



Psychiatry and Behavioral Sciences Section - 2012

18 Psychiatric Evaluations in Immigration Cases in the United States

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After attending this presentation, attendees will be familiar with the types of immigration cases in which psychiatric opinion and testimony is utilized, and will learn how to apply their knowledge of psychiatry and forensic psychiatry in this growing niche field.

This presentation will impact the forensic science community by addressing one of the big issues in the United States and across the world today — immigration. This year's meeting theme, *Global Research: The Forensic Sciences Edge*, illustrates how small the world has become. The desire of individuals to move from one country to another for a variety of reasons makes this area of psychiatric expertise very current and important, and psychiatrists and other mental health practitioners should be aware of their potential roles in assisting with this process in a responsible and ethical manner.

In this presentation, the legal basis for utilizing psychiatric expert testimony in the immigration courts will be presented. The various legal applications will be discussed, in addition to relevant case law. The topics of removal and cancellation of removal, as well as the concept of asylum will be detailed in both legal language and plain English. The various situations that can lead to removal will be identified, described, and differentiated. The fact that the laws are actually written to protect American citizens or permanent residents, and not the alien subject to removal will be explained. Certain recent cases that have been in the news will be shared with the participants in order to illustrate the importance of this work.

Specific topics will include:

- General classes of aliens ineligible to receive visas and ineligible for admission; Waivers of inadmissibility and exceptions
- Cancellation of removal – adjustment of status
- The concept of extreme and unusual hardship/exceptional and extremely unusual hardship
- Special rules for battered spouses or children
- Other examples of automatic or potential asylum

The presentation will then focus on how to formulate the psychiatric-legal question, as the statutes are non-specific in this regard. Understanding an immigration evaluation as a risk assessment is critical and is the crux of why these evaluations are best performed by psychiatrists/psychologists with forensic training.

Specific topics will include:

- Who is eligible for evaluation/petition?
- How to work with an attorney in an immigration case
- How do you write your report?
- What sources of information should be used?
- How to get this type of work!

Finally, specific cases will be presented and attendees will engage in a see-one-do-one discussion of how to approach these cases within the framework of the statutes. Cases will be presented illustrating a variety of possibilities, including risk assessment based on existing psychiatric disorder (the easiest type), asylum (more difficult because of documentation), and possible future psychiatric or medical issues (most difficult especially when postulating future psychiatric problems). Hopefully, a spirited discussion will ensue and international participants will bring forward parallels from their own countries.

Immigration, Deportation, Removal