

READING LIST FOR CANDIDATES IN MASSACHUSETTS' PROGRAM FOR DESIGNATED FORENSIC PROFESSIONALS

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This document is intended to be of assistance to psychologists and psychiatrists who are in the process of fulfilling requirements for appointment as Designated Forensic Professionals in Massachusetts. The reading list consists of two parts: 1) *Massachusetts statutes*, 2) *legal cases* and *clinical texts/articles*.

The first list notes chapters and sections of the *Massachusetts General Laws* that are especially relevant for the work of forensic mental health examiners in District and Superior Courts. Annotations indicate the general content of each chapter and/or section.

The second list includes: 1) *legal cases* that are relevant for the content of the DFP written exam (although we have included a few additional ones with which forensic mental health professionals should be familiar), and 2) basic *articles, chapters, or books* for each of several clinical and forensic content areas that are important for the work of Designated Forensic Professionals in service to Massachusetts' district and superior courts. In all cases we have chosen references that speak directly to the applied assessment process of the forensic mental health examiner. Thus none of the references focus primarily on theory or on reports of research studies.

*The DFP Committee
Forensic Mental Health Services
Massachusetts Department of Mental Health*

STATUTES AND REGULATIONS

M.G.L. c. 123

- Definition of “likelihood of serious harm”
- Definition of “strict security” or “strict custody”
- Civil commitment
- Competence to stand trial and criminal responsibility
- Aid in sentencing
- Prisoners in need of treatment
- Substance abuse evaluations

M.G.L. c. 123B

- Definition of “person with intellectual disability”
- Other relevant definitions

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- Definition of “mental illness”
- Designated forensic psychologist
- Designated forensic psychiatrist
- Forensic mental health supervisor
- Qualified physician
- Qualified psychologist

M.G.L. c. 233, s. 20B

- Definitions of “patient” and “psychotherapist”
- Exceptions to privilege

M.G.L. c. 112, s. 129A

- Confidentiality
- Exceptions to confidentiality

M.G.L.c. 112. s. 135

- Disclosure of information by social workers
- Exceptions

M.G.L.c. 190 cc. 142

- Protection of disabled persons

M.G.L.c. 19A. ss. 14, 15, and IS

- Reporting of suspected abuse of elderly people

M.G.L.c. 119. cc. 51A-51G

- Physically or emotionally injured children
- Mandated reporting of suspected child abuse

M.G.L. c. 120

- Department of Youth Services

M.G.L. c. 6 s. 178C-178P.

- Sex Offender Registry Law

CASE LAW AND CLINICAL/FORENSIC TEXTS

Currently there are three major textbooks that provide guidance for a broad range of forensic evaluations:

1. Melton, G.B., Petrila, J., Poythress, N.G., Slobogin, C (2007). *Psychological Evaluations for the Courts*, Third Edition. New York: Gilford

OR

Rosner, R. and Scott, C., 3rd ed. (2016) *Principles and Practice of Forensic Psychiatry*. New York: Oxford

2. Heilburn, K., Grisso, T., & Goldstein, A. (2008). *Foundations of forensic mental health evaluation*. New York: Oxford.

In addition, the following books, which also cover the breadth of forensic evaluations, are recommended reading:

1. Otto, R.K. , ed. (2013). *Handbook of Psychology Volume 11: Forensic Psychology*. Hoboken, NJ: John Wiley and Sons

OR

Appelbaum, P.S. and Gutheil, T. (2006). *Clinical Handbook of Psychiatry and the Law*, 4th edition. New York: Kluwer)

2. Grisso, T. (2003). *Evaluating competencies: Forensic assessments and instruments* (second edition). New York: Kluwer Academic/Plenum Press.

When we cite these three references in the following lists, we refer only to the chapters pertaining to the specific topics in question. In addition, we have identified books and articles that are specific to each of the content areas delineated below.

Note: Cases marked by asterisk should be read in their entirety. Although it would be helpful to read the other cases in their as well, a reading of the syllabus will be sufficient for those unable to read the tire case.

I. COMPETENCE TO STAND TRIAL:

1. *Jackson v. Indiana*, 406 US 715 (1972) *
2. *Dusky v. United States*, 362 US 402 (1960) *
3. *Commonwealth v. Vailes*, 275 NE 2d 893 (1971)

4. *Drope v. Missouri*, 420 U.S. 162 (1975)
5. *Commonwealth v. Crowley*, 393 Mass.393 (1984)*
6. *Godinez v. Moran*, 509 U.S. 389 (1993) *
7. *Commonwealth v. Simpson*, 44 Mass. App. Ct. 154 (1998)
8. *Wilson v. U.S.*, 391 F.2d 460 (1968) *
9. *Commonwealth v. Lombardi*, 378 Mass. 612(1979)
10. *Commonwealth v. Delverde*, 398 Mass. 288 (1986) * (related to issue of substituted judgment for entering guilty plea)
11. *Commonwealth v. Delverde*, 401 Mass. 447 (1988)* (related to standard of mental illness for incompetency)
12. *Commonwealth v. Louraine*, 390 Mass. 28, (1983)
13. *North Carolina v. Alford*, 400 U.S. 25 (1970)
14. *Indiana v. Edwards*, 554 U.S. 164 (2008)*

Readings:

Zapf, P.A., & Roesch, R. (2009) *Evaluation of Competency to Stand Trial*. New York, Oxford University Press.

