
- Autonomy – forensic evaluation determined by relevant statute or legal dispute
- Pace and Setting



# Forensic Evaluations are Specialized

- Ordered by a judge/legal entity as part of legal proceedings
- Conducted by forensic practitioners (e.g. psychologists/social workers/psychiatrists)
- Not covered by health insurance as not 'medically necessary' (depending on the state there may be court-related)
- Expensive - fees often in thousands of dollars
- Lengthy waits with limited evaluators
- Precise focus - different from psychoeducational or neuropsychological evaluations
- Process guided by attorney. Important because report then comes under *attorney-client privilege* so those evaluated are protected

# Key Concepts

- Start with referral question – what do you want to know? (Competency, CR, IPV, relocation, alienation/enmeshment/alignment or risk of something)
- Hallmark: Multiple data sources
- Transparent methodology – process is standardized
- Acknowledgement of limitations of data.
- Alternative hypotheses are considered and explained
- Risks and Protective factors addressed
- Report written in anticipation of multiple clients (Courts/attorneys/organizations/parents)
- Opinions data-based/driven and connected to reliable/relevant research (with references)
- "Ending" should not be a surprise = Murder She Wrote not Columbo





# Classifications: Past, Current or Future?

Mental states, motivations and behaviors during past events

- Capacity to waive Miranda rights
- Criminal Responsibility
- Child Maltreatment evaluations

Deficits in Abilities relevant for current functional contexts

- Competency to proceed to trial
- Guardianship
- Personal injury
- Fitness for duty

Likelihood of future behaviors and mental states:

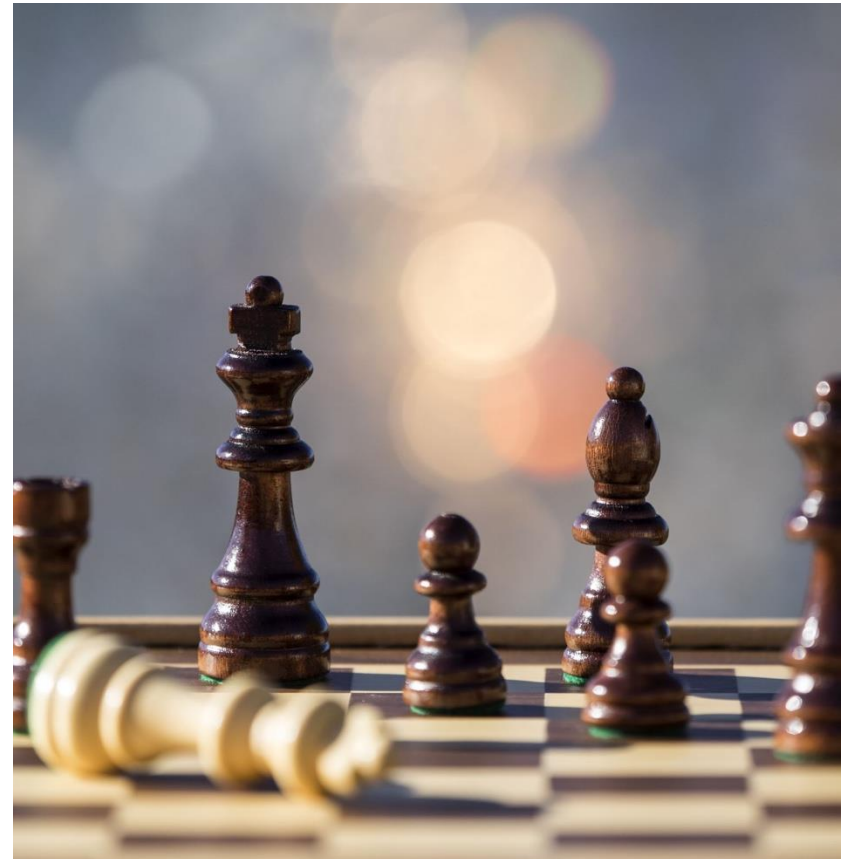
- Sentencing mitigation
- Risk of future offending (aka risk assessments)
- Child Custody

# Precise Forensic Referral Questions Guides Process

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## Examples:

- Are there personality traits/diagnoses which impair/interfere with functional parenting capacity?
- Are there risk factors pertaining to substance use, sexual abuse, or domestic violence which impact capacity to parent/co-parent?
- What strengths/resiliencies are present which are protective factors for the children/adults?
- What are the identified risk factors that increase risk of recidivism of violence?
- Does this defendant have consistent access to competency related skills?
- Are there identifiable risk factors to enhance an understanding of this defendant's actions (for sentencing mitigation)?



