

# Forensic Evaluation in Hardship Cases

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## References

Brabeck, K., & Xu, Q. (2010). The impact of detention and deportation on Latino immigrant children and families: A quantitative exploration. *Hispanic Journal of Behavioral Sciences*, 32, 341-361.

Evans, F. B., and Hass, G. A. (2018). *Forensic Psychological Assessment In Immigration Court: A Guidebook for Evidence Base and Ethical Practice*, Routledge, New York and London

M Seltz, M. (2012, May/June). Immigration Law and the Psychologist. *American Immigration Lawyer's Association: VOICE: An Immigration Dialogue*. Retrieved from <http://ailahub.aila.org/i/65888>

## Abstract

Hardship is an important legal standard that a forensic psychologist can help measure and explain. Evaluations are useful in immigration proceedings and applications, and examples will be provided. It is important to understand the role of the forensic evaluation in each hardship case. Providing an expert opinion involves clarifying the reason for referral, discerning best practices, understanding implications of findings, and presenting hardship findings in a way that is meaningful to the court. Areas of hardship and also assessment strategies which are individualized and culture sensitive will be discussed. Challenges that arise in the context of the evaluation will be described.

## Lecture Goals

1) Explain the role of forensic evaluation in the assessment of hardship in immigration matters. There are many different types of immigration cases where evaluations are useful and it is important to understand the role of hardship and immigration application and proceedings.

- Psychologist as expert witness in immigration court
- Hardship definition: Adversity that a qualifying relative would suffer if separated, based on development, education, psychological and other (medical hardships; psychological; career; sociocultural; and risk of physical harm)

There are both applications that are made to the court, and legal proceedings which may benefit from input from a forensic evaluation.

- Legal proceeding example: Discussion of Cancellation of Removal (COR) cases
- The case example of DP a qualifying USC child with ADHD, LD's and anxiety will be discussed in the context of his parent's immigration case
- Immigration application example: Discussion of Violence Against Women Act (VAWA) case
- The VAWA case example of Carlos, symptomatic for anxiety, abuse, but a complicated case

2) Provide insight into assessment of hardship in the forensic evaluation.

- Comprehensive, Culturally Sensitive, Psychological Evaluation are utilized that are informed by best practices
- Discussion of Asylum applications and proceedings and the utility of the forensic report
- The case of OC; cognitive limitations, trauma and competency in an asylum case are discussed and required comprehensive evaluation

3) Understand and resolve common challenges in hardship evaluation

- Limitation of conclusions and the need for further evaluation
- It is frequently the case that due to the nature of the material, the forensic psychologist is meeting with clients who are in acute distress, experience cultural marginalization, acculturation problems, language barriers, and have barriers to care that present significant problems to the evaluation and case
- Further Recommendations
- Benefits of collateral information
- Know your limits