Borum, R., Grisso, T. (1996) Establishing Standards for Criminal Forensic Reports: An Empirical Analysis. *Bull Am Acad Psychiatry and Law Vol. 24, No. 3*

Bonnie, R. (1992) The Competence of Criminal Defendants: A Theoretical Reformulation. *Behavioral Sciences and the Law*, Vol. 10 pp. 291-316

Melton et al. (2007) Chapter 6: Competency to Stand Trial

Grisso, Evaluating Competencies, 2003, Chapter 5

Otto,R.K. (2013) *Forensic Psychology*, vol. 11, Chapter18 (Stafford and Sellbom)

Rosner R. (2003) *Principles and Practice of Forensic Psychiatry*. Chapter 24

Appelbaum and Gutheil (2006) Chapter 6

II. CRIMINAL RESPONSIBILITY

1. *Commonwealth v. McHoul*, 352 Mass. 544 (1967)
2. *Commonwealth v. Sheehan*, 376 Mass. 765 (1978)
3. *Blaisdell v. Commonwealth*, 372 Mass. 753 (1977)*
4. *Commonwealth v. Stroyny*, 435 Mass. 635 (2002)
5. *Commonwealth v. Federici*, 427 Mass. 740 (1998)
6. *Ake v. Oklahoma*, 470 US 68 (1985)

7. *McWilliams v. Dunn*, 137 S. Ct. 1240 (2017)
8. *Commonwealth v. Berry*, 457 Mass. 602 (2010)*
9. *Commonwealth v. DiPadova*, 460 Mass. 424 (2011)*
10. *Commonwealth v. Shin*, 86 Mass. Appeals Court, 381 (2014)

Readings:

Packer, I. (2009). *Evaluation of Criminal Responsibility*. New York: Oxford University Press

AAPL Practice Guidelines for Forensic Psychiatric Evaluation of Defendants Raising the Insanity Defense.(2014). *The Journal of the AAPL* Vol. 42, no. 4 Supplement

Melton, et al (2007) chapter 8 Mental State at the Time of Offense

Otto, R.K.. (2013) Forensic Psychology, Chapter 20 (Goldstein, Morse, Packer)

Rosner (2003) Chapter 25

III. COMMITMENT (CIVIL, NGRI, PRISONERS)

1. *O'Connor v. Donaldson*, 442 F.2d 563 (1975)*
2. *Addington v. Texas*, 441 US 418 (1979)
3. *Thompson v. Commonwealth*, 386 Mass. 811 (1982)*
4. *Superintendent Worcester State Hospital v. Hagberg*, 374 Mass. 271 (1978)
5. *Vitek v. Jones*, 445 US 480(1980)*
6. *Jones v. United States*, 463 US 354 (1983)*
7. *Foucha v. Louisiana*, 504 US 71 (1992)
8. *In the Matter of G.P.*, 473 Mass. 112 (2015)*
9. *Andrews v. Commonwealth*, 449 Mass. 587 (2007)

IV. COMPETENCE TO REFUSE TREATMENT

1. *Rogers v. Okin*, 634 F.2d 650 (1980)*
2. *Washington v. Harper*, 494 U.S. 210 (1990)

Readings for both Commitment and Competence to Refuse Treatment

Melton et al., (2007) Chapters 10 and 11

Appelbaum, K., (1990) Civil Commitment: The Role of the Mental Health Professional. *Expert Opinion*. Spring, Vol. 3., No. 3.

Rosner (2003) Chapters 13-17

V. CONDUCTING EVALUATIONS

1. *Commonwealth v. Lamb*, 365 Mass. 265 (1974)*
2. *Estelle v. Smith*, 451 US 454 (1981)
3. *DYS v. a Juvenile*, 398 Mass. 516 (1986)*
4. *In the Matter of Laura L.*, 54 Mass. App. Ct. 853 (2002)*
5. *Commonwealth v. Baldwin*, 426 Mass. 105 (1997)
6. *Commonwealth v. Harris*, 468 Mass. 429 (2014)*

Readings:

Melton et al., (2007) Chapter 3: The Nature and Method of Forensic Assessment.

Heilbrun, K., Grisso, T., Goldstein, A. (2008) *Foundations in Forensic Mental Health Assessment*. New York, Oxford.

Heilbrun, K. (1992) The Role of Psychological Testing in Forensic Assessment. *Law and Human Behavior*, Vol. 16, No. 3 pp. 257-272.

Lally, S. (2003) What Tests Are Acceptable for Use in Forensic Evaluations? A Survey of Experts. *Professional Psychology, Research and Practice*, Vol. 34, No 5

Otto, (2003) *Forensic Psychology* vol. 11, Chapter 21 (Rogers and Bender: Malingering)

Rosner (2003) Chapters 18 and 55

Appelbaum and Gutheil (2006). Chapter 1

Nicholson, R., Norwood, S. (2000) The Quality of Forensic Psychological Assessments, Reports and Testimony: Acknowledging the Gap Between Promise and Practice, *Law and Human Behavior*, Vol. 24, No. 1.

