

## **Book Review**

### **Forensic Testimony: Science, Law and Expert Evidence**

Bowers, C. M., (2013). *Forensic Testimony: Science, Law and Expert Evidence*, New York: Academic Press. 296 pages. \$99.95.

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Authored by forensic dentist C. Michael Bowers, *Forensic Testimony* focuses considerably on the 2009 report of the National Academy of Sciences (NAS) titled, "Strengthening Forensic Science in the United States: A Path Forward." The Hon. Harry Edwards' 2010 *Jurimetrics* article, "The National Academy of Sciences Report on Forensic Sciences: What it Means for the Bench and Bar," provides the book's Introduction.

#### **Reliability Threats to Forensic Science**

Edwards identified various factors that compromise the reliability of forensic science. The factors that could apply to forensic psychology are:

- the paucity of scientific research to confirm the validity and reliability of forensic disciplines and establish quantifiable measures of uncertainty in the conclusions of forensic analyses;
- the absence of rigorous, mandatory certification requirements for practitioners;
- the failure of forensic experts to use standard terminology in reporting on and testifying about the results of forensic science investigations;
- the lack of effective oversight;
- a gross shortage of adequate training and continuing education for practitioners (p. xxi).

#### **Forensic Psychology and Psychological Science**

While especially deploring the procedures of the FBI Laboratory in bullet lead and hair analyses, Bowers also castigated other practices such as bite mark analysis, fingerprint evidence, ballistics, and arson investigations. Clearly, however, these problems correspond to relying on the physical sciences for forensic purposes. Therefore, what is their relevance to forensic psychology and social science data? Consider, for example, testimony before the U.S. Senate Committee on the Judiciary. One witness described forensic science

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representing "a system plagued by a paucity of good research, fragmentation, inconsistent practices, and weak governance" (p. 24). If subjected to the scrutiny of the National Academy of Sciences, would forensic psychology suffer a similar verdict?

Bowers quoted from the 2009 NAS report indicating, "the law's greatest dilemma in its heavy reliance on forensic evidence concerns the question of whether and to what extent there is any science in any given forensic discipline" (p. 24). This observation necessitates asking to what extent forensic psychology relies on psychological science.

### **Forensic Psychology and Family Law**

In family law matters, psychologist-attorney Christopher Barden insists that mental-health professionals routinely misinform and mislead legal proceedings. In his 2013 chapter—titled "Protecting the Integrity of the Family Law System"—that appears in *Parental Alienation: The Handbook for Mental Health and Legal Professionals*, Barden contends:

Although unknown to most family lawyers and clinical "experts," it is well-documented in widely available peer-reviewed, published, scientific journal articles that many of the methods currently employed by mental health experts in family law cases are unreliable, controversial, or unethical thus failing basic *Frye* or *Daubert* analyses (p. 270).

Barden continued to chastise mental-health professionals who involve themselves in family law matters while neglecting to consider the appropriateness of their findings and recommendations.

Many family law-affiliated mental health professionals currently rely on unsound, unscientific practices (e.g., failing to disclose controversies regarding unreliable "clinical judgments"; failing to disclose regarding forms of psychotherapy; failing to disclose controversies regarding "projective tests," "drawing tests," and other errors) because they lack basic knowledge in scientific methodology (p. 271).

Barden quoted Eleanor Maccoby challenging psychological testing in family law matters.

Standard measures of parents' and children's intelligence, personality traits, and emotional states are wholly inappropriate for custody evaluations, and that even the measures and constructs that have been designed specifically to assess child custody arrangements for individual children have no proven validity as predictors of a child's well-being in the care of one or the other of two disputing parents (p. 274).

If forensic psychology rests on such shaky ground in family law matters, then our courts are guilty of duplicitous passivity. Addressing the bench's unresponsiveness, Bowers quoted from Jennifer Mnookin's February 2009 Op-Ed article in the L.A. Times.

The courts have almost entirely turned a deaf ear to these [problems], essentially giving forensic science and its practices a free pass, simply because they've been part of the judicial system for so long. . . . The findings of the National Academy of Sciences should spur judges to require higher standards (p. xxxiii).

To the extent that courts have given a "free pass" to forensic psychology, especially in family law settings, higher standards are also needed. Though not dwelling on forensic psychology in any depth, *Forensic Testimony* is relevant for forensic psychologists as a result of addressing broad, inclusive issues related to our field. The book is well written, logically organized, and an overall good read. I highly recommend it.

## References

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