

BOOK REVIEW

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Review of: *Forensic Mental Health Assessments in Death Penalty Cases*

REFERENCE: DeMatteo D, Murrie DC, Anumba NM, Kessler ME. *Forensic mental health assessments in death penalty cases*. New York, NY: Oxford University Press, 2011, 464 pp.

For forensic mental health evaluators who are entrusted with the daunting task of assessing defendants who are facing criminal charges that could lead to a death sentence after a guilty verdict, there is great need for a comprehensive text with up to date resource information to guide the assessment process. Attorneys who provide legal defense for such defendants or those who represent prosecutorial interests also need a reference that not only reviews relevant case law, but also educates the lawyer about ethical and clinical issues faced by the forensic mental health evaluator, typically their expert witness. The authors of this new book are to be congratulated for producing a “must own” text for the serious student of capital case law as well as the forensic examiner with professional interests in death penalty litigation and how to perform quality assessments in this area. Beginning with basic considerations for the evaluators who assess defendants in death penalty eligible cases, the opening chapter is most informative as it allows the attorney to gain the perspective of the expert witness, essential for well-planned defense strategy and forming relevant questions. Chapter 2 emphasizes legal aspects of death penalty cases and is written to educate the forensic examiner of the sometimes complicated court procedures in such cases. For an essential understanding of relevant case law in this area, Chapter 3 entitled “Death Penalty Jurisprudence” provides an easy to read and assimilate synopsis of seminal legal decisions and their implications. This captivating chapter also discusses what was not legally addressed by these cases, sometimes more relevant than what has been decided. “Ethical Considerations in Death Penalty Cases,” Chapter 4, is an overview for forensic mental health evaluators working in this area and enlightens attorneys as to what concerns the forensic mental health examiner faces while proceeding with the assessment.

Beginning with Chapter 5, specific issues for the assessment are presented starting with the challenge of evaluating intellectual

functioning in light of the *Atkins v. Virginia* U.S. Supreme Court opinion (2002), including how to define “mental retardation.” The very controversial issue of performing assessments to assist courts in determining who is competent to be executed is discussed in Chapter 6. What follows (Chapters 7 and 8) is an overview emphasizing mitigating factors and risk of dangerousness issues for triers of fact to carefully consider prior to deciding the penalty phase. As well, material on what constitutes moral culpability and how forensic examiners can assist the courts in considering such a profound issue is expounded upon. Chapter 8 reviews the fascinating studies across multiple settings that have investigated whether or not death penalty prisoners truly pose a risk of violence while incarcerated, above and beyond the risk of violence exhibited by persons incarcerated for similar or lesser crimes. A list of “best practices” for those engaging in capital case evaluations is placed in Chapter 9, broken down into areas corresponding to the stages one goes through when preparing such an evaluation: Preparation, Data Collection, Data Interpretation, Written Communication, and Testimony. Also in Chapter 9 is a helpful table one can use as an aide memoir ensuring that the forensic mental health evaluation has covered all the relevant issues thoroughly. Helpful sample reports are included in the last chapter of the book, familiarizing one with elements of such an assessment and how it should read.

This comprehensive book contains many helpful tables with important legal information applicable across all the states (e.g., approved methods of execution; aggravating and mitigating factors for consideration; eligibility for clemency; and statutory definitions of mental retardation). It is a surprisingly easy read, interesting, and even captivating in places, filled with current references. If one was teaching a course on the topic of capital offense mental health evaluations, no other text would be needed. Most importantly, it reviews the great contributions of research conducted by Dr. Mark Cunningham and his collaborators, summarized in another recent publication entitled *Evaluation for Capital Sentencing* (a very highly recommended 2010 publication in the Oxford Best Practices in the Forensic Mental Health Assessment series).

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