# Standardized Elements

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Forensic interview(s)

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Psychological testing (some controversy)

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\*Collateral Sources: Review of records (medical, educational, legal, clinical etc.) and other interviews

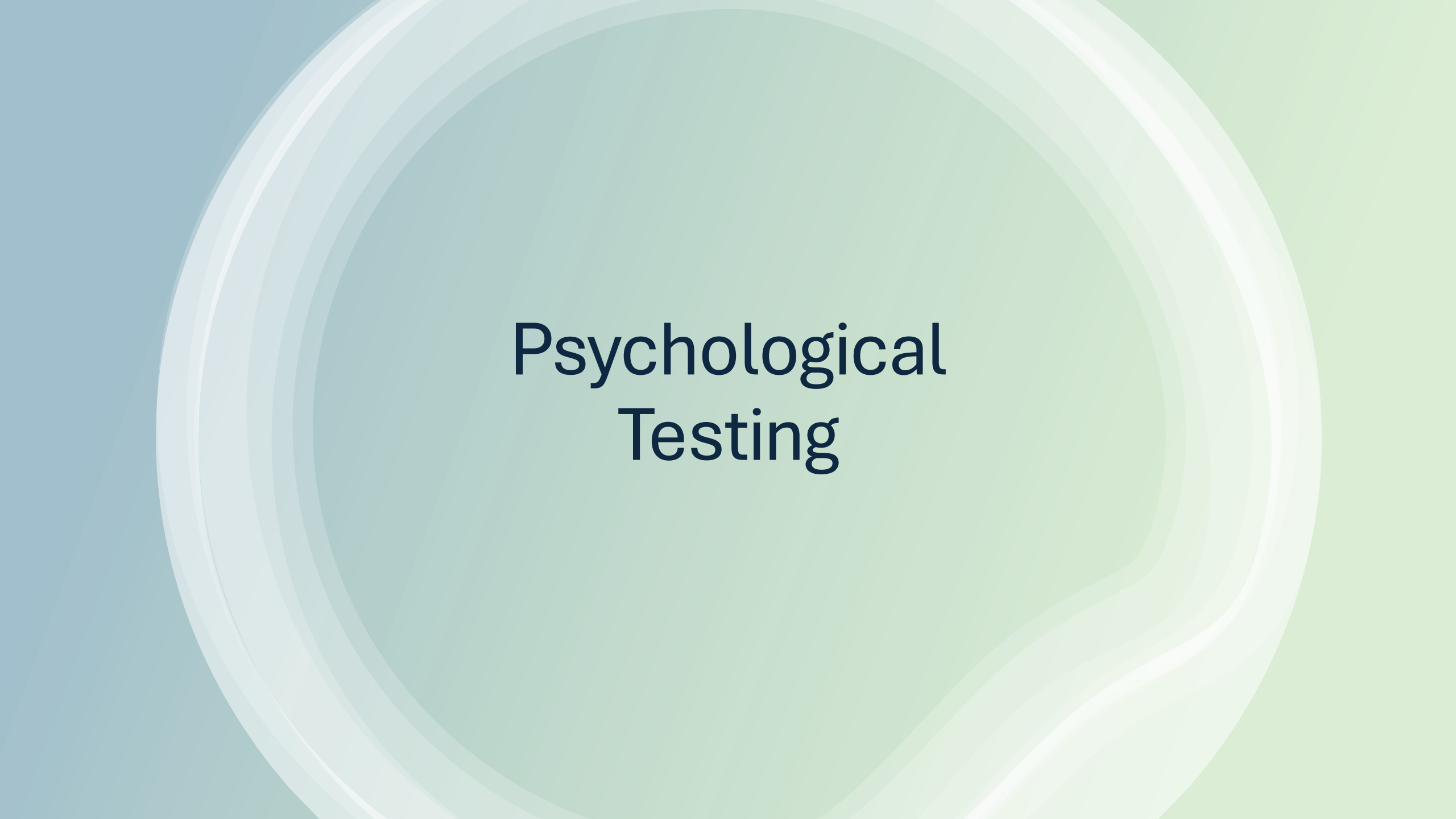
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Feedback to Referral Source