VI. EXPERT TESTIMONY

1. *Frye v. United States*, 293 F.1013 (1923)
2. *Daubert v. Merrell Dow*, 509 U.S. 579 (1993)*
3. *Kumho Tire Co. v. Carmichael*, 526 U.S. 137 (1999)
4. *Commonwealth v. Lanigan*, 419 Mass. 15 (1994)*

5. *Jenkins v. United States*, 307 F.2d 637 (1962)

Readings:

Otto (2013) Chapter 4(Erickson and Ewing)

Bank, S., & Packer, I. (2007). Expert witness testimony: law, ethics, and practice. In A. Goldstein (ed.), *Forensic psychology: Emerging topics and expanding roles*. Hoboken, NJ: John Wiley.

Brodsky, S. (1991). *Testifying in court: Guidelines and maxims for the expert witness*. Washington, DC: American Psychological Association.

Brodsky, S. (1999). *The Expert Expert Witness: More Maxims and Guidelines for Testifying in Court*, Washington, DC: American Psychological Association.

Rosner (2003). Chapters 4 and 5

Packer (2009) Chapter 7

Zapf and Roesch (2009) Chapter 7

VII. DUTY TO PROTECT

1. *Tarasoff V. Regents of University of California*, 551 P.2d354 (1976)*
2. Massachusetts General Laws, Chapter 123 §36B *

VIII. CONFESSIONS

1. *Miranda v. Arizona*, 384 US 436 (1966)
2. *Colorado v. Connelly*, 479 US 157 (1986)

Note: Although DFPs are not required to perform evaluations of competence to confess, the Committee felt that DFP's should at least be aware of the issues involved in these cases.

IX. ETHICS

Greenberg, S., Shuman, D. (1997) Irreconcilable Conflict Between Therapeutic and Forensic Roles. *Professional Psychology: Research & Policy* Vol. 28, No.1 pp. 50-57.

Strasburger, L., Gutheil, T., Brodsky, A. (1997) On Wearing Two Hats: Role Conflict in Serving as Both Psychotherapist and Expert Witness. *Am J Psychiatry*, Vol. 154, No. 4, pp. 448-456.

Heilbrun, K., Grisso, T., Goldstein, A. (2008) *Foundations of Forensic Mental Health Assessment*. Chapter 2

American Psychological Association (2002). Ethical principles of psychologists and code of conduct. *American Psychologist*, 57, 1060 - 1073.

American Psychological Association (2013). Specialty Guidelines for Forensic Psychology. *American Psychologist*, 68, 7–19

American Academy of Psychiatry and the Law Ethical Guidelines for the Practice of Forensic Psychiatry. (2005) *American Academy of Psychiatry and the Law*.

Tillbrook, C., Mumley, D., Grisso, T. (2003) Avoiding Expert Opinions on the Ultimate Legal Question: The Case for Integrity. *Journal of Forensic Psychology Practice*. vol.3, no.3

Rogers, R. Ewing C.P. (2003) The Prohibition of Ultimate Opinions: A Misguided Enterprise. *Journal of Forensic Psychology Practice*. Vol.3, No.3

Melton et al. (2007) Chapter 4: Constitutional, Common Law, & Ethical Contours of the Evaluation Process:

X. Violence Risk Assessment

Douglas et al. *HCR-20: Assessing Risk for Violence, Version 3 (HCR-20 V3)*

Heilbrun, K. (2009). *Evaluation for risk of violence in adults*. New York: Oxford University Press

Otto (2013) Chapter 22 (Monahan – Violence Risk Assessment)

Otto (2013) Chapter 6 (Hart and Storey – Psychopathy)

Dvoskin, J., Heilbrun, K. (2001) Risk Assessment and Release Decision-Making: Toward Resolving the Great Debate. *The J of Am Acad Psychiatry Law*, 29:6-10

Monahan, J., Steadman, H.J., Silver, E., Appelbaum, P.S., Robbins, P.C., Mulvey, E.P., Roth, L.H., Grisso, T., & Banks, S. (2001). *Rethinking risk assessment: The MacArthur study of mental disorder and violence*. Oxford: Oxford University Press.

Douglas, K. & Skeem, J. (2005). Violence risk assessment: Getting specific about being dynamic. *Psychology, Public Policy, and Law*, 11, 347-383.

Melton et al. (2007) Chapter 9 (Sentencing)

Appelbaum, K., Zaitchik, M. (1995) Mental Health Professionals Play Critical Role in Presentencing Evaluations. MPDLR. Sept.-Oct. 1995

XI. Multicultural Issues

DSM-5 - Cultural Formulation Interview

Pinals, D.A., Packer I.K., Fisher W., and Roy-Bujnowski. K. (2004). Relationship between race and ethnicity and forensic clinical triage dispositions. *Psychiatric Services*, 55, 873-878.