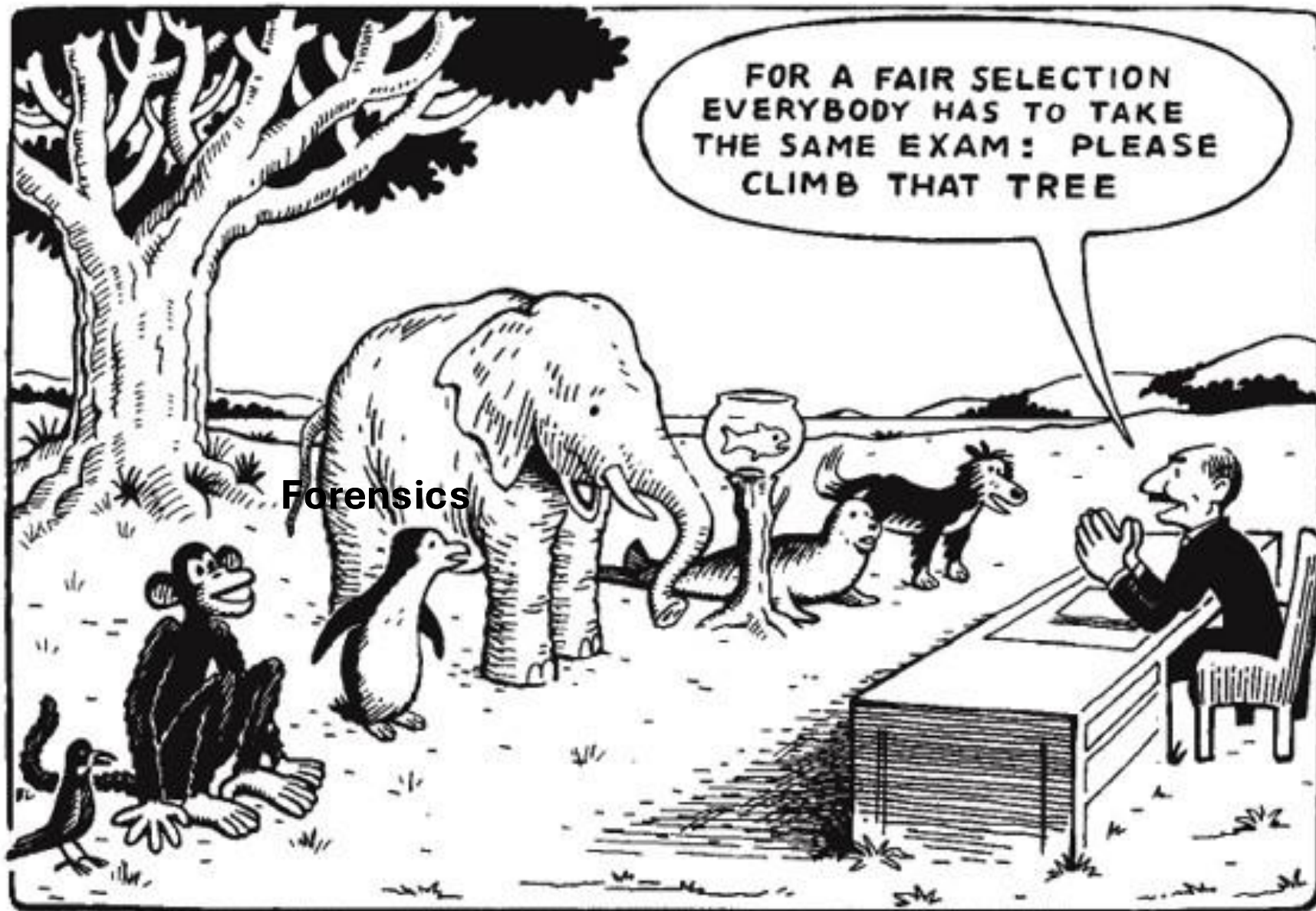
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Report (or maybe not)





# Psychological Testing



Forensics



# PSYCHOLOGICAL TESTING THEN AND NOW...

©2014 PITTSBURGH  
POST-GAZETTE ROGER

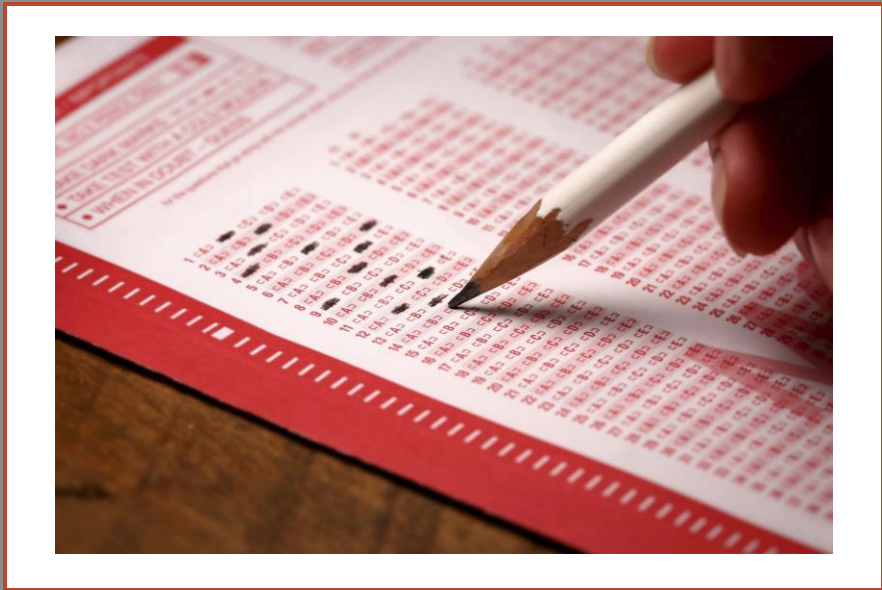
I SEE A BUTTERFLY  
SPREADING ITS WINGS!



I SEE THE DEATH OF ALL  
HUMAN INTERACTION!



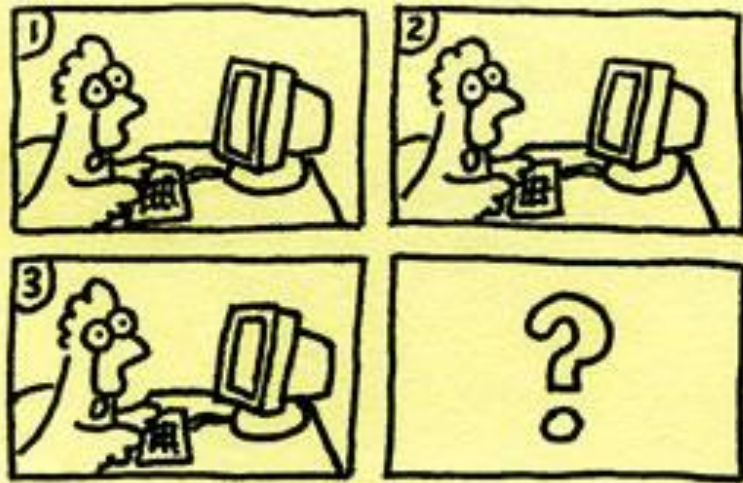




# Savage Chickens

by Doug Savage

WORK INTELLIGENCE TEST - QUESTION #72



CHOOSE THE PICTURE THAT COMPLETES THE SERIES



© 2010 BY DOUG SAVAGE

# Categories of Psychological Tests



Effort

Miller Forensic Assessment of Symptoms (MFAST)  
Test of Memory Malingering (TOMM)



Structured Diagnostic Interviews

Structured Clinical Interview for DSM-5 (SCID-5)  
MacArthur Competency Scales



Checklists/Rating Scales

Behavior Assessment System for Children-3  
Psychopathy Checklist-R



Structured - Self-Report

Beck Depression Inventory-II  
Minnesota Multiphasic Personality Inventory-3



Unstructured Self-Report Measures of  
Emotional/Behavioral Functioning

Rorschach  
Thematic Apperception Test



Intellectual Functioning

Wechsler Adult Intelligence Scale-V  
Wechsler Intelligence Scale for Children-V



Memory Functioning

Wechsler Memory Scale

# Tests for Specific Evaluations

## **Competency/Criminal Responsibility in Criminal Matters**

- MacArthur Competency Assessment Tool

## **Juvenile Matters – Competency/Bind over (minors tried in adult court)**

- Juvenile Adjudicative Competency Interview (JACI)

## **Child Custody Evaluations/Parental Capacity**

- Personality tests (MMPI 3 or Personality Assessment Inventory)
- Specific to parenting (Parenting Stress Index)
- Behavior rating scales (e.g., BASC-3)

## **Guardianship**

- Adaptive Functioning (Vineland-3)

## **Diagnostic Evaluations of Children**

- Behavior rating scales
- Executive functioning
- Autism Rating Scales
- Depression/Anxiety

## **Child Protective/CPS/DHS**

- Child Abuse Potential Inventory (only normed on CPS population)



# Another Debate: Value of Psychological Testing

“Just as the child custody evaluator is charged to examine the "fit" between parental limitations and capacities and the children's needs, we address the "fit" between these instruments' limitations and capacities and the needs of CCE. We conclude that the fit is poor and, therefore, that individual adult psychometrics have little or no place in the process of evaluating family dynamics.”

Garber, B. D., & Simon, R. A. (2017). Individual adult psychometric testing and child custody evaluations: If the shoe doesn't fit, don't wear it. *J. Am. Acad. Matrimonial Law.*, 30, 325.

“In their article, Individual Adult Psychometric Testing and Child Custody Evaluations: If the Shoe Doesn't Fit, Don't Wear It, Benjamin Garber and Robert Simon, two psychologists, accomplish neither of these objectives. And in lieu of distinguishing between appropriate and inappropriate uses of tests or proffering a better substitute, they promote a less valid and reliable forensic child custody evaluation criterion—clinical judgment.”

Rappaport, S. R., Gould, J., & Dale, M. D. (2017). Psychological Testing Can Be of Significant Value in Child Custody Evaluations: Don't Buy the Anti-Testing, Anti-Individual, Pro-Family Systems Woozle. *J. Am. Acad. Matrimonial Law.*, 30, 405.

# Misuse of Testing

Case Law: *United States v. Mahoney*, 53 F.Supp.3d 401 (D. Mass. 2014).

- Forensic psychologist used three prediction tools to assess risk of violent recidivism: Psychopathy Checklist-Revised (" PCL-R" ), the Historical Clinical Risk Management-20 (" HCR-20" ), and the Violence Risk Appraisal Guide (" VRAG" ).
- The PCL-R is technically not a risk assessment instrument, but rather checklist of factors "developed to assess psychopathic personality."
- Because psychopathy can be predictive of violence, results are included in HCR-20 and VRAG.
- The HCR-20 is a "Structured Professional Judgment" instrument involving a checklist of risk factors for violent behavior, while the VRAG is "an actuarial instrument designed to predict the risk of violence within a specific time frame following release for violent, mentally disordered offenders."
- Respondent failed to produce any peer reviewed articles challenging the test reliability or validity.
- Other psychologist acknowledged their widespread acceptance *at least as* "research tools."
- The key dispute concerns the tools' known rates of false positives in predicting an individual's risk of recidivism, but evidence demonstrates that the rates of error are well-understood.
- Respondent's criticism that the instruments have limitations and only predict the risk of recidivism of a group of offenders with certain characteristics, not of individuals, is well-taken.

# Integrity of Process Goes to Quality of Results



Utilized appropriate normative groups for comparison of psychological testing



Cultural sensitivities around collaterals, and use of professional interpreter



Documentation of informed consent, and waiver for confidentiality



Processes trauma-informed



Research references for foundation of opinion



# Forensic Risk Assessments

The referral question: predict likelihood of future offending behaviors

Risk assessment prioritizes risk reduction strategies

Allocates scarce resources more effectively and efficiently while protecting communities



# Types of Risk Assessments

- Violence
  - Adults
  - Juvenile – School or JJ-based referrals
- Sex offender risk assessment
- IPV/Domestic Violence
- Child maltreatment
- Red/Yellow Flag Law Risk Assessments.  
As of 2025, 22 states have “red-flag laws” - process to remove weapons (Louisiana does not as stalled in legislature last year)

# Overarching Principle Regarding Prediction

Structured Professional Judgement – has evolved over generations of risk assessments

- First generation was clinical judgement only
- Then actuarial based decisions only
- Now: Structured professional judgment (SPJ) – takes research (actuarial) and likes with clinical judgement given dynamic interaction among person, situation, target, and setting
- Given extensive literature on risk factors for violence
- Presence of risk factors increase the possibility that an individual will repeat problematic behavior
- Factor in mitigating/protective factors

# Example of SPJ Measure: SAVRY



# Structured Assessment of Violence Risk in Youth

- Assess static/historical and dynamic/changeable violence
- 24 items in three risk domains:
  - Historical
  - Social/Contextual
  - Individual/Clinical
- From existing research on adolescent development and violence/aggression
- Assessing risk in adolescents is challenging:
  - Ongoing development
  - Sensitive to shorter time parameters than adult
- **Framework for thinking about risk (think standardization as part of ethically driven process)**



# Protective Factors

Protective factors - core component to be ethically sound

## **Individual:**

- High cognitive/academic functioning
- Well developed social skills/competencies

## **Family:**

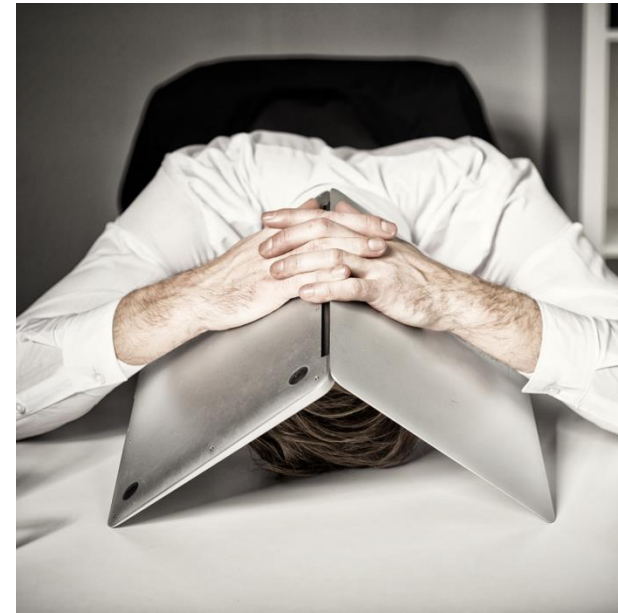
- Connections to family/other adults ('cookie people')
- Shared activities - parent/caregiver (dinner at table)
- Involvement/connections in social activities

## **Peer/social/community:**

- Commitment to school
- Non-delinquent peers
- Schools with intensive supervision, clear behavior rules, address aggression rapidly and engagement of teachers with parents/caregivers







"You look like you could use another scoop of mint chocolate chip."





+



# Humor as Coping

- What are humor skills?
- Ability to see the absurdity in difficult situations
- Ability to take yourself lightly while taking work seriously
- A sense of joy in being alive: How did you wake up this morning (or most mornings)?

Laughter  
is an  
instant  
vacation. 😊

- Milton Berle

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# Favorite Coping Mechanism

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*"Do me a favor, honey, and go get me a latte?"*



Let us help you  
  
get your ducks in a row



# Humor and Ducks

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# Comments, questions and bad jokes

Thank you for not  
finding my  
obsession with  
serial killers  
disturbing enough  
to call the  
police.



som<sup>ee</sup>cards  
user card

Questions

?

?

Answers

?

